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EPA

Enforcement and Compliance Assurance Accomplishments Report

FY 1996

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The *FY 1996 Enforcement and Compliance Assurance Accomplishments Report* was prepared under the direction of the Targeting and Evaluation Branch and the Planning Branch within the Office of Enforcement and Compliance Assurance. Information contained in the report was supplied by the EPA regional offices and the Office of Enforcement and Compliance Assurance.

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ACRONYMS

ADR	Alternative Dispute Resolution
AO	Administrative Order
APO	Administrative Penalty Order
BIF	Boilers and Industrial Furnaces
CAA	Clean Air Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFA	Civilian Federal Agency
CWA	Clean Water Act
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-know Act
FFA	Federal Aviation Administration
FFCA	Federal Facilities Compliance Act
FFEO	Federal Facilities Enforcement Office
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FY	Fiscal Year
MED	Multimedia Enforcement Division
MOA	Memorandum of Agreement
NETI	National Enforcement Training Institute
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
OC	Office of Compliance
OCEFT	Office of Criminal Enforcement, Forensics, and Training
OECA	Office of Enforcement and Compliance Assurance
OPA	Oil Pollution Act
PPA	Performance Partnership Agreement
PRP	Potentially Responsible Party
PWS	Public Water System
RCRA	Resource Conservation and Recovery Act
SDWA	Safe Drinking Water Act
SEP	Supplemental Environmental Project
TSCA	Toxic Substances Control Act
UIC	Underground Injection Control
USDA	United States Department of Agriculture
UST	Underground Storage Tank
WPS	Worker Protection Standard

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1. INTRODUCTION

Since its inception in 1994, the U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance (OECA) has been fostering a balanced approach to environmental protection. Such a balanced approach would combine enforcement and compliance assurance activities to protect all Americans from the threats to our health and environment. In Fiscal Year (FY) 1996, EPA made strong progress toward that balanced approach. These strides were measured by three primary indicators:

- Number of enforcement actions
- Impact of enforcement activities on the environment
- Number of compliance-related activities.

This FY96 accomplishments report documents those achievements. These programs and policies work in concert to bring measurable results to the American people --cleaner and healthier air, water, and land. Enforcement and compliance continue to play a vital and irreplaceable role in EPA's mission of ensuring that the country's environmental laws work to their fullest extent in protecting our environment.

The FY96 numbers show that enforcement and compliance efforts recovered from the temporary effects of the government shutdown and the budget impasse. The short-term consequences were considerable. Once the impasse was resolved, however, both headquarters and the regions succeeded in getting the enforcement program on its feet again.

Also in FY 1996, EPA began systematically collecting and reporting on the qualitative impact of its enforcement efforts. Traditionally, EPA measured its success against enforcement outputs, such as penalties, fines, and referrals. This year, however, EPA began measuring the positive impact on the environment from each case. Instead of focusing strictly on a penalty amount, EPA now also gauges the effect on the environment, such as reduced emissions or elimination of a hazardous substance.

In addition, as part of its compliance assurance activities, EPA developed and implemented several compliance-related activities, including its compliance assistance centers and numerous compliance-related policies. These activities are designed to bring facilities and municipalities into voluntary compliance, as opposed to using enforcement actions to bring them into compliance.

Overall, FY96 was a positive and productive year for OECA, both in terms of traditional indicators and its new approaches. This *FY 1996 Enforcement and Compliance Assurance Accomplishments Report* is designed to provide an overview of the significant achievements gained by EPA's headquarters and regional offices during the past fiscal year. Specifically, Chapter 2 presents the FY96 quantitative data for all enforcement activities, including inspections; administrative, civil, and criminal actions; and supplemental environmental projects. In addition, it attempts to quantify the benefits to the environment as a result of these enforcement actions.

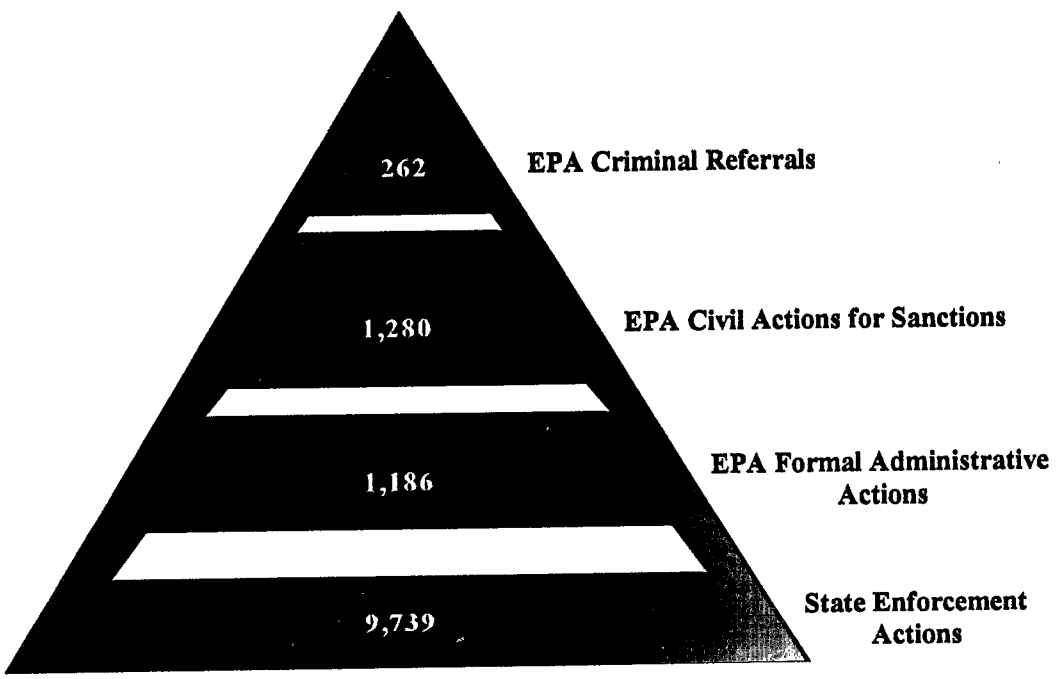
Chapter 3 presents information on the specific activities conducted during FY96, including community-based environmental protection, sector-based initiatives, media programs, multimedia or cross-cutting programs, and performance partnership agreements. This chapter primarily highlights policies, enforcement or compliance assurance initiatives, and other activities that contributed to the protection of human health and the environment. The activities include both headquarters and regional level activities. The appendices to this report provide information on traditional enforcement measures over the years and describe significant criminal, civil, and administrative actions taken in FY96.

2. FISCAL YEAR 1996: THE NUMBERS

Fiscal Year (FY) 1996 was a productive year for the U.S. Environmental Protection Agency (EPA), both in terms of its traditional indicators (e.g., enforcement actions, penalties) and the impact of its actions on public health and the environment. EPA rebounded from recent challenges to post respectable or better numbers in several of its traditional indicator categories. EPA believes it may have underestimated the impact of the regional enforcement program reorganizations, but, overall, those problems have been overcome and the "dip" reflected in the FY95 numbers was an anomaly. All the regions have completed reorganizing and are fully implementing national and regional priorities.

Exhibit 2-1 presents the total enforcement activities taken by EPA and the states in FY96. As shown, the states accounted for nearly 10,000 enforcement actions. When EPA and the states combine efforts and present a unified enforcement approach, Americans can be assured that those violating environmental laws and endangering health and the environment will be discovered, and the problems will be fixed.

Exhibit 2-1
FY 1996 Enforcement Activities



The following sections of this chapter highlight EPA's various enforcement programs -- criminal enforcement, civil administrative actions, and the Superfund enforcement program. The chapter concludes with a discussion of the positive impact of the EPA enforcement program on human health and the environment.

2.1 Criminal Enforcement

Criminal enforcement continued to be the fastest growing component of the enforcement program. This reflects the Agency's targeting of the most willful violators and violations with serious potential risk. For example, the number of defendants indicted in FY96 totaled 221. EPA referred 262 cases to the Department of Justice (DOJ) in FY96 (the previous highest number was 256 in FY95), and the number of cases initiated in 1996 was 548.

In FY96, the period of jail time to which defendants were sentenced totaled 1,160 months, compared to 860 months in FY95. One hundred and seven individual defendants pleaded or were found guilty in criminal judicial proceedings, in addition to 33 corporate defendants. More than $76,660,670 in criminal fines and restitution were assessed in FY96, compared with $23 million in FY95.

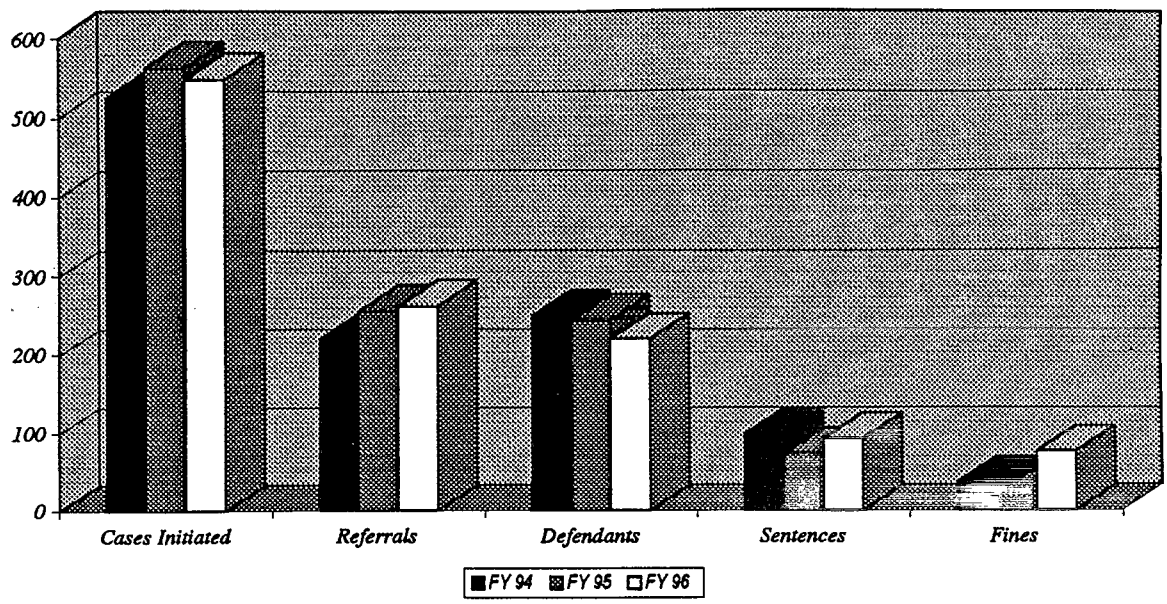
Incarceration is a key component of the criminal enforcement program. Individuals are more likely to be deterred from criminal environmental misconduct because of the stigma associated with a criminal conviction, as well as potential imprisonment. Those convicted and sentenced to jail cannot pass the sentence on as another "cost of doing business;" it must be served by the violator. Since 1990, individuals have received more than 588 years of incarceration for committing environmental crimes. Exhibit 2-2 compares the criminal programs outputs for 1994 through 1996.

The numbers presented in this table reflect some major criminal cases concluded during FY96. For example, the Iroquois Pipeline Operating Company action was the largest criminal enforcement settlement since *Exxon-Valdez*. The company and four of its top officials pleaded guilty to degrading scores of wetlands and streams while constructing a natural gas pipeline from Canada to Long Island. The company was required to clean up 30 streams and wetlands and pay $22 million in fines and penalties. In other elements of the criminal enforcement program, the total length of sentences increased, while the number of cases initiated and defendants charged decreased slightly.

2.2 Civil/Administrative Actions

Civil judicial enforcement bounced back strongly in FY96. There were 295 judicial referrals, up 38 percent from the previous year (214). (The combined total of civil and criminal referrals is the second highest in EPA history). A total of $66.2 million in judicial penalties was assessed, up almost 90 percent over the previous year. Almost $30 million in administrative penalties was assessed, down 17 percent from the previous year. The totals of administrative penalty complaints, conclusions and compliance orders decreased from the previous year. Despite the

Exhibit 2-2
EPA Criminal Enforcement: Major Outputs FY 1994 to FY 1996



	Cases Initiated	Referrals	Defendants Charged	Sentences (Years)	Fines ($ Millions)
FY 1994	525	220	250	99.0	36.8
FY 1995	562	256	245	74.0	23.2
FY 1996	548	262	221	93.0	76.7

drop in administrative penalties, the combined total of all criminal fines and civil penalties ($172.8 million,) is the highest in history. Exhibit 2-3 illustrates EPA's combined penalties (including criminal, civil, and administrative) over the past 3 years. Exhibit 2-4 presents the breakdown of the FY96 formal civil enforcement actions by statute and type of action.

2.3 Superfund Enforcement

In FY96 the Superfund enforcement program secured potentially responsible party (PRP) commitments exceeding $1.3 billion. Of this amount, PRPs signed settlements for an estimated $888.5 million in future response work and settlements for more than $451.6 million in past costs. Since the inception of the program, the total value of private party commitments (future and past) is estimated at more than $14 billion ($11.9 billion in response settlements and $2.1 billion in cost recovery settlements).

In FY96, PRPs initiated more than 70 percent of the remedial work at National Priority List (NPL) sites. PRP commitments for remedial design and remedial action response work exceeded $700 million during FY96. The types of remedial response settlements and their estimated values were as follows:

Exhibit 2-3
EPA Penalties FY 1994 to FY 1996

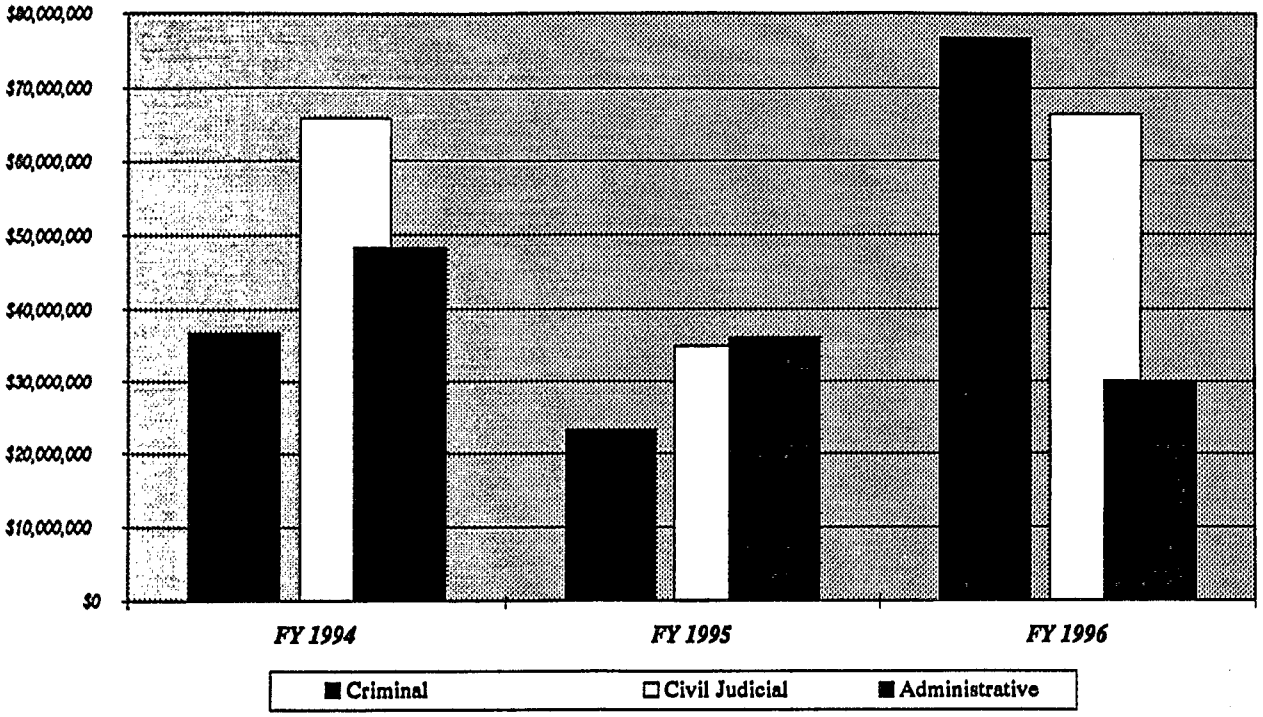
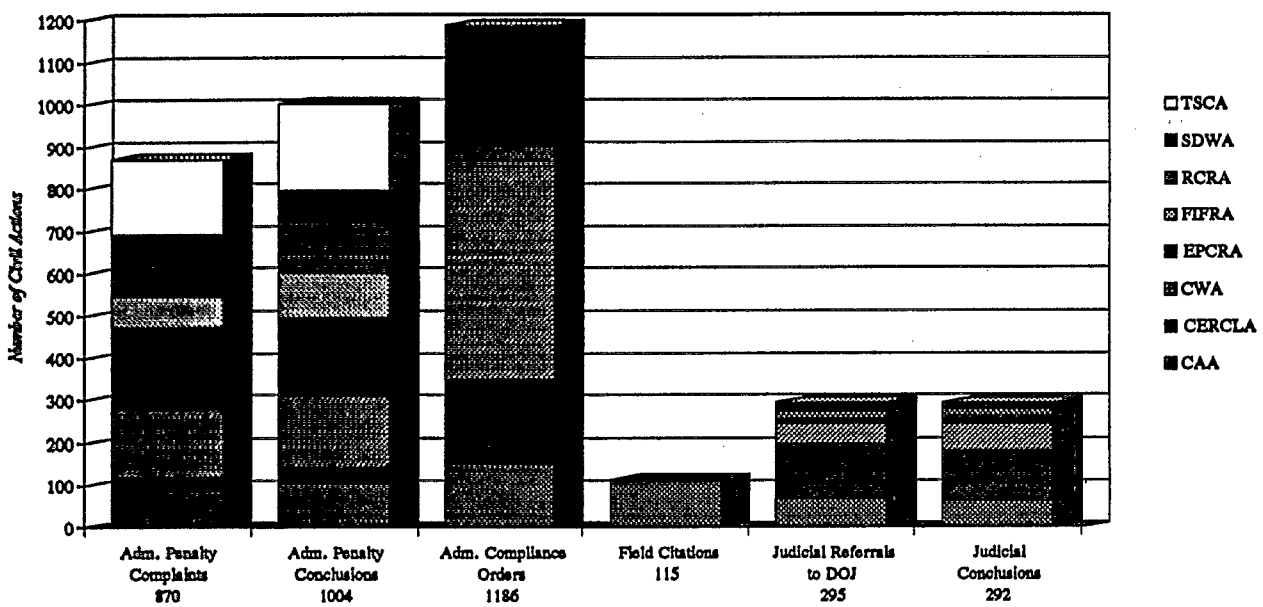


Exhibit 2-4
EPA FY 1996 Formal Civil Enforcement Actions



- Thirty-nine consent decrees referred to the DOJ with an estimated response value of $487 million

- Nineteen unilateral administrative orders with which PRPs complied, for work estimated at $196 million

- Nine administrative orders on consent and one consent agreement for response work estimated at approximately $17 million.

To promote enforcement fairness and resolve small party contributors' potential liability under §122(g) of the Comprehensive Emergency Response and Liability Act (CERCLA), the Superfund enforcement program concluded 40 *de minimis* settlements with over 1,800 parties in the fiscal year. Through FY96, the Agency achieved more than 240 settlements with over 14,000 settlers.

In FY96, the Agency reached a total of 111 administrative orders on consent, and issued 70 unilateral administrative orders. The Agency addressed 181 past cost cases, including statute of limitation cases, each of which was valued at more than $200,000. Of these cost recovery actions, 54 were §107 referrals to DOJ, 15 were administrative settlements, 28 were consent decrees, 1 was a bankruptcy referral, and 83 were decision documents to write-off past costs.

EPA also achieved 220 cost recovery settlements estimated at $451.6 million and collected over $252 million in past costs during FY96. To date, the program has achieved approximately $2.1 billion in cost recovery settlements and collected more than $1.4 billion in past costs.

2.4 Impacts of Settlements

One of the principles underlying EPA's enforcement program is that the polluter should pay for and correct the damage caused and prevent future problems. In addition to penalties, the two main elements of enforcement settlements are injunctive relief -- the actions needed to eliminate noncompliance, correct environmental damage, and restore the environment -- and Supplemental Environmental Projects (SEPs) -- "extra" actions taken by the violator to benefit the public or the environment, which are taken into account when assessing a penalty. As noted, this is the first year that EPA has begun to collect and report systematic information on these components, although the Agency has collected some data on an "ad hoc" trial basis over the last several years. Exhibits 2-5 and 2-6 provide a breakout of the environmental impacts of all FY96 enforcement actions and of the FY96 SEPs.

The total monetary value of all program SEPs and injunctive relief (including Superfund) undertaken by regulated entities was $1.49 billion in FY96 (highest of the last 3 years).
In addition to the $1.49 billion, there is an estimated $888.5 million in future Superfund PRP response work referred to DOJ or in administrative orders about to be finalized. (This amount is not included in the FY96 aggregate numbers.)

Exhibit 2-5
Environmental Impacts of FY 1996 EPA Enforcement Actions

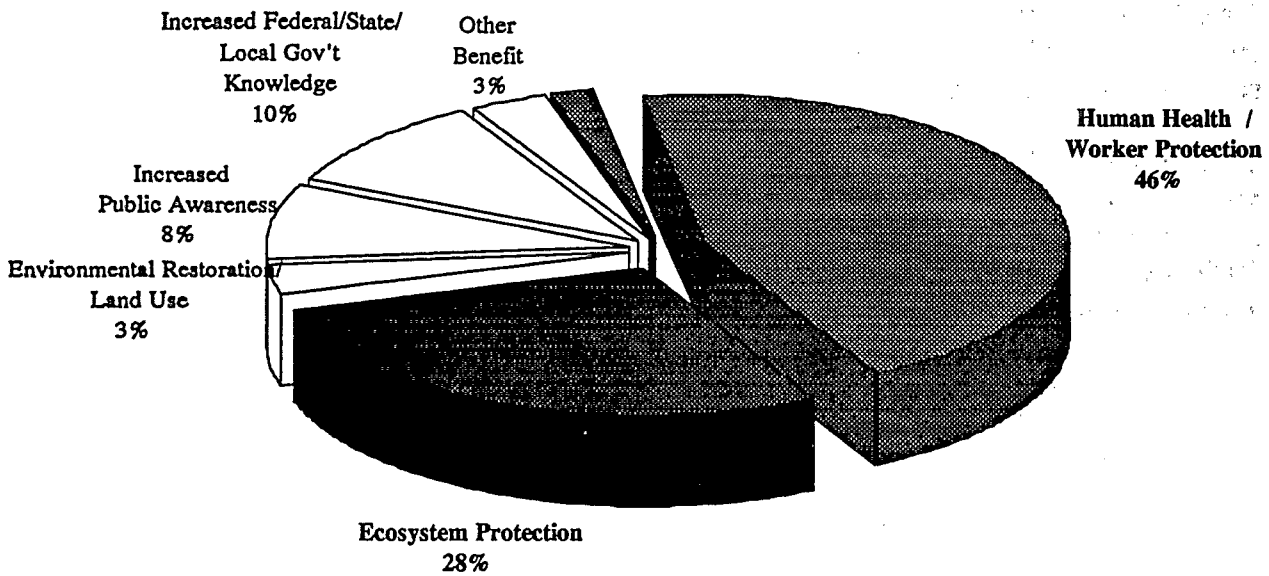
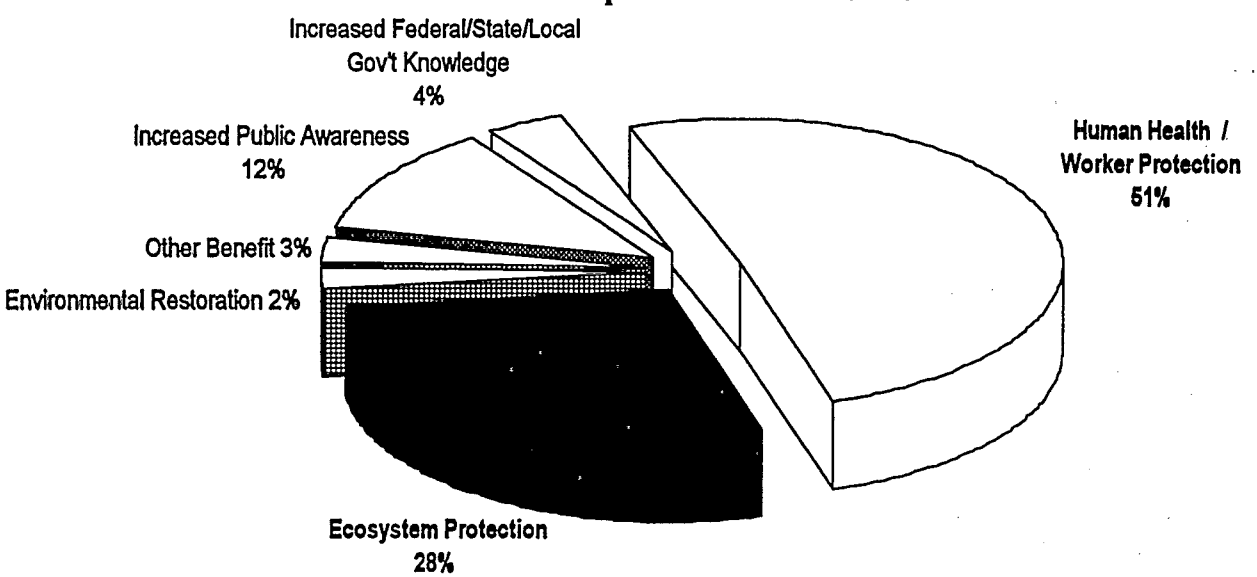


Exhibit 2-6
Environmental Impacts of FY 1996 SEPs



The total value of settlements in any single year depends upon the profile of the non-complying sectors and violations addressed. SEPs and injunctive relief can be affected by a few abnormally large cases. For example, the total dollar value of FY95 SEPs was $103 million, while the total value of FY96 SEPs was $66 million. A $30 million SEP was included in FY96 that was part of a Clean Water Act settlement with the city of Honolulu, Hawaii. Generally, the cases that involved the largest expenditures were those in which violators had to install new pollution control equipment or change their production processes to reduce pollution.

Combining a number of similar types of actions into a broader category, about 25 percent of all activities (tasks) required by civil judicial and administrative enforcement settlements called for regulated entities to physically change the way they operated their facilities or reduce emissions or discharges to the environment. (Note: There are more activities than cases because of multiple violations or multiple tasks that must be taken to return to compliance.) For example:

- The Colorado Public Service Company will spend $140 million -- the second largest expenditure in Clean Air Act history -- to install state-of-the-art pollution controls to reduce air pollutants at its facility near Steamboat Springs

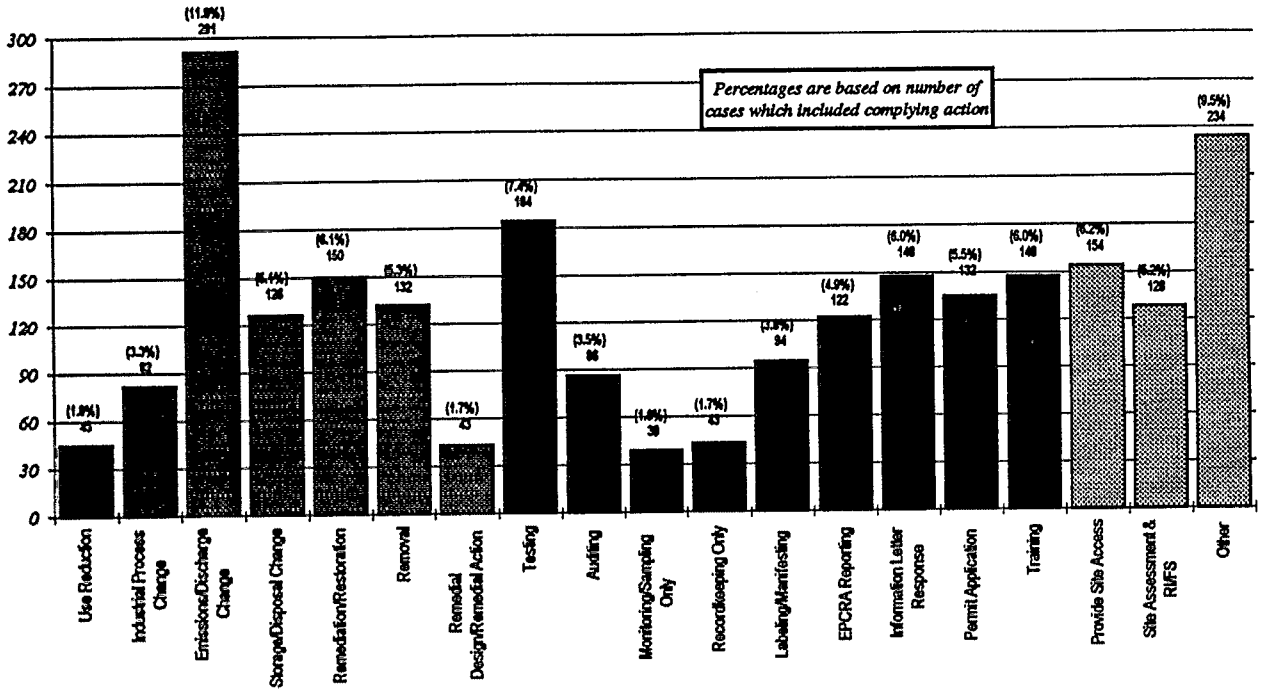
- The General Motors Corporation will spend about $25 million to recall and retrofit more than 500,000 Cadillacs to settle charges that "defeat devices" on one of its engines resulted in illegal emissions of carbon monoxide.

About 75 percent of the activities required by civil enforcement settlements called for regulated entities to improve their environmental management systems, take preventive actions to avoid noncompliance, or enhance the public's right-to-know. These three activities could be achieved through such actions as conducting environmental audits, complying with the Toxic Release Inventory or other reporting or recordkeeping requirements, properly manifesting hazardous wastes, and certifying proper asbestos removal training. The majority of these were done through administrative enforcement. Exhibit 2-7 illustrates the activities regulated entities had to conduct based on an enforcement action to come into compliance.

The data also indicate that about 46 percent of the injunctive relief in civil cases and 51 percent of the SEPs provided additional human health protection. Similarly, 28 percent of both injunctive relief and SEPs protected natural ecosystems. One settlement, for example, will help clean up the heavily polluted Grand Calumet River in northwest Indiana. The settlement creates a trust fund to pay for dredging of severely contaminated sediments in the river and to restore damaged wetlands and wildlife habitat along its banks.

The case conclusion data sheets captured the impact of enforcement settlements in terms of reduced discharges or emissions of pollution into the environment. The Agency has been able to report specific pollution reductions in 25 percent of the FY96 settlements with greater reductions anticipated. This does not mean that only 25 percent of EPA cases resulted in reduced pollution, but rather that specific information on estimated reductions was available for these cases.

Exhibit 2-7
What Regulated Entities Had to Do to Comply with FY 1996 Concluded EPA Enforcement Actions



The settlements resulted in aggregate reductions of that can cause respiratory diseases including asthma (e.g., ozone-creating volatile organic compounds [VOCs], particulates), or can cause headaches and cardiopulmonary problems (e.g., carbon monoxide).

In FY96, information on concluded EPA enforcement actions specifically indicated that pollutant reductions or eliminations were required in at least a quarter of the cases. Table 2-1 presents the pollutant reductions as a result of those actions.

In some instances, significant benefits were secured from one large case:

- Georgia-Pacific Corporation will reduce VOC emissions from its wood product facilities in eight southeastern states by at least 90 percent -- a reduction of 10 million pounds/annually

- The GM recall will reduce excess carbon monoxide emissions by approximately 100,000 tons

In other instances (e.g., lead and asbestos), the cumulative reductions resulted from a larger number of actions.

These data indicate that the Agency is focusing efforts on the most serious pollutants and potential risks, making the polluter pay for noncompliance and securing settlements that have a "real world" impact on protecting health and the environment.

Table 2-1. Pollutant Reductions as a Result of FY96 Settlements

Pollutant	Reduction (millions of pounds)
Carbon monoxide	199,586,928
Lead	16,684,787
VOCs	10,560,777
Particulates	8,940,646
Copper	8,814,755
Asbestos	7,707,764
Carbon dioxide	2,863,967
Chromium	2,566,524
Methanol	1,319,615
Toluene/Toluene waste	987,615
Sulfur dioxide	632,667
Sulfur oxide	436,368
PCBs	302,940
Ammonia	250,327
NO_x	211,097
Benzene/Related compounds	118,705

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3. FISCAL YEAR 1996: THE ACTIVITIES

In Fiscal Year (FY) 1996, U.S. Environmental Protection Agency (EPA) offices at both the headquarters and regional levels conducted significant enforcement and compliance assurance activities that contributed to the protection of human health and the environment. These activities ranged from enforcement and compliance assurance initiatives to policies to voluntary programs that assist compliance. As part of the Clinton Administration's efforts to reinvent environmental regulations and address environmental problems on a multimedia, industry-wide basis, these activities focused on bringing facilities into compliance and reaping the resulting benefits to the environment.

The chapter is organized into five sections that describe significant activities at both the headquarters and regional levels. For example, EPA has developed compliance and enforcement strategies for specific industry sectors that warrant priority attention. Section 3.1 describes these strategies and resulting activities. For FY96, EPA identified 3 national priority sectors and 10 significant sectors. These sectors were selected as priorities for several reasons, including high noncompliance rates, high-volume Toxic Release Inventory (TRI) releases, and prevalence among the regions. Designation as an EPA priority sector means these sectors receive special emphasis, both in terms of compliance assistance and enforcement.

Section 3.2 discusses special accomplishments and initiatives within EPA's traditional media programs. Although several specific multimedia initiatives are ongoing within the Agency, the backbone of environmental protection is the media-based programs (e.g., air, water, toxics). In FY96, EPA continued its media-based efforts and used them in conjunction with other special initiatives to ensure the best protection of human health and the environment. This protection was further ensured through EPA's criminal enforcement program, which is discussed in Section 3.3.

Section 3.4 describes community-based environmental protection (CBEP) activities. In FY96, EPA developed multimedia enforcement and compliance strategies for environmental and noncompliance problems associated with particular communities or places, including ecosystems or other natural resource areas. Community-based approaches, which provide opportunities to address environmental justice concerns, have proven effective in facilitating collaborative planning and involvement with the people living in those communities.

In addition to the special initiatives and media programs, EPA has several initiatives ongoing that are multimedia in nature and cut across several other programs. These activities include enforcement and compliance assistance at federal facilities, which are discussed in Section 3.5. Other efforts, including international activities, environmental justice, pollution prevention, and compliance assistance are presented in Section 3.6.

In FY96, EPA also initiated its performance partnership agreements (PPA) between the regions and states. Several regions made significant strides in setting up agreements with their respective states. These PPAs ensure a coordinated approach to environmental protection across an entire region. Section 3.7 highlights the successes with PPAs.

3.1 Industry Sector Priorities

For FY96 and FY97, EPA set three industrial sectors for priority attention: petroleum refineries, dry cleaners, and primary nonferrous metals. In addition, EPA established 10 significant sectors for attention: auto service/repair, agricultural practices, industrial organic chemicals, mining, plastic materials/synthetics, printing, iron and basic steel products, pulp mills, municipal wastewater treatment for combined sewer overflows/sanitary sewer overflows, and coal-fired powerplants. In focusing their compliance efforts, regions incorporated a combination of national priority, nationally defined significant sectors, and regionally identified sectors. EPA selected the national sectors by considering multiple factors, including industry compliance history, high volume TRI releases, significant cross-regional impacts, and institutional sector-based expertise. This section highlights both national and regional sector priorities.

3.1.1 National Sector Priorities

Petroleum Refineries - Petroleum refineries generate a wide variety of hazardous wastes, effluents, and air emissions in large quantities. Large volumes of wastewater containing many organic chemicals are routinely discharged from refineries, and PCB transformers are commonly found at refineries. The activities described below characterize compliance and enforcement efforts among EPA's regions:

- Region 2 conducted 4 multimedia inspections and 10 single-media inspections at 14 petroleum refinery facilities within the region, involving comprehensive processes analyses (RCRA). The overall rate of compliance was found to be high. In addition to compliance monitoring, the region has planned a regional symposium for FY97 and intends to emphasize the use of SEPs to achieve pollution prevention where possible in Puerto Rico and the Virgin Islands. Thirteen enforcement actions for CAA, RCRA, and CWA were brought in FY96, with 9 NOVs issued.

- Region 3 examined the compliance status of all five petroleum refinery facilities, four of which were found to be in violation. EPA issued two NOVs, one AO, and one APO. The region conducted multimedia inspections at two major refineries in May and June 1996. The final reports will be reviewed for potential enforcement action in FY97.

  In Region 3, an administrative complaint and order was issued to BP Refining. This case was initiated in support of the Chester Community environmental justice and Refinery initiatives. The complaint proposed a penalty of approximately $162,000 for alleged violations of the benzene waste NESHAP and was resolved immediately. The case will result in lower benzene and VOC emissions when the refinery restarts. The region and TOSCO (the new owner of the refinery) will discuss compliance issues when the refinery resumes operations.

- Region 4 completed four petroleum refinery inspections during FY96, including one multimedia inspection. Of these inspections, one resulted in a formal enforcement action and one an informal action (by either the states or EPA).

- Region 4 drinking water program activities focused on the only refinery with a Public Water System (PWS). The program reviewed the Safe Drinking Water Information System (SDWIS) to determine which petroleum refineries in Region 4 have PWSs and their PW compliance status. Only one refinery-- Chevron USA Products Company (Pascagoula, MS) --was found to have a PWS. Based on state-coordinated inspections, this facility was found to be in compliance with the federal primary drinking water regulations. Under the NPDES program, the region negotiated with each state to conduct inspections and compliance assistance activities at facilities identified in Permit Compliance System (PCS). Of a total of 32 facilities in this sector category, state commitments were obtained to inspect 21 facilities.

- In Region 5, judicial complaints alleging RCRA violations were filed against two refineries. RCRA violations at a third refinery were referred to DOJ, and a RCRA administrative 3008(a) complaint was filed against a fourth refinery.

  In addition, representatives from the region's Air and Radiation Division (ARD), Water, RCRA, and Superfund participated in roundtable discussions with the American Petroleum Institute (API). ARD's Refinery Workgroup continued its efforts of ensuring continuous compliance with SIPs, NSPS, NESHAPs, and permits at the region's petroleum refineries through enforcement and compliance activities. During the year, enforcement actions and/or ongoing investigations were pursued at 16 of the region's 19 refineries, including five multimedia investigations/cases. The region's Water and ARD programs participated in various compliance assistance activities with the API. The region's Water program formed the E Waste and Water subgroup and worked with the ARD Refinery Workgroup to address specific media problems with the refineries represented by API. Members of both groups also worked with API to identify and resolve enforcement issues related to existing regulations. The Refinery Workgroup is also undertaking a pilot project with one refinery in the region to demonstrate the environmental benefit of enhanced emissions monitoring.

- Region 6 developed an inventory of major and minor NPDES refinery facilities using PCS. Either EPA or a state agency inspected 39 of the 49 major facilities in the region. As the reports were received, they were reviewed. Facility files were made to identify any possible compliance problems. Approximately 35 majors have been determined as being compliant and 14 as noncompliant. Because these petroleum refineries are, in most cases, large companies familiar with the CWA and the regulations, traditional enforcement was used when needed. The types of violations found were either minor deficiencies noted during the inspections or effluent

  Region 6 identified numerous issues that must be handled to more fully address the 47 minor refinery facilities within the region. These include addressing compliance tracking and permit issuance for minors, which has been a secondary priority for the NPDES program nationally; facilities that are operating under expired or often outdated permits; and compliance files that may contain unreliable information or be otherwise incomplete. In response, the region's enforcement program has coordinated with the NPDES permits staff in the Water Quality Management Division to try to expedite permit issuance/reissuance to minor facilities in this targeted sector, particularly in priority watersheds.

violations reported by the permittee. These violations were addressed with warning letters to nine facilities and AOs to five facilities.

- For FY96, the Region 6 RCRA program started to assess compliance trends at smaller facilities (i.e., production less than 100,000 bls/year) and compare the trends with historical expectations for this sector. Overall, nine compliance evaluation inspections (CEIs) were completed at large and small refinery facilities during the June-September 1996 timeframe. Additionally, the region completed two case-development inspections related to corrective action.

- Region 6 commenced roundtable discussions with representatives of Texas Mid-Continental Oil and Gas Association (TMOGA) and the American Petroleum Institute (API). Eight work groups were formed to address numerous refinery issues, including RCRA compliance; benzene wastewater rule; plant fuel gas (NSPS); EPA/state reporting; information exchange, training, and improper procedures; inspection transactions and recordkeeping; leak detection/fugitive emissions, and enforcement process-related issues. The RCRA work group selected three issues for the group's initial consideration--container management requirements, waste determination, and recycling practices --and identified possible solutions for the first two. Efforts are underway to develop a best management practices (BMPs) document to address container management concerns. In addition, other pertinent documents (e.g., sampling protocol) will be available to industry to facilitate compliance with waste determination requirements via an interactive Web site. RCRA work group discussions also indicated that forthcoming Subpart CC regulations may likely result in future noncompliance.

- During FY96, Region 6 inspected eight refineries; the states inspected all other regional refineries. Arkansas, Louisiana, and Texas, for example, inspected 100 percent of the 3, 17, and 40 refinery facilities in their states, respectively. Other states inspected 3 of 4 and 6 of 7 facilities, respectively. The general compliance rate was found to be high, although 11 state violations were identified. In addition, the region initiated civil judicial enforcement actions for Basis Petroleum (formerly Phibro), located in Texas City, Texas, and referred them to DOJ during the fourth quarter of FY96. During the third quarter of FY96, the region referred air violations at Sun Company, Incorporated, Tulsa, Oklahoma, to DOJ for civil judicial enforcement action.

- Region 7 distributed a guidance document summarizing the final petroleum refining NESHAP to all facilities with a Standard Industrial Classification (SIC) Code 2911. Because most of the affected facilities are located in Kansas, the region has focused outreach efforts in that state. As a separate project, the National Enforcement Investigation Center (NEIC) compiled the repetitive areas of noncompliance of environmental issues identified during refinery investigations conducted in the last 4 years. The resulting document was used to assist enforcement activities of regional, state and local regulatory agencies. In conjunction with activities of the petroleum sector team, the region also issued a unilateral administrative order to the Robert Cooley Trust on October

28, 1996, to abate potential environmental and human health threats at the Mid America Refining Company (MARCO) site in Chanute, Kansas.

- Region 8 has 16 operating petroleum refineries in five states that all have capacities below 60,000 barrels per day. The region organized a petroleum refinery sector team to comprehensively evaluate the compliance status and the public health and environmental risk from the petroleum refining industry using a multimedia-based approach. The team developed targeting data and implemented an interim environmental justice inspection protocol. In addition, the team considered risk data and calculated a pollution inefficiency indicator that indicates a refinery's ability to produce a product without releasing toxic pollutants into the environment.

- In Region 8, EPA conducted 16 inspections at petroleum refineries. Two coordinated multimedia inspections were conducted. Frontier Refining in Cheyenne, Wyoming, received inspections by air, hazardous waste, TSCA-PCB, and EPCRA 313 within a 4-week period. Crysen Refining, in Woods Cross, Utah, was subject to inspections by air, hazardous waste, TSCA Sections 5 and 8, and TSCA-PCB programs. Followup coordination activities continue. The Underground Injection Control program is using information request authority to gather Class V well information at refineries. As part of outreach efforts, the Regional Refinery Workgroup met with the Rocky Mountain Oil and Gas Association (RMOGA). The meeting was the first scheduled quarterly meeting intending to begin an open dialog with the members of the RMOGA Refinery Committee, which represents 13 of the 16 refineries in the region.

- During FY96, Region 9 continued to actively conduct inspections, enforcement, and outreach with refineries. The region specifically pursued compliance with EPA's NSPS requirements relating to storage tanks with slotted guidepoles for floating roofs, achieving improved compliance at five refineries. As a result of these actions, several refineries were among the first in the Nation to employ relatively simple, but effective, controls that will have a significant impact on reducing air emissions from storage tanks. By reducing these emissions, the companies are also saving product; therefore the companies benefit at the same time that public health and the environment are better protected. In terms of reducing air pollution, the use of these controls equates with taking nearly 5,000 cars off the road. As part of the settlements in these cases, the companies agreed to install controls on these tanks, as well as on storage tanks that are not subject to NSPS requirements. The region estimates that these controls will result in a total reduction of at least 280,000 pounds of VOCs per year. Refineries involved include Chevron U.S.A. (Richmond), Chevron Pipe Line Co. (La Mirada), Mobil Oil Corporation (Torrance), Ultramar Incorporated (Washington), and the Union Oil Company of California (Carson and Arroyo Grande).

- Activities in the petroleum refinery sector for Region 10 RCRA focused primarily on traditional compliance and enforcement activities. The state of Washington conducted multimedia inspections on its six facilities. During the inspections, the state used various tools-- traditional compliance monitoring and enforcement, as well as pollution prevention

assistance. Similar results have occurred with the 5 facilities in Alaska. In FY 96, EPA conducted two inspections at these facilities, one as part of a multimedia inspection. Neither inspection detected significant compliance issues. Both EPA and the states are moving toward more compliance assistance with these facilities.

Dry Cleaners - Dry cleaners pose significant air, water, and waste issues and have the potential to significantly impact human health and the environment. For example, in Region 2 the 5,000 dry cleaners emit in aggregate 62,500 tons per year of perchloroethylene (perc), a possible carcinogen, into the air, discharge 16 tons per year of perc in the wastewater, and generate 31.5 tons of solid waste per year. Dry cleaners pose additional challenges because the majority of dry cleaners are small businesses that may not be fully aware of environmental regulations. This problem is compounded because language barriers, in many instances, complicate outreach and educational efforts.

The following activities characterize compliance and enforcement efforts focused on dry cleaners within EPA's regions:

- The Region 1 air enforcement office completed 93 inspections of dry cleaners, using a multimedia compliance approach that integrates air MACT, RCRA, and UIC requirements into the inspection format. EPA issued 31 notices of noncompliance (NONs). The most common violation involved the failure to keep proper records and to record and/or conduct equipment leak checks. Impediments to compliance are perceived to be lack of sophistication of the small business owners, the economics of compliance and, in some cases, language barriers.

- Region 2 undertook a 2-year, multimedia initiative that combined vigorous compliance assistance with strong enforcement. Region 2 conducted 180 air compliance inspections/visits of dry cleaning establishments. Of these, 120 were found to be subject to the new MACT standard. Thirty-seven of the 120 regulated facilities were in compliance with the CAA. The Nassau County Department of Health found similar results during 186 water compliance inspections of dry cleaners. The department found only 75 (40%) of the facilities in compliance with UIC requirements. Region 2 also gave four presentations on the national air emission standards for perc to approximately 300 dry cleaners in New Jersey and 300 in New York City. In addition, the region co-sponsored a multimedia, multi-agency seminar with the Neighborhood Cleaners Association that addressed federal, state, and local requirements applicable to dry cleaners in Long Island; 200 people attended.

- Region 3 worked with Small Business Assistance Programs (SBAPs) and EPA's Office of Compliance to offer a presentation on dry cleaner MACT standard compliance to 700 Korean dry cleaner association members who operate 400 facilities in the greater Washington, DC, area.

- Region 4 conducted 3 RCRA inspections, 148 air inspections (249 in conjunction with the state of Georgia), and 10 UIC inspections (Class V) at dry cleaners. Of the 249 air inspections, the rate of noncompliance was 59 percent.

- The Region 5 air program had the states take the lead in addressing and implementing outreach and compliance assistance activities. Region 5 surveyed state activities and found the states to be conducting outreach campaigns, especially mailings and workshops. To assist in measuring the effectiveness of compliance assistance, the Illinois PPA contains a commitment to develop a method and assess the success of state compliance outreach and education in this sector. The Underground Injection Control (UIC) branch continued a source identification project in Illinois, but did not find any dry cleaners discharging into Class 5 wells. States completed the RCRA inspections projected, and several state programs provided compliance assistance.

- The Air program staff in Region 6 visited approximately 158 dry cleaning sites, and state small business air programs (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas) visited 334, for a total of 492 dry cleaners. Approximately 62 of these sites received additional special onsite assistance due to identified violations or not understanding the regulatory requirements. Approximately 60 percent of the dry cleaners were found to not be complying with all requirements (recordkeeping violations were typical, as were waste management/ disposal violations at sites that are using old equipment [e.g., transfer type machines]).

- Region 6 and the Dallas Small Business Technical Assistance Office developed a video on dry cleaning to educate dry cleaners on the proper techniques to use to comply with the federal regulations for dry cleaning. The video, funded through the EPA small business assistance grant, will be distributed in early FY97.

- Region 6 small business programs contacted fabric care associations to publish final compliance reminders for dry cleaning establishments, in addition to mailing approximately 1,000 reminders to dry cleaners to submit final compliance reports. State small business programs (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), the Dallas Small Business Assistance Program, and the Korean Dry Cleaners Association conducted dry cleaning seminars. Attendance at the seminars reached approximately 300 in the industry sector.

- Region 6's RCRA program completed 11 multimedia site visits (air and RCRA) in Texas city. Additionally, four multimedia site visits (air and RCRA) and one RCRA inspection were completed in the Dallas/Ft. Worth area. Problems ranged from recordkeeping and training discrepancies to waste management concerns. One-on-one discussions with facility operators have proven to be highly effective. Of the 16 RCRA site visits/inspections, only one facility was being considered for a RCRA enforcement action at the end of FY96. Problems at the other 15 facilities have been addressed with compliance assistance efforts.

- Region 7 conducted 30 RCRA CEIs, including screening inspections for CAA, CWA, and SDWA in the state of Iowa. The compliance rate improved by 75 percent from the problems identified in FY95. The RCRA CEIs identified a common problem with open containers across the industry related to the use of a container provided by one recycling company. Because the containers were physically difficult to close, all dry cleaning facilities that used these new containers had violations for open containers. The recycling company was contacted regarding the open containers, and the inspectors explained the requirement to facility contacts. During RCRA compliance CEIs, Region 7 provided eight compliance assistance documents.

- Region 8 received more than 1,600 CAA initial notices from small business dry cleaners, including both pickup stores and plants with perc systems. All six states in the region conducted outreach activities for dry cleaners through small business assistance programs funded from CAA Title V fees program. The outreach activities informed each dry cleaner owner of the requirements of the national emission standards for perc dry cleaners that became fully effective September 22, 1996. Outreach was conducted via workshops, mass mailings of guidance materials, and individual visits. State inspectors also inspected several dry cleaner operations for both CAA and hazardous waste standards. The region served warning letters and notices of violation in a few cases. EPA inspectors also performed nine compliance audits in Wyoming, using a multimedia inspection checklist.

- In Region 9, numerous state workshops were held for approximately 7,000 dry cleaners. In addition, onsite assistance was provided directly to about 200 dry cleaners. In the San Francisco Bay area, local agency inspectors conducted onsite visits to more than 700 dry cleaning facilities. The regional office also worked with Hawaii to advise dry cleaners on MACT requirements and the completeness of their dry cleaner initial notifications.

- In Region 10, the states alone performed RCRA compliance monitoring activities at dry cleaners as part of their overall compliance programs. All four states have devoted significant traditional compliance efforts to dry cleaners in past years and have transitioned to compliance assistance. This sector, therefore, is not considered to be a regionally significant compliance issue for the RCRA program. Of note was the formation of an Oregon state-wide fund, comprising of contributions from all dry cleaning facilities, that will be used to help clean up releases from past and present dry cleaning operations. The state of Washington completed a comprehensive guidebook for the dry cleaning industry that explains all of the applicable environmental regulations. This booklet is being translated into various languages.

Primary Nonferrous Metals - The following activities characterize EPA regional compliance and enforcement efforts focused on primary nonferrous metal facilities:

- Region 3 conducted 30 inspections and reviewed the compliance status of 26 facilities and found 13 to be in violation. EPA issued five NOVs, three AOs, one APO, and two civil

referrals. Two facilities were referred to the state for resolution. Additionally, two settlements were reached with Weirton and Franklin Smelting.

- Region 4 conducted 18 RCRA inspections at primary nonferrous metal facilities, including three multimedia inspections. Of the 18 inspections, 1 resulted in a formal enforcement action and 3 in informal enforcement actions (by either the states or EPA). AEEB also conducted 18 inspections, including 3 multimedia inspections, but found no significant noncompliance. Water program activities included a regional focus on primary nonferrous metal facilities with a PWS. The region coordinated single-media inspections with delegated states. The NPDES program negotiated with each state to conduct inspections and compliance assistance activities at 9 of 10 facilities identified in PCS as belonging to the industry sectors in each state.

- In Region 5, ARD closely monitored the actions of a primary copper smelter in complying with the requirements of a federal consent decree filed in 1995. As part of the decree, the company elected to cease operations and seek permits to construct a new plant. Region 5 personnel are working with the Michigan Department of Environmental Quality (DEQ) in reviewing a pending permit application.

- Region 6 conducted a RCRA initiative focused on foundries. Baseline data on foundries, obtained through 23 inspections (FY94/95), indicated an overall noncompliance rate of 60 percent with RCRA regulations. Of the five EPA enforcement actions taken thus far in the foundry initiative, one complaint and three final orders were issued in FY96. During FY96, penalties totaled $1.35 million, and injunctive relief valued at $513,000 resulted in the removal of approximately 5,500 tons of hazardous waste from communities during site cleanup. The foundry initiative focused on creating partnerships between EPA, states, and industry, as well as on using inspections, enforcement, compliance assistance, and incentive tools to complement each other and facilitate compliance. With Texas completing its foundry program in FY97, for example, EPA expects that at least half the industry (i.e., 150 foundries) region-wide will have participated in the compliance assistance element of the program.

- Region 7's primary nonferrous metals manufacturing sector team conducted a thorough review of all four facilities located in Region 7. Three of these were lead smelters and one was an aluminum smelter. In each case, these facilities already had high profiles in the region and were already being closely evaluated by Region 7 on a cross-program basis.

- In Region 8, the Technical Enforcement Program (TEP) in the Office of Enforcement, Compliance, and Environmental Justice began focusing on the sector approach. Each sector drafted a sector workplan that described in greater detail the activities that would take place in that sector for FY96 and FY97. The mining and nonferrous metals sector workplan included the commitment to concentrate on nonferrous metals facilities in FY96. TEP activities in the primary nonferrous metals sector included universe identification and comprehensive evaluation of nonferrous metals facilities.

- Region 9 continued its efforts on the Arizona Copper Mines Initiative. The region initiated settlement discussions regarding NPDES permit violations at five mines, and developed cases for violations at several non-permitted facilities. The region also played an active role in the national enforcement case against ASARCO, including gathering additional information for the enforcement cases and participating in settlement discussions. EPA Region 9 and the state of Arizona concluded several enforcement actions as part of the Arizona Copper Mines Initiative. This multiyear initiative was undertaken to assess the impact of active, inactive, and abandoned copper mines on surface water and groundwater, to develop an inventory of Arizona copper mines, and to ensure the cleanup and remediation of contaminated mine sites. The U.S. Bureau of Mines, U.S. Forest Service, Arizona State Mine Inspector's Office, Arizona DEQ and Region 9 inventoried more than 7,000 mines sites and developed a list of approximately 700 high potential problem mines. The initiative's objectives include the completion of demonstration projects and voluntary cleanup of inactive and abandoned mines through outreach and cooperative agreements with the mining industry. EPA and the state also have taken enforcement actions to secure compliance with federal and state water pollution laws.

  In September 1996, the U.S. District Court entered a consent decree requiring Cyprus Bagdad Copper Corporation to pay $475,000 to the United States and $285,000 to Arizona to settle violations of the federal Clean Water Act and the Arizona Environmental Quality Act at the company's Yavapai County copper mine. In May 1996, the District Court entered another consent decree requiring Cyprus Miami Mining Corporation to pay penalties totaling $295,000 to the United States and Arizona for past violations at its Gila County mine. The decree with Cyprus Miami further requires that the company undertake a supplemental environmental project to stabilize and reclaim inactive tailings impoundments resulting from historic copper ore milling operations at the site.

- Region 10 focused on the 10 aluminum smelters in Washington and Oregon. Both states are now authorized for K088 potliner waste. While these facilities are primarily overseen by the states, EPA conducted two inspections at aluminum facilities, both of which resulted in only minor compliance issues. The region also engaged in extensive discussions with the Washington State Department of Ecology about recycling the potliner waste under a proposal submitted to the agencies. In addition, the region formed a multimedia coordination team to address the environmental issues posed by FMC, a phosphorous producer on tribal land in Idaho.

3.1.2 Regional Sector Priorities

In addition to national sector priorities, EPA regions implemented regional sector enforcement and compliance priorities from among the nationally defined significant sectors and regionally developed sector priorities. Regional sector targeting allows each EPA region to focus on the environmental and health problems that are most pressing in its area. In addition, as one region noted, "sector targeting is proving to be an effective approach for coordination across programs, of various tools, and with state partners; targeting for assistance and enforcement; and assessment of results." The following discussion highlights regional sector priorities.

Region 1 - Region 1 conducted regional sector initiatives in the following sectors: organic chemical manufacturing, printing, electronics and computers, and metal finishing. In the printing sector, the region conducted compliance activities, developed a pollution prevention manual, conducted focus groups, held eight workshops, participated in the Common Sense Initiative (CSI) national work group, and supported a new low-VOC ink demonstration project.

Using an approach that integrates enforcement and assistance, the region found violations in 70 percent of its inspections of metal finishing facilities. As a result of this enforcement targeting, began an initiative to perform pollution prevention and compliance audits of small metal finishers, conducted six workshops, and is producing a model facility video.

Region 2 - The Region 2 universe in the industrial organic chemical (IOC) sector includes 194 facilities that use and generate a wide range of chemicals through a variety of processes. Compliance monitoring and enforcement activities conducted in FY96 include 31 RCRA inspections, resulting in one NOV and another under consideration at the end of the FY; 6 air inspections, resulting in one administrative order being issued; 3 TRI inspections, and 9 TSCA inspections. In an effort to provide wide coverage of the regulated community in this industrial sector, the region focused inspections at facilities that the states have not inspected routinely. Of the facilities selected for inspection, RCRA found the compliance rate to be very high (97%). The other programs have also found a high rate of compliance in this sector.

- Printers/ Graphic Arts - New York and New Jersey have more than 8,000 printers/graphic arts facilities, which emit in aggregate 12,180 tons per year of VOCs. Region 2 undertook a compliance/enforcement initiative to ensure that printers are complying with the CAA.The region inspected 25 printers in the New Jersey harbor area and 40 printers in New York city over the last 2 years and found 92 percent and 80 percent compliance rates, respectively. Region 2 sponsored a New York City printer education project along with EPA headquarters, New York City DEP, and New York State DEC as part of EPA's CSI to help inform local printers about pollution prevention measures and build community understanding of the pollution prevention techniques used by this sector. The region has actively hosted meetings with local New York printers, trade associations, community groups, regulators, and technical assistance providers to identify customer needs and encourage project participation. These efforts produced an environmental compliance and pollution prevention technical assistance directory for New York City printers.

- Pharmaceutical Sector - Region 2 coordinated with the Chemical Industry Branch in the Office of Compliance in planning compliance assistance and pollution prevention activities for this sector. Headquarters and the region agreed to create a pharmaceutical sector notebook. In addition, they held three pollution prevention/compliance assistance outreach seminars designed to reach a diverse audience, including facility representatives, permit writers, inspectors, and enforcement staff. The region also compiled a master list of all programs' pharmaceutical inspection candidates for FY96 and FY97. Based on this compilation, 4 multimedia consolidated and 23 coordinated inspections are planned (9 in

NY, 8 in NJ, 6 in PR) in the next 2 years. All consolidated inspections were performed as of April 30, 1996. A multimedia inspection of one facility from this list (Tishcon) uncovered significant violations in several programs. In addition, the RCRA and NPDES programs have conducted three coordinated inspections to date.

Region 3 - Automobile Service Sector (S/SW Philadelphia) - In conjunction with a community-based study being conducted in south and southwest Philadelphia, Region 3 developed a pilot project to improve awareness and compliance with environmental regulations at auto body and auto repair shops. A multi-stakeholder workgroup designed the pilot program and is developing workshops and summarizing Pennsylvania, EPA, and city of Philadelphia regulations applicable to autobody and autorepair shops. In addition, Philadelphia Air Management is planning mailings and workshops on new autobody regulations and the Pennsylvania DEP assigned its contractor to develop a fall workshop for the sector.

- Surface Coating Sector (Metal Furniture - ARTD) - Region 3 reviewed the compliance status of 24 facilities. Of these, eight facilities were found to be in violation, and two others are suspected to be in violation. EPA issued three NOVs, three AOs, and one civil referral. Compliance assistance was offered to two facilities. EPA referred three facilities to the state for enforcement action. Due to the number of violations and the relatively small size of the facilities, a compliance assistance initiative was launched. In Pennsylvania, 402 potential candidates were identified. Forty-eight of these facilities were sent invitations to participate in compliance assistance and compliance incentive activities. Seven will participate during FY97. These activities will be expanded to Virginia and Maryland.

Region 4 - Plastic Materials and Synthetics - The RCRA program completed 11 inspections (including 3 multimedia), resulting in 2 informal enforcement actions by the states or EPA. AEEB conducted 20 inspections, finding no significant noncompliance. Of the 20 inspections conducted, 3 were multimedia. The program reviewed SDWIS to determine which plastic materials and synthetics facilities in Region 4 have a PWS and their PWS compliance status. Seven plastics and synthetics facilities in Region 4 were found to have a PWS. In FY97, the Drinking Water program will complete its review and assessment of SDWIS data for violations at these facilities, and determine if compliance assistance or formal enforcement is appropriate.

- Agricultural Practices - Region 4's RCRA program completed 2 inspections and took one informal enforcement action. In addition, North Carolina is concentrating enforcement activities on animal feedlots, primarily the tremendous growth in hog farms in the state. Tennessee's Department of Agriculture agreed to reduce nonpoint source pollution from agriculture practices. In addition, Tennessee requires fertilizer and pesticide manufacturers to submit storm water pollution prevention plans to document operating practices that minimize runoff and leachate pollution.

- Chloro-Alkali Facilities - RCRA completed two inspections, including one multimedia inspection. AEEB conducted three inspections, two of which were multimedia, and

found no significant noncompliance. Drinking water program activities included a regional focus on chlor-alkali facilities with a PWS. The number of single-media inspections was coordinated with delegated states, as appropriate. In addition, compliance assistance activities were conducted.

Region 5 - Iron and Basic Steel Products - Regional activity increased at steel-producing facilities during FY96. Traditional enforcement tools continue to be the main route for achieving compliance, but innovative means of using these traditional tools have been employed. For example, the coke oven NESHAP has become a useful tool in monitoring the compliance status of coke batteries in the region due to its daily compliance monitoring requirement for several emission points at the coke battery. In more than one case, NESHAP data have been used to enforce SIP and permit limits. SEPs are being actively sought in all settlement cases, especially since most iron and steel facilities are located in GEI areas or environmental justice areas. For example, a settlement with a coke plant in Illinois includes a SEP that will replace an existing end-of-the-pipe treatment system for charging emissions with a system that recycles the emissions back into the coke battery. Most of the ARD activity is in some stage of enforcement. Emission reductions are or will be realized as injunctive relief is obtained and SEPs implemented. These activities are expected to bring about major reductions in the levels of particulate matter, VOCs, and hazardous air pollutants.

- The UIC Branch continued its compliance monitoring, inspection, and enforcement activities under this sector. In addition, work on the Bethlehem Steel case, which was referred to DOJ continued. In FY96, a number of active cases with steel mills, primarily in northwest Indiana, continued to develop. SEP activities were concluded at a major mill, leading to the removal of more than 100,000 yards of contaminated sediment from the Grand Calumet River. Additional SEPs were negotiated with the steel companies to conduct work in cleaning up an additional 5 miles of the river. The Water program worked closely with the Natural Resource Trustee in northwest Indiana to restore or add habitat to the Grand Calumet River ecosystem, associated with the steel mills.

- Multimedia Iron and Steel Sector Activities -Region 5's Water program, along with ARD, developed the mini-mill initiative and followed up letters sent to industry with meetings to explain the initiative and to offer assistance to small businesses in a manner consistent with EPA policy. The initiative encourages self-audits and self-reporting, since many of these shops have not been inspected in several years. Based on an ongoing case, compliance problems involving release of contaminated water from slag quench into groundwater may be a common industry issue. Contaminated water was found to be seeping into surface waters from process pits leaking into groundwater in northwest Indiana. Facility inspections as well as Agency Common Sense Initiative (CSI) Iron and Steel effects, are attempting to alert industry to the issue and gain compliance if problems are found. ARD has found that many of these shops have replaced equipment, which may trigger NSPS. The success of this initiative cannot be evaluated at this time.

- Industrial Organic Chemicals - Air program work focused generally on getting federal, state, and local staff conversant with the requirements of the HON regulation and training staff in inspection techniques.

Region 6 - Industrial Organic Chemicals - The CWA program inspected approximately 71 of 104 major facilities. Fifty-five of these were determined to be compliant and 31 noncompliant. In response to the violations noted in inspection reports and effluent violations, 15 warning letters were written and 10 administrative orders issued. In addition, the enforcement program has coordinated with the permits staff in the Water Quality Management Division to expedite permit issuance/reissuance to minor facilities in targeted sector and priority watersheds. The air program inspected 17 facilities identified under the industrial organic chemical classification and provided a MACT information package specific to the facility for the inspector. The RCRA program completed 10 inspections at industrial organic chemical facilities. Overall, no substantive RCRA violations were found. The RCRA program is attempting to assess compliance trends at smaller facilities and, subsequently, compare the trends with historical expectations for this sector.

- CAFOs - A Cumulative Risk Index Analysis (CRIA) team is developing an algorithm to evaluate the cumulative impacts associated with concentrated animal feeding operations (CAFOs). The main forces driving the development of the CRIA derives from a need for an efficient time- and cost-savings decisionmaking process for issuance of general permits to CAFO. The CWA program concentrated on getting information to the CAFO industry and on assisting individuals in taking action to be covered by the general permit. In general, medium and large size industries have chosen to be covered. Smaller industries are not required to obtain coverage and have not done so. Through inspections (the states of New Mexico and Oklahoma performed approximately 305), outreach activities, and performance monitoring under the general permit, the region was able to upgrade the knowledge of regulatory requirements and compliance performance of many existing and new facilities.

- Automotive Repair - The primary concern of the Region 6 air program for this sector has been the proper use of materials containing chlorofluorocarbons (CFCs) and control of illegal importation of Class I materials (e.g., R-12 used in motor vehicle air conditioners). The region continued outreach to the regulated community and general public. As the program has matured, EPA's role has shifted

Agricultural Practices

In August of 1996, the Louisiana Department of Agriculture and Forestry (LDAF) worked with the Louisiana Department of Environmental Quality, the Louisiana Department of Wildlife and Fisheries, and state commercial pesticide applicators, farmers, consultants, and industry associations to address a series of pesticide-related fish kills in the northeast part of the state. The state agencies determined that the fish kills were linked to several pesticides used in cotton production, including curacon, methyl parathion, and azinphosmethyl. Numerous inspections and investigations found no misuses of pesticides. Through outreach to cotton producers in the area that outlined a strategy for reducing the amounts of pesticides washed into adjacent waterways, the agencies were able to prevent additional fish kills. The LDAF commended the cooperation by the cotton-producing community in northeast Louisiana.

from information disseminated through presentations and mailouts of information packets to collection of alleged violation information, enforcement and penalty actions. To help obtain accurate, provable information from citizens that will lead to successful enforcement actions, the region developed a letter and form requesting written details of alleged noncompliance. In FY96, the region assessed penalties two cases, issued two AOs, ditributed five section 114 letters to facilities suspected of violations, and took no action in three cases. The region also developed training for customs agents and other concerned agencies in the United States and Mexico to increase their knowledge of the problem of ozone depletion, the regulations to address the problem, and ways in which the material is being illegally transported. This training, which includes a reference manual and was given in both English and Spanish, has proven highly successful.

- Sanitary Sewer Overflows - The Water Enforcement Branch continued to address facilities experiencing sanitary sewer overflows in their collection systems. Meetings were held with several of the facilities to discuss the city's compliance plan and schedules. As schedules were agreed upon, administrative orders were issued to the facilities incorporating the schedules. Eighteen administrative orders were issued to permittees with Sanitary Sewer Overflows (SSOs), 10 of which were schedule orders. In addition to working with the individual cities, training was held for the Southeast Section of the Water and Industrial Waste, Incorporated, an operators organization in southern Louisiana; as well as to the Region 6 American Consulting Engineer's Council Workgroup, the Northeast Texas Section of the Water Environment Federation and to an ad hoc group of owners and operators of North Texas collection systems.

- Combustion Strategy - Boilers and Industrial Furnace (BIF) - The region conducted five BIF inspections, based upon inspection frequency (i.e., amount of time lapsed since the last inspection). Additionally, the region inspected the only active CERCLA incinerator. Although no new enforcement actions were initiated, the region filed seven final administrative orders with penalties totaling $544,000. The actions produced $279,000 in injunctive relief and $2,750,000 in SEPs. The final orders addressed approximately 14 million tons of waste.

Region 7 - In FY96, Region 7 formed multimedia sector teams for the three national and two significant sectors selected by the region. Each team comprised representatives from all the appropriate Region 7 media programs, Office of Regional Counsel (ORC), Enforcement Coordination Office (ECO), and pollution prevention staff. Each sector team had a team leader, and the teams evaluated each sector for environmental and compliance problems. The teams also targeted and implemented appropriate enforcement and compliance assistance activities tailored for the sector presence in each Region 7 state. The results were very different for each sector. The region is still evaluating the results of its sector activities, but has gained valuable insight into the resources, practices, and impediments associated with implementing multimedia sector activities.

- Automotive Service/Repair Industry - Region 7 staff developed and staffed an information booth at the Vision 2000 Hi-Tech Training and Exposition in Kansas City, Missouri, on March 1-3. This exposition provided printed information on topics and regulations related to auto repair to approximately 1,200 automotive service technicians, shop owners and operators, and industry vendors in attendance. The Kansas Department of Health and Environment (DHE) UIC program closed a Class IV well at a radiator repair shop. The well, a septic tank/leachfield, was contaminated with high concentrations of lead. Sludge and rinsate from the shop had lead levels as high as 129.7 mg/l. However, most of the lead was captured in the sludge, which was removed. Floor drains were plugged, the tank removed, and the subsurface remediated. The region also closed five industrial disposal wells. These closures included a Class IV well, which is currently undergoing RCRA and UIC remediation. Most of the wells are associated with motor vehicle repair waste streams.

- Agricultural Sector - Region 7 developed a draft guidance handbook for agriculture dealerships that gives a synopsis of EPA regulations that affect farm suppliers and lists state and Region 7 contacts who can answer questions. The region also issued guidance to all of the state and local air agencies on how to calculate the potential to emit air emissions for grain elevators. In addition, the wetlands program of EPA developed two fact sheets that fit into a national brochure. The results of 20 inspections by the Kansas Department of Agriculture, which focused on grain-handling facilities in Kansas, indicate a significant level of noncompliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (i.e., 13 administrative compliance conferences, 5 warning letters, and 20 NONs). The second phase of this initiative, which will be implemented in FY97 includes development of compliance materials to address these violations.

Region 8 - Coal-Fired Powerplants - Thirty-eight significant coal-fired powerplants operate in the region. The region selected this sector because of ongoing issues related to the new acid rain program and impact of plants on prevention of significant deterioration (PSD) Class I areas and plant impacts in nonattainment areas. Most plants in Region 8 are subject to programs administered by the states via EPA-approved SIPs or delegations of federal programs. Thus, the states have the enforcement lead. The region focused on evaluating the compliance status of all coal-fired powerplants generating more than 25 MW of energy. In addition, environmental justice issues were evaluated for all the CFPP facilities. The region identified 20 plants that warrant attention and worked with the states to address all concerns.

- Agriculture - Region 8 formed an Agricultural Practices Team to develop and implement a multimedia sector compliance strategy. Agricultural chemical (i.e., pesticide and fertilizer) manufacturers and distributors, as well as feedlot operations, were identified as the practices or facilities of greatest concern in Region 8. Efforts were made to increase the amount of compliance assurance and compliance assistance devoted to these practices and facilities. The region worked with state environmental and agricultural agencies to identify 10 facilities from the above categories for

comprehensive multimedia compliance evaluations. Facilities were targeted primarily using size, compliance history, and cross-media interest, but the region also attempted to work with the states to consider such factors as potential risk to human health and/or the environment and environmental equity. Each state has committed, either in its SEA or PPA, to support this initiative. Although some evaluation activity occurred in FY96, the majority of the evaluations will occur in FY97. In addition, the region has taken steps to cross-train or to at least increase the awareness of its inspectors of the various environmental statute requirements applicable to the agricultural practices sector.

- Auto Service Industry - Region 8 developed a strategy to improve the compliance status within the auto service sector. This strategy incorporated inspecting or contacting 5 percent of the identified 25,000 auto service facilities in the region. The plan identified an approach to contact large masses of the sector through the regional compliance assistance effort, which was developed in a partnership with Front Range Community College. Additionally, the region developed an inspection strategy to look at the significant noncompliers and other targeted facilities. Within this inspection plan, the region identified specific numbers of inspections in the auto service sector to each state in its respective workplan. These targets were identified in accordance with the number of auto service facilities within the region and each state. The region also participated in numerous citizen complaint inspections in Colorado.

- Mining - Region 8 referred 6 CERCLA section 106 and/or 107 actions at mining-related sites. In addition, the region concluded 10 CERCLA administrative order actions at mining-related sites. The region also entered into alternative dispute resolution in an attempt to resolve a cost recovery action at a mining site in Utah. At several other sites, the threat of CERCLA response actions at sites impacted by mining activities has prompted response actions under other authorities. The NPDES program settled the judicial case against Zortman Mining Incorporated/Pegasus Gold Corporation (PGC) resolving CWA violations at the Zortman and Landusky mines. The conditions of the settlement require PGC to pay the United States and the state of Montana $2 million in fines. In addition, PGC will spend approximately $1.6 million to conduct a community health evaluation and an aquatic study, as well as improve five different drinking water systems on the Ft. Belknap Reservation. PGC will also submit financial assurance totaling $32.3 million to the state of Montana to cover the costs of long-term water treatment. The Ft. Belknap Community Council will also collect $1 million from PGC. This is the largest total settlement in Region 8 for CWA violations to date. In addition, the TSCA program issued a complaint and notice of opportunity for hearing to Zortman Mining, Incorporated, alleging that six 1.9 gallon General Electric pyranol, PCB, large, high voltage capacitors removed from use were not marked as required. The complaint contains a proposed fine of $3,000.

Region 9 - Agriculture Initiative - The Agriculture Initiative includes various activities in support of community-based agricultural pollution prevention in FY96, with an emphasis on improving the region's ability to monitor and measure environmental improvements. Progress in implementation of demonstration projects included the addition of at least 30 new farmer participants utilizing biological farming practices on more than 500 acres across four counties in the Central Valley of California. New community partners in the biological farming projects were also brought on board. The region also supported the Biologically Integrated Orchard System project, a demonstration project working with California's billion dollar almond and walnut industries to reduce pesticide and fertilizer use. This project has achieved reductions or elimination of the use of priority pesticides that are known to be contaminating groundwater, surface water, and air; reductions of synthetic nitrogen; eliminations of open-air burning of orchard pruning debris; and enhanced soil quality that improves water-holding capacity while resisting erosion and minimizing PM-10.

- Auto Repair/Service Shops - Region 9 has supported the San Francisco Bay Area Green Business Recognition Program, a multiagency program that recognizes businesses for environmental compliance and excellence in resource conservation and pollution prevention. During FY96, the program established green business program steering committees in Alameda and Napa counties, identified and secured lead agency commitments from the Alameda County Department of Environmental Health (DEH) and the Napa County DEM, finalized both a "compliance" and "green business" checklist for the automotive repair industry, prepared a Green Business Program Implementation booklet, developed local marketing and public awareness plans, and tested the program on 7 to 10 auto repair shop volunteers in both counties. In early FY97, the group will hold program kick off meetings with Alameda's meeting scheduled for early November and Napa's meeting scheduled for early January.

Region 10 - Mining - During FY96, the regional mining coordinator and Office of Water Mining specialist developed a draft regional mining strategy to identify ways to improve environmental conditions at mine sites across the region. The strategy identifies specific tasks necessary to achieve necessary improvements, focusing on early involvement in mine site planning, setting priorities for inactive and abandoned mine reclamation, and recognizing the need to work with a variety of partners to achieve overall environmental improvement goals. In addition, the region has worked with the Forest Service on enforcement actions at several abandoned mine sites in Oregon, Washington, and Idaho; joined a federal lawsuit against a number of mining companies in the Coeur d'Alene mining district in an effort to seek funding for environmental and human health cleanup actions; and funded two efforts to promote mine site cleanup in the Coeur d'Alene Basin. The NPDES compliance section has also undertaken enforcement/compliance at several mine sites in Alaska and Idaho this past year.

- Auto Service/ Repair Shops - The authorized states have devoted significant resources to these facilities and, now, primarily focus on UIC/RCRA outreach and technical assistance. In Alaska, EPA worked with the state agency to develop and partially fund the Pit Stop program, a technical assistance program specifically directed to this

sector. EPA will use the results from this program, which has been well received by the regulated community, in determining the overall RCRA priority for this sector in FY97, in conjunction with other EPA direct implementation programs under leadership of the UIC program.

3.2 Media-specific Programs

As demonstrated throughout this document, EPA has developed several different initiatives focusing on very specific segments of environmental protection (e.g., community-based environmental protection, industry sectors). Through its specific media programs, EPA is using all of its available tools (e.g., compliance assistance, compliance monitoring, and enforcement) to ensure the overall quality of environmental performance remains high. These programs ensure that all regulated entities comply with their environmental requirements, regardless of their specific sector, size, or location.

This section presents the Agency's compliance assurance and enforcement highlights and accomplishments in each of the media-specific programs. Media-specific priorities set for FY 1996 included the following:

- Air - air toxics, operating permits, and implementing new enforcement tools
- Water - watershed approach, safe drinking water, and wetlands protection
- Toxics, Pesticides, and EPCRA - protect human health from high risk and hazardous chemicals, ensure emergency preparation and notification information and release information is available to communities
- RCRA - new regulations, outreach and assistance, and generators
- CERCLA - worst sites first, enforcement first/cost recovery, and enforcement fairness/reduction of transaction costs.

3.2.1 Air

The Agency's air program has the responsibility of ensuring that the United States and its territories maintain a high level of air quality. The program accomplishes this task basically by enforcing and assisting compliance with the Clean Air Act and its implementing regulations. The following are some of the major accomplishments for the air program in FY96:

- ***Clean Air Act Citizen Awards Program*** - In FY96, EPA, in conjunction with other federal agencies, developed and implemented the Citizen Awards Program. The purpose of the program is to present monetary rewards (up to $10,000) to citizens who furnish information or services that lead to a criminal conviction or civil penalty under the CAA. EPA expects the awards program will encourage citizens to become more involved in EPA's enforcement of environmental laws, and that compliance with the Clean Air Act will increase. Although the final rule has yet to be published, EPA has the authority to offer and pay awards. EPA decided to carry out a pilot awards program to gain experience before issuing a final rule.

- ***Outreach on Specific Industries*** - Region 1 conducted enforcement assistance activities in several communities on urban auto repair shops. In Providence, RI, and Methuen, MA, air and toxics program representatives and other EPA staff met with town officials to provide compliance monitoring and enforcement guidance. In Boston, MA, the region participated in joint inspections with the city's environmental strike force. In addressing this sector with an urban priority overlay, the region found EPA existing regulatory authority did not adequately reach the most serious facilities, so it focused instead on building local capacity to use the communities' more effective tools of zoning.

- ***ENVVEST Air Initiative*** - In FY96, Vandenberg Air Force Base, the Santa Barbara County Air Pollution Control District, and EPA Region 9 reached preliminary agreement on a final project for the Vandenberg ENVVEST Air Initiative. The objective of the Vandenberg ENVVEST initiative is to transfer money allocated for Title V compliance to fund emission reduction activities at Vandenberg Air Force Base. Vandenberg, with the help of Santa Barbara's Innovative Technology Group, has completed a feasibility study to retrofit boilers and expects to have a plan by early 1997 that will achieve a 10 ton-per-year reduction of NOx.

- ***Stratospheric Protection Program*** - Region 9 developed a marketing plan to promote citizen awareness of the health effects related to ultraviolet radiation during the month of September, which was declared "Ozone Layer Awareness Month" (OLAM) in the region. Educator guidance kits were mailed to over 900 science teachers, environmental educators, and school principals in the four-state area. San Francisco Community Television promoted OLAM with the telecast of "Ozone: Double Trouble."

In addition to these activities, nearly every region within EPA focused its efforts on outreach, compliance assistance, and enforcement activities regarding the newly-promulgated Maximum Achievable Control Technology (MACT) rule. This rule includes a market-based provision, called emissions averaging, that allows facilities flexibility to control certain emissions points to achieve the required emissions reductions in the most cost-effective manner possible. The MACT rule spells out how facilities may use emissions averaging and which emission points may be included. The following highlight some of the activities conducted during FY96 in regard to the MACT rule:

- The air toxics program in Region 6 initiated several pilot programs to determine how to implement the MACT programs. The pilot programs involved the aerospace and chromium electroplating/anodizing MACT standards. The electroplating/anodizing MACT was chosen as a pilot for compliance assistance to small businesses. State small business offices were approached for assistance and to identify non-notifiers. In addition, compliance assistance was initiated to facilities that did not submit accurate or complete notifications. Under this MACT, the region has initiated review and approval of compliance extensions and alternative monitoring schedules. The

aerospace MACT was chosen to pilot procedures for identifying the universe of applicable sources. Additionally, assistance was provided to those facilities that have already notified to improve the accuracy and completeness of notifications.

- Region 7 conducted outreach on the chromium electroplating MACT rule. Seventy-five sources in Region 7 self-reported as being subject to the chromium electroplating MACT. The air program made 63 telephone calls to sources the region identified as potentially subject to the new standard but that did not report. This effort identified 15 additional sources subject to the MACT. These sources were sent compliance assistance materials, including a copy of the regulation and a compliance reference book.

- In Region 8, AMOCO in Salt Lake City, Utah, requested alternative monitoring from 40 CFR 60 Subpart J. The AMOCO protocol is the only request the region and headquarters reviewed and commented on prior to testing. The protocol was submitted after Region 8 and headquarters issued a clarification paper on the critical factors to be addressed in an alternative monitoring demonstration for Subpart J.

- Region 9 initiated and developed an outreach program that responds to inquiries from industry, the public, and interested state/local agencies on the MACT. A master list of MACT regulations was prepared in FY96 to serve as the basis for the region's outreach and compliance efforts.

In a significant enforcement case involving asbestos in Region 2, a judge levied the maximum penalty of $2,975,000 against Hoboken Shipyards/Sandelwood Construction Company for 119 violations of the asbestos NESHAP regulations. In setting the maximum penalty, the judge cited the company's lack of respect for environmental regulations. The company continued to demolish buildings without prior removal of asbestos and proper notification to EPA even after receiving an administrative order from EPA and a federal court preliminary injunction.

3.2.2 Water

Protecting our nation's water resources has been an ongoing activity in this country for more than 100 years. Legislation to prevent pollution of the oceans, rivers, lakes, and streams was enacted long before there ever was an EPA. Today, protection of those same resources remains a high priority for EPA and its state partners, who strive to maintain that protection through the implementation of two water-related programs, one for drinking water and one for industrial or municipal discharges to surface waters. The following sections detail some of the activities accomplished in FY96 in both of these programs.

In addition, EPA's water program also has responsibility for enforcing against activities that destroy or alter wetlands. Working in conjunction with the U.S. Army Corps of Engineers, EPA uses authority granted to it in the Clean Water Act to ensure such activities do not occur, and if they do occur, that they are addressed and mitigated. Section 3.3.2.3 discusses EPA's activities in FY96 related to protecting wetlands.

3.2.2.1 Drinking Water

EPA's drinking water program is responsible for establishing mandatory and comprehensive national drinking water quality standards. Such standards are established and administered through the Safe Drinking Water Act. The goal of these standards is to ensure that the nation's public health is not endangered by drinking water of unacceptable quality. EPA is responsible for developing the National Primary Drinking Water Regulations and policies and helping the states implement and enforce the requirements.

In FY 1996, the drinking water program undertook several initiatives to ensure that drinking water remained, or became, safe to consume. The following are some of the accomplishments from the last fiscal year:

- Region 2's UIC program used GIS and the global positioning satellite system to evaluate risk to groundwater and PWS wells from injection wells. As a basis for determining high priority areas, SIC codes were used by cross referencing the type of activity performed at the facility with those identified on a modified Common Sense Initiative listing. Selected areas were then prioritized based on ecological and environmental health risk. The selected SIC codes were then used in conjunction with the Dun & Bradstreet database to identify facilities for inspection. The facilities were address-matched and plotted on the GIS risk rank grid map, which was used to target inspections in the area.

  Since the inception of this UIC initiative, 230 facilities have been inspected, approximately 100 wells have been closed, and 40 known facilities remain to be inspected in the seven identified communities. GIS data layers of UIC information are provided to the respective state health departments.

- Region 2 entered into an administrative settlement with the Puerto Rico Aqueduct and Sewer Authority related to violations of Surface Water Treatment Rule final orders, which included a $33,000 penalty, and a SEP for $25,000. The use of SEPs is new in working with PWSs.

- During FY96, Region 3 entered into an agreement with the Government of the District of Columbia which required immediate steps to correct public notification violations, and which committed the District to injunctive relief activity to bring the District's public water system into full compliance at a projected cost of approximately $55 million.

- During FY96, in Region 5, more than 1,100 public water systems returned to compliance, either through formal enforcement actions or through compliance assistance means. For example, in cooperation with the Indiana Department of Environmental Management, Region 5 participated in workshops targeted to 900 violators of nitrate monitoring requirements. So far, 780 systems have voluntarily returned to compliance, the remaining 120 violators are receiving federal followup.

Region 2 - Community Public Water Systems (Non-PRASA Initiative)

There are 234 community Public Water Systems that are not operated by the Puerto Rico Aqueduct and Sewer Authority (PRASA) in Puerto Rico. These systems serve approximately 80,000 people who live in the Central Mountain Region of Puerto Rico. Typically, these systems do not have an identifiable owner, serve poor rural communities of less than 500, are not incorporated, and have no treatment other than some providing less than effective disinfection. Most are significant non-compliers (SNC) because of violations of the coliform MCL. Region 2 has a long standing commitment to ensure that all citizens of Puerto Rico, regardless of status, have access to safe drinking water.

The goal of this initiative is to increase public awareness of the need for safe drinking water, increase system compliance with the drinking water regulations and improve overall drinking water quality for the individuals served by these non-PRASA systems. This initiative has seen considerable activity in FY96:

- ***Enforcement:*** Region 2 has issued administrative orders to 125 of the 234 non-PRASA surface water systems, requiring the systems to install filtration or abandon the source. In addition, the region now provides non-PRASA PWS with Spanish translations of enforcement documents thereby improving the ability of the non-PRASA systems to respond and ultimately comply with the orders. More than 50% of the systems have responded to the 125 AOs (less than 10% responded under traditional enforcement methods) and 10 of the 125 systems have actually complied with the AOs prior to the final compliance dates. The remaining systems are being addressed by Puerto Rico Department of Health.

- ***Education:*** The *Water Source Book* has been translated into Spanish. This document will be used as a teaching aid and be incorporated into Puerto Rico's public school curriculum.

- ***Technology:*** In FY96, construction began on a conventional slow sand filtration facility to serve a population of 500. Construction should be completed in FY97. This facility will serve as a demonstration of low maintenance, low cost water treatment, that the Puerto Rico Department of Health can prescribe as best available technology.

- ***Technical Assistance - Public/Private Partnership:*** The public/private partnership, Partnership for Pure Water (PPW), with the Puerto Rico Pharmaceutical Industries Association has continued to provide assistance to the non-PRASA systems.

3.2.2.2 Industrial or Municipal Discharges to Surface Waters

Through the Clean Water Act, and specifically the National Pollutant Discharge Elimination System (NPDES) program, EPA regulates the discharges of industrial and municipal wastewaters to surface waters of the United States. This program requires that most wastewater be treated to certain levels prior to its discharge into rivers, lakes, and streams. The following illustrate some of the specific accomplishments within the NPDES program in FY96:

- ***Electronic Data Interchange for the Discharge Monitoring Reports*** - In FY96, EPA developed the electronic data interchange (EDI) process to simplify the reporting of discharge monitoring reports (DMRs) from the regulated community to the Agency's PCS. To support the EDI process, EPA developed an implementation guidance; terms, and conditions agreements; PCS software enhancements; training manuals for the regions, states, and trading partners; electronic transfer security procedures; and a communication and outreach plan. As part of the EDI, EPA initiated a pilot with Ciba-Geigy and Conoco. EPA also provided training on EDI.

- ***NPDES Monitoring Burden Reduction*** - In FY96, EPA established a national workgroup to reduce the NPDES monitoring burden for those facilities that have an established record of compliance with their NPDES monitoring and reporting requirements. Compliance and performance-based "entry criteria" will be used to assess a permittee's eligibility for the reduced monitoring scheme. Several options for this entry criteria were developed and discussed with industrial and municipal stakeholders, and with environmental groups. Input from the various groups was used to finalize criteria that will hopefully result in a 25 percent reduction in monitoring. This workgroup received the National Silver Hammer Award from Vice President Al Gore.

  EPA also implemented streamlining measures that reduced compliance oversight on approximately 23 percent of NPDES major industrial and municipal facilities in Region 6. Facilities that met the definition of "basically compliant" were notified they could submit to the Agency summary information on instances of noncompliance as opposed to individual reports. This streamlining has reduced the number of reports submitted to EPA, meets all requirements of the facility's current permits, and results in fewer letters from EPA. Facility reaction to this pilot has been very favorable.

- ***Sanitary Sewer Overflows Enforcement Guidance*** - In March 1996, EPA issued additional Enforcement Management System (EMS) guidance on setting priorities for addressing discharges from separate sanitary sewers. The guidance supplements the current EMS by establishing a series of guiding principles and priorities for use by EPA regions and NPDES states in responding to separate sanitary sewer discharge violations. The guidance focuses on the importance of correcting dry weather overflows, and those wet weather flows which, through frequency of occurrence or flow volume, have an adverse impact on water quality or public health.
  To address the problem of SSOs, Region 4 formed a Collection Systems Workgroup. The purpose of the workgroup is to:

  - Develop a compliance and enforcement program for the region that is compatible with the EMS that relates to SSOs
  - Develop a cooperation strategy for Region 4 and its states for implementing the SSO compliance and enforcement program and carrying out associated training activities

- Develop a guidance manual for evaluating the adequacy of a utility's collection system operation, maintenance, and management programs
- Identify collection systems that should, in accordance with the above referenced compliance program, be subjected to appropriate enforcement action
- In cooperation with the states, collect the necessary data and carry out the appropriate enforcement actions.

To date, Region 4 has expended considerable effort in drafting "Region 4 Manual for Evaluating Municipal Sewer System OM&M Programs." Additionally, the workgroup has developed a model evaluation notification letter and an evaluation outline for inspectors, and finalized and used a model administrative order. The region has also expended resources to develop the compliance and enforcement program, which has been submitted to management for approval.

- ***Municipalities with Combined Sewer Overflows (CSOs)*** - Region 5 developed and piloted a CSO Inspection Checklist. The purpose of the checklist is to train regulators on CSO control requirements, facilitate in the evaluation of the municipality's CSO control program, and provide technical assistance to CSO communities. Region 5, in cooperation with Indiana and Illinois, conducted seven CSO inspections using this tool. Refinement of this tool continues as the region plans on conducting approximately 25 additional CSO inspections.

- ***Organic and Inorganic Chemicals*** - In FY96, Region 5 began tracking the compliance trends for its major dischargers. Table 3-1 presents the region's findings.

Table 3-1. Compliance Trends for Major Dischargers

Quarter	Inorganic Chemical Industry	Organic Chemical Industry
4/95 - 9/95	88%	100% [1]
7/95 - 12/95	92%	89%
10/95 - 3/96	92%	100%
1/96 - 6/96	92%	100%

1 Dow Chemical (Midland, MI) is not included since it is reported under Inorganic Chemical Industry and would involve duplicate reporting of compliance, inspections and enforcement. It is listed as the top-ranking U.S. company with inorganic chemical manufacturing operations, and the 2nd-ranking U.S. company with organic chemical manufacturing operations. However, it is listed in PCS under SIC 2821, which is Plastics Materials.

- ***Concentrated Animal Feeding Operations (CAFOs)*** - CAFOs are becoming high priorities for enforcement and compliance personnel in some regions. The environmental impact of such operations is becoming more clear and the Agency is realizing these types

of operations must be addressed. Based on the growing density of CAFOs in Region 6, the region developed the CRIA that will be used to provide consistent, systematic, science-based information on cumulative impacts from multiple operations in a given watershed. This GIS platform tool is the first of its kind in the country and has wide ranging applications through a number of programs.

In Region 10, CAFOs in Idaho and Oregon were targeted for special focus in FY96. For CAFOs in Idaho, EPA, the state, and dairy industry signed an MOA outlining the roles and responsibilities of each party in a new approach to inspect dairy operations. There are approximately 1,100 dairy operations in Idaho and historically EPA has been able to inspect only 5 percent of the dairy operations per year.

To increase the number of inspections, and educate the farmers about water quality protection, EPA, the Idaho State Departments of Agriculture (ISDA) and Environmental Quality (IDEQ), and the Idaho Dairy Association, agreed on a new approach to inspect the dairy operations. While EPA and IDEQ still retain their authorities to intervene in cases of serious health or environmental threats, the ISDA will take the lead in inspections. Currently, ISDA already inspects the dairies for milk quality and with the new agreement will expand their inspections to look at the waste management practices.

To date, EPA has conducted several activities to facilitate in the transition of CAFO inspections to ISDA, including an inspector training workshop. In the past year, more than 2,600 inspections have been conducted under this MOA. All 1,100 dairies where inspected. As a result, the region has an accurate picture of the rate of noncompliance. In addition, those facilities identified as being out of compliance are now either in compliance or on a compliance schedule with the state Department of Agriculture.

In FY96, EPA and the Oregon Department of Agriculture continued the partnership they established in 1994 for regulating the CAFO industry. The agreement includes joint inspections. The CAFO program focus was widened to include a priority watershed in the south coast area near Coos Bay. As part of this, a mock inspection sponsored by EPA and ODA was conducted. Out of 34 CAFOs in this watershed, approximately 20 were represented at the mock inspection.

3.2.2.3 Wetlands

EPA has been heavily involved with several regulations regarding wetlands, including revisions to the Corps of Engineers' nationwide permits and a USDA regulation implementing the 1996 Farm Bill. The revisions to nationwide permits have been published and the USDA regulation were published as interim final in July. At the regional level, several regions have been developing and implementing wetlands strategies with ambitious goals and objectives.

Region 2 has initiated a geographically targeted outreach program that provides local education on wetlands regulations, available reference materials, contacts, and information on the importance of wetlands. In addition to the outreach, the region is also targeting enforcement

resources toward the same areas that receive the outreach. The region is also targeting Puerto Rico and the Virgin Islands to establish an EPA presence for wetlands protection in the Caribbean.

Region 4 has developed a strategy consisting of three primary principles, all designed to protect wetlands in the region:

- Implement the no net loss of wetlands concept through more state involvement
- Apply the watershed approach to the wetland enforcement program
- Determine how best to measure whether no net loss of wetlands is being achieved.

In FY96, approximately 750 acres of wetlands were preserved, plus 75 acres and several miles of stream bottoms restored through enforcement actions. In addition, the region's GIS program continues to develop its capabilities and its proficiency in generating data for mapping wetlands losses. The Program has lost no wetland acreage because of fill left in place as a result of an enforcement action. Most wetland enforcement cases require restoration of the site, and if fill is left in place, mitigation off-site is required. The Program has documented that all mitigation/ restoration ordered by EPA has been performed.

In Region 5, a fiscal year plan was developed that would contribute to the objectives and goals as defined by regional management and maintain a wetlands protection priority of "no net loss." To address these issues, the wetlands regulatory program has developed a workplan and strategy to develop new enforcement cases through a coordinated federal and state screening process in field investigations. Screening teams, consisting of EPA, Corps of Engineers, and state inspectors will investigate alleged violations and collectively recommend whether federal enforcement activities should be taken. It is anticipated this initiative will assist in bringing EPA enforcement actions back to a level of past performance.

In FY96, a total of $1,683,000 in civil penalties was collected and/or assessed from final judicial actions in Federal District Court. Most of the penalties were obtained through a contempt action for noncompliance with a federal consent decree. In May 1996 the Federal District Court for the Northern District of Illinois entered a final judgement against Robert Krillich, et. al., assessing $1,307,500 in civil penalties for failure to construct 3.1 acres of wetlands as required in a consent decree.

3.2.3 Toxics

The regulation and control of toxic substances was one of the driving forces behind the establishment of EPA. In the 1960s, literature was published that presented horror stories about the use of pesticides in agricultural practices and the harm being caused by them and other toxic substances. In response to these public outcries, EPA initiated its efforts to control those substances and reduce their negative impact on human health. Nearly 20 years later, in the late 1980s, EPA began implementing a community right-to-know act, that not only required facilities to report on the amounts and types of toxic substances it had on site, but also

provide information for emergency situations should such events occur. Today, EPA continues to implement these toxic substance control and communication programs. The following sections provide the FY96 accomplishments for activities under the three statutes that comprise EPA's toxic substances program.

3.2.3.1 EPCRA

The purpose of EPA's EPCRA program is to ensure that regulated facilities meet their emergency planning and community right-to-know requirements. A large part of EPCRA involves providing information to EPA that is then loaded onto the TRI Database, which is available to the public. Facilities are required to report the amounts of certain extremely hazardous substances they either manufacture, store, or use onsite, as well as how much wastes are generated, treated, or shipped offsite.

A large part of EPA's responsibilities includes locating non-reporters and getting them to report the required information. Historically, this has been performed using enforcement actions, but recently, EPA has been conducting significant outreach to the regulated community, both to get them to report and to help them report correctly. The following highlights are examples of EPA's efforts using both traditional enforcement and compliance assistance:

- ***EPCRA Section 313 National Community Right-to-Know Enforcement Initiative*** - On July 15, 1996 the Agency announced a nation-wide initiative involving 42 companies for failing to report to the TRI community right-to-know information on the types and quantity of toxic chemicals they released into the environment over a four-year period.

- ***National Food Sector Initiative*** - This FY96/97 EPCRA Section 312 initiative involves a National EPCRA Section 312 Emergency Preparedness Sector Enforcement Agreement, which is targeted toward facilities in SIC code 20 within the Food and Kindred Products Sector. Use of a sector enforcement agreement will allow EPA to bring thousands of facilities into compliance, while also collecting a small penalty to provide some incentive for future compliance. More traditional means of investigation and legal action would result in only a few hundred facilities being contacted. Companies who submit their EPCRA Section 312 hazardous chemical inventory forms and who sign the sector agreement will receive a $2,000 penalty cap. The major components of the national enforcement initiative are:

  - Identify suspected noncompliant facilities based on information provided by State Emergency Response Commissions (SERCs).
  - Contact facilities to remind them of their EPCRA Section 312 reporting obligations.
  - Mail EPCRA Section 312 compliance assistance letters and information packages to suspected noncompliant facilities notifying them of the state agency they may want to contact if they need to come into compliance, or if they need to notify the EPA that they are not regulated under EPCRA Section 312.

- ***EPCRA compliance monitoring approach*** - During FY96, Region 2 undertook a compliance monitoring initiative particularly as an outgrowth of the Napp Industries investigation (the investigation of an explosion at a chemical company which killed 5 employees). The region compiled a list of small to medium specialty chemical manufacturers in Bergen and Essex Counties in New Jersey involved in toll work similar to the operations at Napp. The list of toll operators was added to the facilities in Essex and Bergen Counties in New Jersey on the EPA-HQ High Risk List. The region then considered additional factors such as prior contact with the Agency, release notification history and inclusion in the New Jersey Toxic Catastrophe Prevention Act (TCPA) program to select our final list of compliance assistance inspection candidates.

  Thirty three compliance inspections of this priority universe of candidates were conducted in FY96. These inspections differed from the usual enforcement inspections because these facilities were known to be in compliance with EPCRA Sections 311 and 312. The purpose of the inspections was to verify complete compliance with EPCRA, provide addition information concerning other regulations (e.g., SPCC or risk management planning) and to screen facilities for future chemical safety audits. Ultimately, chemical safety audits were conducted for four facilities.

- ***Environmental Justice Targeting*** - Region 2 reviewed the past 8 years of ERNS data for facilities included on the EPA list of high risk facilities located in northern New Jersey. Based on this review, 33 facilities were visited and screened for chemical safety audit consideration. Comparing the location of these facilities to the New Jersey environmental justice demographics map, 14 of 33 or 42 percent of these facilities are located in areas with an environmental justice score of 40 or greater. Of the 33 facilities screened, four facilities were selected for audits during the second half of FY96 and 2 of these were in environmental justice areas (S. Bronx and Newark).

In addition to the above compliance monitoring and enforcement activities, EPA also conducted extensive outreach, training, and compliance assistance to the EPCRA regulated community. The following are some examples of those efforts:

- Region 2 notified 1,600 facilities reporting under TRI of regulatory changes. The region provided 12 seminars on the regulations to over 750 facility representatives. The region also addressed 200 attendees at seminars sponsored by the New Jersey Department of Environmental Protection.

- Region 3 conducted 10 EPCRA Section 313 compliance assistance workshops and seminars to assist the regulated community in completing release inventory forms and to promote pollution prevention and compliance with the statute. These workshops were presented in each state in Region 3. There were about 300 total attendees.

- A total of eight Section 313 seminars were conducted in Region 4 in FY96. The region also provided outreach on its Computer-aided Management of Emergency Operations

(CAMEO) program. The CAMEO pilot program was a tremendous success, as training was provided to state and local agencies throughout the region.

- Region 5 conducted six compliance assistance/outreach workshops, one in each state of the region. Emphasis was placed on inviting smaller facilities to attend and on expansion and delistings that have changed the list of reportable chemicals.

- Region 5 also initiated a plastic foam products compliance project. The targeted industry was SIC code 3086. This industry was targeted based on an EPCRA Section 313 inspection. The facility found out of compliance during the EPCRA Section 313 inspection told the inspectors they knew nothing about EPCRA and had neither seen nor heard anything about EPCRA through their trade associations. It was the facility's belief that other facilities with similar processes would also be out of compliance with EPCRA. Region 5 designed a compliance project to provide this industry with the necessary outreach to bring them into compliance. The following are details of the project:

  - 545 facilities were identified as having SIC code 3086. Of these, 183 facilities were already in compliance and were eliminated from the project; 52 facilities were in partial compliance and were sent letters to bring them into total compliance; and 362 facilities needed to be contacted
  - These 362 facilities were sent outreach packets. Of these, 33 packets were undeliverable; 115 facilities claimed an exemption; 10 facilities were already in compliance; 3 facilities came into compliance; and 201 facilities did not respond to the outreach mailing.
  - Of those 201 facilities that did not respond received follow up telephone calls, 30 facilities were found out of business; 112 facilities claimed an exemption; 10 facilities were found already in compliance; and 32 facilities came into compliance.

  This project brought 86 facilities in Region 5 into compliance with EPCRA Sections 311 and 312.

- Large numbers of anhydrous ammonia using facilities in Region 5 have not reported under EPCRA Sections 311 and 312, to the SERC or the Local Emergency Planning Committee (LEPC). To address this issue, Region 5 provided EPCRA training to 12 building inspectors in Stark County, Ohio. The training will assist the inspectors in disseminating information to the facilities they inspect to increase EPCRA compliance.

- Region 6 determined that an aggressive outreach program would significantly increase the base of facilities reporting under EPCRA. Since then, outreach projects have been conducted for a total of 249 counties/parishes in the region. This has included 52,575 packets of information mailed to the facilities, 315 workshops conducted, and 5,714 facility personnel attending workshops.

- Region 7 conducted a SERC / LEPC Conference. More than 300 SERC and LEPC members participated in this conference sponsored by the FEMA, EPA, and the state of

Missouri. The conference goal was to foster renewed interest in hazardous materials preparedness, strengthen the federal, state, and local partnerships, and to provide an update on recent and near-term regulatory activity. The primary topic of the conference was SARA Title III/EPCRA and its requirements for SERCs and LEPCs.

The region also conducted a TRI data use show. Topics included new upcoming regulations of the Risk Management Program under the Clean Air Act, and pollution prevention techniques, as well as the usual Form R training.

- In Region 9, more than 550 telephone requests for compliance assistance information on EPCRA Section 313 regulations were answered. A public meeting was held in San Francisco for the Phase II EPCRA expansion (addition of 7 industrial groups) and was supported by the region through development of an informational packet and mailing to over 700 organizations, associations and community groups.

  In FY96, the TRI was used as a key tool in supporting the Region 9 CBEP projects. In a broad effort to increase utilization of the TRI data by citizens' groups and to verify that industry is in compliance with the TRI regulations, the region conducted a mailing to over 500 community-based organizations in the region. This mailing contained information on what TRI data contains, how to access the data, and how the data has been used to reduce toxic emissions in communities.

  TRI program also directly supports many CBEP efforts in the region. First, the program can provide information on the TRI program, make the data available to the community and help them interpret this data to better understand the possible environmental impacts of these releases. This has been done through mailings to community groups and through presentations by EPA staff. Second, the program has, in certain instances, specifically targeted inspection of facilities in these areas to follow up on specific complaints about industrial facilities located in mixed use areas.

3.2.3.2 FIFRA

Since its inception in 1970, one of EPA's primary areas of responsibility has been pesticides. Charged with protecting human health and the environment from the dangers identified in Rachel Carson's *Silent Spring*, EPA regulates the manufacturers and users of all pesticides, including fungicides, insecticides, and rodenticides. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its implementing regulations are EPA's primary tool for ensuring safe production and use of pesticides. In addition, there is a worker protection component of FIFRA that ensures that all workers who may be exposed to pesticides are provided the proper warnings and precautions, as well as safety equipment. The following discussion provides accomplishments in FY96 in EPA's pesticide programs.

- As part of its core pesticides program, Region 2 developed a community outreach program to provide communities with a basic knowledge of pesticides and the federal

regulations. Mass mailings were sent out to libraries in New York and New Jersey and senior citizen groups in New Jersey announcing the availability of a Pesticide Familiarization Program. Eleven sessions were attended by 393 people.

- Region 3 supported efforts by West Virginia to produce videotapes targeting WPS issues for Haitian and Creole worker communities.

- In FY96, Region 4 undertook extensive training regarding its pesticide program. The following are the types of training conducted by the region:

  - Compliance Activity Tracking System (CATS)
  - Annual urban entomology training
  - Inspector training for the states of Kentucky, Tennessee, Mississippi and Alabama on basic computer usage, basic investigation techniques, and CATS data input.
  - Investigation procedures training for the Madison Police Department, Madison, Alabama, as part of the Northern Alabama stewardship effort.
  - Development of inspector training manuals in the states of Mississippi, Alabama, and Kentucky.

- Region 4 also conducted two enforcement initiatives regarding pesticides. The Delta Initiative/Aerial Applications was an enforcement initiative created as a result of several years of inconsistent and poor enforcement of alleged violations of pesticides laws by aerial applicators in Mississippi. A thorough audit was conducted of the Mississippi Agricultural Aviation Board (Ag Board) activities, which included its relationship with the Department of Agriculture and Commerce and the public perception of the state's enforcement effort.

  The region conducted 42 compliance assistance inspections and 42 follow-up inspections and assisted the Ag Board in amending the enforcement response policy. The Ag Board has completely reorganized and modified its standard operating procedure in accordance with the region's recommendations.

  In response to a massive fish kill in Northern Alabama and increasing concerns of alleged adverse health effects, Region 4 worked to solve some age-old problem in non-traditional ways. The region put together a coalition that subsequently became the Alabama State Steering Committee for the Partnership for the Responsible Use of Pesticides. The committee has met with an action committee and is developing a survey in cooperation with the Agency for Toxic Substances and Disease Registry and the state toxicologist to help assess potential adverse health effects in the area which may be associated with the aerial application of pesticides on cotton. Region 4 has assisted in the development of BMPs and outreach/education efforts in the northern cotton belt of Alabama.

- Region 5, in cooperation with EPA and Region 4, began the development of National Urban Pesticide Control and Enforcement Guidance that will be implemented in FY97 and

continue for the remainder of the millennium. The National Strategy was developed after incidents involving the illegal use of agricultural pesticides in Michigan and Ohio resulted in significant health risks to residents and the necessity to evacuate homes and conduct emergency clean-up efforts totaling more than $21 million dollars. The Strategy will provide guidance to states on how they can approach the issue of the illegal diversion of agricultural pesticides for urban/residential pest control and actively minimize potentially very serious public health threats to sensitive populations (infants, children, the elderly) in economically depressed communities.

- Acting on a tip from a local TV investigative reporter, EPA Region 6 initiated an investigation into the manufacture, sale and distribution of a disinfectant product AIDS QUAT-9 that had not been registered with EPA or the state of Texas. An investigation by the Texas Department of Agriculture (TDA), confirmed that AIDS QUAT-9 had been manufactured by RLD Chemical Manufacturing, and sold to the Dallas Independent School System (DISD) and the Dallas County Jail by Lipscomb Industries, Inc., and by RLD Chemical Manufacturing. In addition, RLD Chemical Manufacturing did not have the required EPA establishment registration to produce pesticides. Chemical analysis of samples taken during the inspection at DISD showed that the product did not meet the guaranteed analysis for percentage active ingredient indicated on the label.

  The TDA issued a Stop Sale Order to RLD Chemical Manufacturing on April 12, 1996, and Region 6 issued a Stop Sale, Use, or Removal Order to DISD and to the Dallas County Jail on April 19, 1996. FIFRA enforcement staff met with representatives of RLD Chemical Manufacturing and Lipscomb Distributing, Inc. The companies stipulated to all the counts and asked for leniency in the amount of the penalty, based on inability to pay. The region is developing civil complaints for the two companies and expects to issue them in the early FY97.

  The Louisiana Department of Agriculture and Forestry conducted a compliance assistance project to inform pesticide users making applications in, on, or around multiplex or government subsidized and administered housing about new state laws that require these applicators to be certified or work under the direct supervision of a certified applicator. A mailing with informational packets and a survey form was sent to multiplex housing owners and subsidized housing managers, and special certification materials and workshops were developed. Enforcement inspections will verify compliance.

  In addition to the specific incident above, the states in Region 6 are actively engaged in compliance assistance and enforcement of the Worker Protection Standard (WPS) and conducted a total of 4,398 inspections. The states are conducting compliance assistance audits in an effort to further educate the regulated community about the required provisions of the WPS. Follow-up inspections are being conducted to further document that the identified deficiencies have been corrected. Routine inspections at marketplaces and producer establishments, and in response to complaints, are also being conducted by the states.

- Region 7, in conjunction with its state partners, has reinvented the process associated with inspections of pesticide dealerships for compliance with worker protection standards. This project, called the Worker Protection Compliance Assistance Initiative, was nominated for Vice President Gore's National Performance Review Award for 1996.

  A workgroup developed a short, easily understood guidance document for use by the field inspectors who conduct pesticide inspections. This guidance limits the amount of documentation collected by the inspector and provides opportunities for compliance assistance as well as voluntary compliance, when warranted, by the pesticide dealerships. The guidance empowers the field inspectors, who are on the front line, to use their best judgement in how best to proceed in ensuring compliance with the worker protection standards. Customer service to the state Department of Agriculture as well as the pesticide dealerships are envisioned as a result of this initiative. Tangible benefits include minimization of paperwork, procedural red tape associated with inspections, quicker and higher levels of compliance, and governmental resource savings thereby allowing limited resources to be used more effectively. Enforcement resources would be focused on the "bad actors" rather than numerous small dealerships confused regarding complex regulations and requirements.

- The Region 8 FIFRA program will issue an estimated 38 warning letters as a result of FY 96 inspections; this is non traditional measure of enforcement in FIFRA. Another example of a non traditional measure, is the amount of compliance assistance performed on all FIFRA inspections. For instance, the average compliance time spent per FIFRA inspection is approximately one hour, which represents approximately half of the total on-site inspection time. Examples of compliance assistance include providing information on the new worker protection standards, discussing personal safety/health needs, and providing recommendations concerning the safe handling and disposal of pesticides.

  An FY96 FIFRA inspection resulted in the implementation of integrated pest management (IPM) by the Denver School District, Denver, Colorado, in the entire school system. This program will significantly reduce the amount of pesticides used in 150 school buildings, which accommodate more than 75,000 school children annually.

3.2.3.3 TSCA

TSCA is the primary statute that regulates the manufacture and sale of toxic substances in the United States. In addition to providing such controls, it also regulates several toxic substances in our environment including lead and PCBs. This section contains the FY96 accomplishments in three areas: 1) Core TSCA, which deals with the manufacture and sale of toxic substances, 2) lead, and 3) PCBs.

Working closely with Regions 2, 3, and 5, EPA amended the TSCA sections 8, 12 and 13 Enforcement Response Policy (ERP) in response to comments that the original policy required updating to reflect current trends in environmental enforcement, and to address a perceived

inequity where record-keeping violations were penalized more severely than violations of TSCA section 5, which controls the manufacture of new chemicals.

Region 9's Core TSCA program provided compliance assistance information to 200 importers of chemicals in Arizona and Nevada. Staff also attended two trade shows that many brokers and importers in California attended. The program also sent information on TSCA regulations to 100 brokers in Northern California. Region 9 also coordinated with U.S. Customs regional office on TSCA implementation in regards to imports. Staff provided training to the San Francisco Office on TSCA regulations and Customs' role. Region 9 has also participated in Customs' efforts to coordinate all agencies responsibilities for imported chemicals. The result of importer initiative has been an increase in technical assistance calls by importers and Customs. Customs in Region 9 is implementing TSCA regulations more effectively and also providing compliance assistance to importers.

Other regions worked on developing lead-based programs. In Region 2, for example, outdoor firing ranges can pose a significant environmental and public health threat if left uncontrolled with respect to dispersal of lead shot and clay targets. It is estimated there are up to 1,000 ranges with 10 million pounds of lead in Region 2. Accordingly, the region has been conducting a combined enforcement and compliance assistance program to address both short term and long term environmental and public health concerns, promote redesign of ranges for lead and clay target collection, and familiarize range owners/operators with environmental regulations and potential issues.

To support another aspect of Region 2's range strategy, eight inspections were conducted. In addition, the region continued to oversee the cleanup and redesign of the Westchester County range under a RCRA Section 7003 Order. This is part of the strategy to gain practical knowledge applicable to BMPs as well as to establish an enforcement presence intended to push ranges to seek compliance assistance. Part of the strategy also includes obtaining stakeholder support. In this regard, the region has received assistance and information from the National Rifle Association (NRA).

Region 7 is developing a coloring book to promote lead-based paint awareness with children. The coloring book will be used for Earth Day and in other presentations geared to children and parents. It will also be used as a resource to build awareness of lead hazards and prevention of lead poisoning in the context of developing state Lead programs.

Region 9 is focusing its efforts on Section 1018 of Title X, which requires that information on lead-based paint be disclosed prior to any sale or lease of pre-1978 target housing. To provide compliance assistance to the vast regulated community aware of these requirements, Region 9's Lead Program has used presentations, partnerships, and distribution of materials in an intensive outreach effort. Specifically:

- Partnerships were established throughout Region 9 with more than 50 real estate associations, real estate training groups, county health departments, city health departments, apartment associations, and advocacy groups

- Region 9 staff has made more than 15 presentations on Section 1018 requirements to these partners, as well as over 30 more presentations on the larger topic of lead hazards and regulations

- Three separate mass mailings of guidance documents and supporting materials on the 1018 rule have been sent to a 300-member mailing list of relevant federal, state and local governments, training institutions, and other organizations

- Training and curriculum development assistance on 1018 was provided to realtor groups

- Region 9 staff responded to 1633 compliance assistance calls.

Region 5 continues to pursue its PCB 2000 Phasedown Strategy under TSCA. The PCB 2000 Phasedown Strategy is initially focusing on voluntary disposal of PCB electrical equipment by the major electrical utilities in the Great Lakes Basin. The enforcement component of the strategy is a proposal for using regional enforcement discretion to encourage participation in the PCB Phasedown Program. We believe that lack of an enforcement discretion component has discouraged greater participation in the Phasedown Program. To date, one PCB Phasedown commitment has been signed by a major utility, Northern Indiana Public Service Company (NIPSCO). In FY96, the region received a letter from a second major utility expressing interest in voluntary disposal of PCBs.

The region conducted PCB inspections at General Motors (GM) facilities in Pontiac, Michigan in direct response to complaints and concerns voiced from concerned citizens and local government officials. The local concerns were over the possible spread of PCB contaminated dust from demolition of GM facility buildings and the use of possibly PCB contaminated fill, from GM facilities, within the community. In addition to conducting PCB inspections in the Pontiac area, the region met with all concerned parties to seek their input in developing a strategy to address these issues.

Region 5 is also providing the Chicago Housing Authority (CHA) with regulatory and technical compliance assistance in their cleanup of PCB contaminated soil within the CHA's Altgeld Gardens Residential Community. Altgeld Gardens is located within the Greater Chicago Geographical Initiative Area. The region is attempting to build a community partnership between the CHA and Altgeld residents. The region has participated in a community wide meeting and has facilitated several other meetings with CHA and Altgeld community leaders to address community concerns and seek input on the cleanup. In addition, the region has prepared PCB fact sheets specific to the Altgeld PCB contamination and has prepared additional written responses to community questions and concerns.

3.2.4 RCRA

The Resource Conservation and Recovery Act (RCRA) addresses the management of solid and hazardous waste, as well as USTs, that contain hazardous substances or petroleum. RCRA Subtitle C regulations provide "cradle-to-grave" regulation and control of hazardous wastes by

imposing various waste management requirements on generators, transporters, and facilities that treat, recycle, store, or dispose of hazardous wastes. Under Subtitle D of RCRA, EPA has developed criteria applicable to the management of solid waste, which is primarily regulated by state and local governments. The central Subtitle D regulation addresses municipal solid waste landfills and is intended to be implemented by approved state solid waste permitting programs. Subtitle I of RCRA establishes rules for USTs containing petroleum or hazardous substances. These rules focus on preventing, detecting, and correcting releases of regulated substances.

The following illustrate some of the RCRA-related accomplishments in FY96.

- ***1996 RCRA Enforcement Response Policy*** - To assure a consistent enforcement response across all regions and states, EPA issued a revised Hazardous Waste Civil ERP. The revised ERP incorporates a risk-based enforcement concept for addressing violating facilities, and provides greater enforcement flexibility when addressing small businesses, small communities, and facilities conducting self-audits. Among its most significant advances, the revised ERP:

  - Establishes timely enforcement criteria that consider alternative state enforcement processes, complexity of cases, SEPs, multimedia concerns and enforcement initiatives
  - Develops a practical definition of return to compliance that creates a more accurate compliance picture by now recognizing facilities currently on lengthy compliance schedules as having returned to compliance
  - Simplifies the classification system used to designate violators for determining the appropriateness of an enforcement action that will increase consistency of classification among states and regions, while emphasizing a facility-wide, risk-based approach to classifying violators.

  Under the revised policy, states and EPA can focus their enforcement resources against significant violators.

- ***The Mercury Containing and Rechargeable Battery Management Act of 1996*** - During FY96, EPA worked to substantially revise the enforcement provisions of the Mercury Containing and Rechargeable Battery Management Act. This new act establishes a nationwide rechargeable battery recycling program to prevent disposal into landfills, where heavy metals from discarded batteries could leach into groundwater and drinking water supplies. The program established by this new law is exclusively federal and pre-empts all inconsistent state laws. This new EPA program covers not only the disposal and recycling of covered batteries but also affects the manufacture and distribution in commerce.

- ***Import-Export Program*** - The Import-Export Program within EPA began developing a data base known as the Waste International Tracking System (WITS). This PC-based system currently is tracking imports of RCRA hazardous wastes and PCBs, primarily from Europe and Canada. The program receives approximately 1,000 notifications of intent to

import hazardous waste annually. The Program is also participating in a pilot program with Environment Canada to evaluate the potential uses of EDI for the transmission of such information.

At the regional level, several different types of activities were conducted, ranging from traditional enforcement activities to compliance assistance and outreach. In Region 2, for example, used oil seminars in the Caribbean are an integral part of an overall management strategy that includes development of a regulatory program, management standards, laws and regulations, recycling provisions and incentives, and outreach/compliance assistance. All four seminars in Puerto Rico were conducted in Spanish and all outreach material, including a manual, were translated into Spanish. This translated version, the first in the nation, is being shared with other regions and headquarters. It is anticipated that the management program, including the seminars, will result in the prevention of 2-3 million gallons per year of used oil currently being improperly disposed/released to the environment.

Region 6 has issued favorable acknowledgments to 19 companies regarding their voluntary decision to improve the environmental management and compliance of their facility by disclosing and correcting various hazardous waste violations. These companies are among the first in the nation to have self-disclosed and corrected RCRA violations under the EPA self-disclosure policy. Region 6 has promoted the policy through a compliance assistance outreach program with the U.S./Mexico maquiladora associations. Each company discovered its violations through their voluntary self-audit programs, reported and corrected their violations, and developed procedures to prevent future occurrences. These disclosures have qualified for the full civil penalty mitigation benefit of the EPA interim policy.

Region 7 conducts compliance assistance visits at all new notifiers. This visit consists of providing the facility with programmatic outreach materials and a walk-through of the facility by an inspector. During FY96, Region 7 conducted approximately 237 compliance assistance visits at new notifiers, covering all facility types and various industries.

Region 9 undertook a variety of RCRA compliance assistance programs in FY96, including

- Conducting 8 generator workshops in California reaching about 425 people
- Conducting a new basic hazardous waste generator workshop that was specifically targeted at and designed for tribal environmental staff and generators operating on tribal lands
- Attending and speaking at trade shows and association meetings
- Filming an educational video.

Region 10 began to place more emphasis on compliance assistance in specific geographic areas. For example, a new position in the regional compliance unit was established to focus on outreach

and assistance to the regulated community, primarily in Alaska. A toll-free information line was established to respond to the various requests from the state of Alaska.

Under RCRA UST Program, Region 4 successfully settled with the Worsley Companies, Inc. of Wilmington, North Carolina. This case has the largest UST civil penalty yet collected in the country ($199,325) and includes SEPs worth more than $2 million. Worsley Companies operates convenience type food/gasoline franchises under several names in the southeast.

3.2.5 CERCLA

In FY 1996, one of the major areas of focus under CERCLA was the Agency's Brownfields Initiative. Brownfields are abandoned parcels of land, usually in urban areas, that are either contaminated or perceived to be contaminated from prior industrial activity. Working closely with other federal agencies, EPA began the task of exploring opportunities to not only remediate these parcels of land, but remediate them to the extent they can be used again and create new economic opportunities. During FY96, Region 6 made the development and implementation of Brownfields a priority. An integral portion of that effort involved assistance to state programs for voluntary cleanups. To accomplish these goals, the region established partnerships with other state and federal departments and agencies working in areas that support Brownfields and related activities. Through regional technical and financial assistance for program development, four of the five states in the region now have specific legislation authorizing state voluntary cleanup programs. The fifth state is developing legislation that will be introduced in the next legislative session. The region has also entered into an agreement with the state of Texas on the conduct of their voluntary cleanup program that provides some documentation regarding federal intent to entities that complete a cleanup under the program. This program has been extremely successful in the cleanup of properties that would generally not be addressed by the federal program and the return of those properties to use. In addition to the national pilot grants awarded to New Orleans, Louisiana, and Laredo and Houston, Texas, the region provided funding for Brownfields grants to Dallas, Texas, and Shreveport, Louisiana.

In Region 7, the City of St. Louis was awarded a Superfund Brownfields Pilot to investigate and plan for redevelopment of the Dr. Martin Luther King Business Park, a 26-acre site immediately west of downtown St. Louis and the former location of several metal plating, light manufacturing, and gas station facilities. During the first year of the two-year work plan, the city has sold or optioned three city blocks to two new and one expanding business creating 100 new jobs. The remaining nine city blocks are being tested for environmental contamination and marketed.

In addition to the Brownfields initiative, the Superfund program at the headquarters and regional levels continued to conduct its enforcement efforts, including policy development and training and outreach. For example, to promote redevelopment of contaminated properties EPA has sought to protect prospective purchasers, lenders, and property owners, from Superfund liability. EPA's Guidance on Agreements with Prospective Purchasers of Contaminated Property has stimulated the development of sites where parties otherwise may have been reluctant to take action. This was done through agreements known as "prospective purchaser agreements," that bona fide prospective purchasers will not be responsible for cleaning up sites where they did not contribute

to or worsen contamination. Of the 45 agreements to date, more than 50 percent have been reached since the issuance of the guidance last fiscal year.

Region 7 recently finalized two prospective purchaser agreements. Through these agreements, EPA provides a covenant not to sue a prospective purchaser of contaminated property for existing contamination so that reuse or redevelopment of the property may be encouraged. Without such agreement, a purchaser of contaminated property would incur Superfund liability upon acquisition of the contaminated property. One of the agreements involves land contaminated with mine waste that is located at the Jasper County Site, a large mining site in southwest Missouri. The work to be performed by the purchaser includes grading the site, leveling piles of mining wastes, filling open mine shafts with rock, and fencing the site to prevent public access. The purchaser plans to use the currently vacant property for operation of a metal recycling facility.

The second agreement involves the Kansas City Structural Steel Site in Kansas City, Kansas. The purchaser is a neighborhood organization working with disadvantaged Latino and Hispanic community members, who will use the property for light industrial purposes. The current plan is to construct a self-storage complex on the property. Consideration received by EPA includes institutional controls concerning use of the property, and implementation of operation and maintenance requirements.

Through continuation of two previous rounds of administrative reforms and initiation of a third round of reforms, in FY 1996, Superfund enforcement continued to substantially improve the program. The following are some of the accomplishments over the past year in administrative reforms:

- ***Interim Guidance on Orphan Share Compensation for Settlors of Remedial Design/Remedial Action and Non-Time-Critical Removals*** - This guidance describes where EPA will provide compensation for a portion of the shares that may be attributable to insolvent or defunct parties (i.e., the orphan share) to PRPs who agree to perform cleanups.

- ***Special Accounts Short Sheet*** - This memorandum encourages regions to use special accounts for settlement funds and advises them on the creation and use of these accounts.

- ***Documentation of Reason(s) for Not Issuing CERCLA 106 UAOs to all Identified PRPs*** - This memorandum reaffirms EPA policy to issue unilateral administrative orders (UAOs) section 106 of CERCLA to the largest manageable number of PRPs after considering the adequacy of evidence of a party's liability, their financial viability, and their contribution to the site.

- ***Revised Guidance on CERCLA Settlements with De Micromis Waste Contributors*** - These new guidance and associated model settlement documents are designed to discourage third party contribution litigation against contributors of extremely small

volumes of waste ("de micromis parties") and, where necessary, improve EPA's ability to resolve their liability concerns quickly and fairly.

- ***Reducing Federal Oversight at Superfund Sites with Cooperative and Capable Parties*** - Directive OSWER # 9200.4-15 presents factors for regions to consider when determining if a PRP is cooperative and capable and, thus, eligible for reduced oversight.

In addition to these policies and directives, the Superfund program was also busy developing and distributing several fact sheets, including:

- The Effect of Superfund on Involuntary Acquisitions of Contaminated Property by Government Entities
- Policy Toward Owners of Property Containing Contaminated Aquifers
- The Effect of Superfund on Lenders that Hold Security Interests in Contaminated Property
- Public Availability of Superfund Enforcement Documents
- The Imminent and Substantial Endangerment Provision of RCRA Section 7003.

As in past years, training remains a vital component of the Superfund program. In FY96, the program continued to develop and present Superfund-related training including the Introduction to Superfund Enforcement Computer-Based Training Course, the Fundamentals of Superfund, the Enforcement Process course, and ADR training.

3.3 Criminal Program

One of the Office of Criminal Enforcement, Forensic, and Training's (OCEFT) initiatives is prosecution of environmental crimes in environmental justice communities. Each Criminal Investigation Division (CID) Area Office has identified specific communities by race, ethnicity, or income that bear disproportionate adverse impacts from pollutant sources. In the past year, almost thirty percent of all cases investigated involved minority or low income locations.

Throughout FY 1996, EPA participated with the Department of Justice, the United States Coast Guard, and other federal and state entities in environmental task forces to address potential environmental violations in the Mississippi River watershed. The Philadelphia, Atlanta, Chicago, Dallas, and Kansas City Area Offices have investigations that target polluters along the Mississippi River and its tributaries. These investigations target sources that threaten ecosystems and environmental justice communities. Furthermore, the investigations are based upon strong science and data, and partnerships with other enforcement agencies. At the close of FY 1996, CID had initiated 100 investigations that involved or had a direct impact on the Mississippi watershed.

During the course of FY 1996 there continued to be a dramatic increase in the illegal importation of CFCs and other ozone depleting chemicals (ODCs) in the United States subsequent to the promulgation of stringent amendments to the Clean Air Act. CID has responded with aggressive investigation of these activities. Illegal importations of CFCs often involve violations of United States Customs Service (USCS) statutes related to smuggling and the Internal Revenue Service (IRS) codes regarding the payment of CFC excise taxes. There are over 40 open CFC investigations nationwide. Nineteen of these cases involve smuggling of CFCs into the United States.

All criminal cases rely on the January 12, 1994, Office of Criminal Enforcement Guidance on the Exercise of Investigative Discretion, which establishes discrete criteria for Agency investigators when considering whether or not to proceed with a criminal investigation. The guidance is designed to promote consistent but flexible application of the criminal environmental statutes. Cases that fail to meet at least one of the identified criteria are not appropriate for federal criminal investigation and prosecution. The guidance requires referral of such cases to EPA's civil enforcement arm for administrative or civil judicial action or, where appropriate, to state or local prosecutors. The criminal case selection outlined in the guidance is based on two general measures - significant environmental harm and culpable conduct. These measures, in turn, are divided into nine factors that serve as indicators that a case is suitable for criminal investigation.

The Pollution Prosecution Act (PPA) of 1990 authorizes a number of enhancements to EPA's criminal enforcement program, including increases in the number of criminal investigators to 200 and a commensurate increase in support staff. By the end of FY 1996, EPA had increased the number of criminal investigators to 151 compared to 47 in FY 1989. This additional investment in agents has yielded significant increases in most key areas of the criminal program including 548 cases initiated by the end of FY 1996.

3.4 Community-Based Protection Priorities

In FY96, EPA made significant progress in advancing community-based environmental protection (CBEP). The Agency has actively promoted and encouraged regions to adopt CBEP as they implement their compliance and enforcement activities. Through policies and initiatives, EPA is giving regions and our co-regulators flexibility to allow local communities, neighborhoods, and developments to set their own environmental priorities and to pursue environmental goals that meet their environmental needs and still meet Agency requirements. EPA is developing the tools that will allow it to better address and tailor Agency responses to community needs. EPA is also empowering communities for example by opening its compliance and enforcement data bases to the public and building new tools including risk-based targeting Geographic Information Systems (GISs) to focus on problem areas, particularly in environmental justice communities, and enforcing communities' rights to information about toxic and hazardous materials in their communities. The addition in FY96 of the Office of Environmental Justice enhances EPA's ability to do CBEP in environmental justice communities.

The EPA FY96 CBEP Progress Report, which was sent to the Deputy Administrator in January 1997, highlights CBEP activities in 18 compliance and enforcement areas in which EPA had significant outputs. The EPA FY97 CBEP Performance Plan identifies 23 CBEP continuing and new CBEP activities in compliance and enforcement areas in which EPA expects to have significant efforts in FY97. The resource estimates for CBEP activities in EPA that were specifically identified in the 1997 plan total 25.5 full time equivalents (FTEs) and $5.477 million of contract or grant assistance money. The following summary highlights EPA FY96 CBEP activities.

Many EPA policies and guidances are aimed at providing information and flexibility for communities to set and pursue their local environmental goals. Formerly desolate brownfield properties, for example, are being cleaned up and redeveloped economically under EPA's brownfields policies, which address and remove liability barriers to development. The November 1996 policy on comfort/status letters facilitates local community stakeholders and development interests in undertaking cleanup and redevelopment efforts. Similarly, EPA policy on enforcement flexibility for small communities allows small communities, in partnership with the states, to establish environmental compliance goals and priorities for their communities.

One of EPA's goals is to increase public and regulated community understanding of the linkage between the condition of the local environment and compliance with environmental requirements. To achieve this goal, EPA has developed CBEP tools and information systems and provided compliance assistance and resources for CBEP projects. Significant CBEP compliance and enforcement activities in this area include risk-based targeting activities, the use of mitigated penalty amounts for supplemental environmental projects (SEPs) in the settlement of enforcement cases to do CBEP projects, the expanded public access to compliance and enforcement data bases through the Integrated Data for Enforcement Analysis (IDEA) data base and IDEA for Windows, and EPA funding assistance for pilot CBEP projects that demonstrate compliance and

enforcement CBEP approaches. EPA has also supported inspections and other activities to identify and resolve local community environmental issues.

In addition, EPA has taken enforcement initiatives to protect communities' rights (under the Emergency Planning and Community Right-to-Know Act [EPCRA] Section 313) to know about chemicals released into their environments and to assure that local emergency protection groups are informed (as required by EPCRA Section 312) about quantities of chemicals are stored in their communities. During FY96, OECA also did substantial work with other Agency offices to assure compliance with and the enforceability of recent environmental requirements that will protect the public health of inner city residents from such toxics as lead, illegally used agricultural chemicals, and pollutants from mobile sources, including urban bus fleets.

OECA issued Interim Final Operating Principles for compliance and enforcement in November 1996, which include activities supporting CBEP, such as inspections on ecosystem or geographic area bases and collaborative planning; targeting; and information sharing with state, tribal, and local governmental entities. Additionally, OECA is developing strategic goals for compliance and enforcement. These goals are proposed to include an emphasis on themes related to CBEP including communities and places, partnerships, public participation, and equal protection for all populations (environmental justice) under environmental laws.

The community-based projects described in this section are achieving meaningful results. Some take the form of traditional enforcement activities, yet, many of the benefits of community-based projects consist of less tangible effects, such as establishing relationships with marginalized communities, bringing together stakeholders concerned with a specific resource or region, and developing a solution that works for everyone affected. Moreover, it is important to recognize that a significant part of these benefits will be achieved in the long-term, not the short-term. Many of the issues being addressed by community-based enforcement initiatives are significant problems, which cannot be resolved overnight. Thus, many of these projects reflect the early phases of achieving community-based solutions. The remaining challenge is to address the new issues posed by such work and to effectively integrate these projects into the broader mission of environmental enforcement.

The CBEP projects described in the remainder of this section are organized by EPA region and reflect selected examples of the work the Agency is doing in this area.

3.4.1 Region 1

Region 1 employed a variety of tools to focus its community-based protection efforts on two areas: two municipalities, as part of its public agencies priority, and protecting natural resources within four sensitive ecosystems. All targets were chosen to achieve the greatest potential compliance, deterrent, and enforcement impact.

Haverhill, Massachusetts, and Sanford, Maine - The Region 1 Public Agencies Team undertook an enforcement and assistance initiative in two municipalities, Haverhill, Massachusetts, and

Sanford, Maine. The comprehensive approach taken within the two towns used both assistance and enforcement tools. This approach proved effective in identifying systemic barriers to sound town management of environmental concerns and offering tailored assistance to the municipal government.

The findings of multimedia assessments in the two municipalities led the team to conduct an outreach campaign to town officials throughout New England, which put the officials on notice of potential scrutiny, identified potential compliance vulnerabilities, and provided information for addressing concerns typical of municipalities.

This activity involved the use of numerous enforcement tools, including 44 inspections, compliance assistance at 11 wastewater treatment sites, 20 workshops, identification of a regulated waste stream, referral of waste drum removal to the state, and town tank removal at three sites. The activities resulted in the development of three enforcement cases, a criminal investigation, and two underground storage tank (UST) field citations. This action had a pronounced deterrent effect as word of Region 1 enforcement presence and assistance efforts spread to surrounding towns.

Mystic River Watershed - The second community-based compliance effort in Region 1 consisted of an innovative field reconnaissance approach to identifying and addressing environmental concerns in the Mystic River watershed of Boston Harbor. Existing EPA data bases and files served as key sources of traditional information. The recon process extended beyond traditional approaches to ensuring compliance, however, by including interviews with local officials, environmental advocate groups, and other federal, state, and local environmental officials combined with field reconnaissance and investigative techniques.

The Region 1 Office of Environmental Measurement and Evaluation (OEME) led a 10-week recon pilot effort in the Mystic River watershed of Boston Harbor. The region's Sensitive Ecosystems Team selected Mystic River as a target for place-based enforcement and assistance activities, and the Urban Environments Team also examined Mystic-related issues. The Mystic River watershed recon identified opportunities for cross-media compliance/enforcement, technical assistance, permitting, Superfund responses, and citizen volunteer monitoring and cleanup efforts. Through studying an area encompassing seven towns, the recon project produced recommendations for compliance and enforcement follow-up at 36 facilities and areas of concern, 13 of which had multimedia concerns, as well as technical assistance and community-requested assistance opportunities.

In following up on the recon pilot, Region 1 performed more than 60 air, water, Resource Conservation and Recovery Act (RCRA), Spill Prevention, Control and Countermeasure (SPCC), and EPCRA inspections. These inspections yielded a significant number of enforcement or assistance opportunities. Region 1 will further develop the partnerships with state and local agencies started by the recon project and report back to the communities periodically on progress made.

Lower Charles River Basin, Massachusetts - Toward the goal of a fishable/swimmable Charles by 2005, Region 1 took enforcement actions against five towns in the lower basin to eliminate illegal sewage discharges and combined sewer overflows into the Charles River. In addition the region continued efforts to develop comprehensive storm water management programs.

South Coastal Massachusetts - Region 1 conducted 61 inspections targeted to protect the wellhead area of the sole-source aquifer and wetlands, as well as to restore closed shellfish beds. In targeting wetlands violations, the team surveyed 12 conservation commissions and aerial photographs.

Runnins River Watershed, Massachusetts and Rhode Island - In an effort to restore the habitat of the Runnins River and Hundred Acre Cove (home to the endangered diamondback terrapin), Region 1 is working with state officials to investigate and address the sources of increased fecal coliform levels.

3.4.2 Region 2

Region 2 conducted four community-based initiatives during FY96, including the ***South Bronx Community-Based Environmental Protection Project***, which addressed concerns that the South Bronx community is disproportionately impacted by a high number of waste management facilities, and that air pollution and odors cause an elevated rate of asthma and respiratory problems in the community. The area is zoned mixed industrial-residential and is composed mostly of a low-income, minority population base, which prompts environmental justice concerns.

As part of the South Bronx project, EPA coordinated efforts of a large group of stakeholders, including five New York state agencies, in an effort to accomplish four specific goals:

- Assure local facility compliance with all federal, state, and city regulations, statutes, and permit conditions
- Educate the community on the cause and management of asthma through coordination of efforts with the city and state Departments of Health
- Promote civic awareness of health protection, environmental protection, and regulatory and policy issues
- Create a stronger bond between government and the community leading to realistic expectations of government.

As part of the project, EPA conducted approximately 150 inspections, and the state conducted more than 100 inspections. Although the Agency found that the overall level of compliance in the South Bronx was consistent with that in other geographic areas, EPA also found varying degrees of noncompliance at 42 facilities. Enforcement actions ranging from notices of violation (NOVs)

to administrative orders (AOs) with civil penalties will be issued in the second quarter of FY97 to return facilities to full compliance.

EPA and the New York Department of Environmental Conservation (DEC) have also monitored ambient air in the South Bronx to compare pollutant levels with those in other areas of New York City where asthma rates are lower. Pollutant levels were not determined to be comparably higher in the South Bronx. Nevertheless, EPA is facilitating and or supporting numerous studies to further examine this issue.

In promoting civic awareness of health protection, environmental protection, regulatory and policy issues, the region has also established an information repository at the community boards; attended more than 10 community board/public meetings; responded to correspondence from concerned citizens; and compiled information on asthma, bioaerosols, environmental regulations, and EPA's CBEP policy for dissemination to the public.

Barceloneta - Manati, Puerto Rico, Community-Based Project -- The Barceloneta/Manati Multimedia Aquifer Protection Project is one of Region 2's pilots for implementing wellhead protection programs at the local level. The project redirects resources in order to better address human health risks posed by groundwater contamination. This project used a variety of tools, including groundwater contamination prevention activities, increased public awareness, vigorous compliance and enforcement, groundwater modeling, and strengthening of local capacity for detecting well contamination. Despite impediments, including land use practices, the need for support from mayors and other government officials and language difficulties, this project:

- Conducted 27 underground injection control (UIC) inspections covering 22 automotive-related facilities, 1 dry cleaner, 3 photo studios, and 1 print shop. Twenty of the 27 facilities were found to be in violation of UIC requirements, 6 were not UIC-related, and 1 was in compliance and obtaining a permit.

- Inspected three major manufacturing facilities in the Barceloneta/Manati area for possible air violations. All three facilities were found to be in compliance.

- Completed a groundwater model of the Rio Grande de Manati under an interagency agreement (IAG) with the Corps of Engineers.

Long Island Groundwater Aquifer Protection Initiative -- This initiative was undertaken to address concerns relating to contamination of the sole source aquifer, which provides the drinking water for 2 million people on Long Island, New York. It also supports EPA's Wellhead Protection Program. Fifty-seven RCRA compliance inspections were conducted at hazardous

Enforcement actions resulting from inspections in Long Island have lead to this program piloting a new approach to EPCRA case settlement. When five relatively small propane distribution facilities were found to be out of compliance with EPCRA Sections 311/312, they were issued "show cause" notices. These notices allowed them an opportunity to bring relevant settlement information to the Agency for consideration in penalty assessment. The cases are currently in settlement negotiation.

waste generators. GIS technology allowed targeting of handlers using the following selection criteria-- groundwater vulnerability, environmental justice, and no inspections within the last 3 years.

Massena New York, Community-Based Environmental Project -- Members of the St. Regis Mohawk Indian Nation have expressed concerns about their observations of an increasing rate of disease in their community, especially among younger age groups, which they attribute to environmental pollution. In response, EPA and the New York DEC embarked on a compliance/enforcement initiative in the Massena area to ensure that the St. Regis Mohawk Indian Nation are given equal protection under federal environmental statutes. This initiative involved a direct commitment to the community by the Regional Administrator, close collaboration between Region 2 and the New York DEC, targeted compliance monitoring and enforcement actions, work with stakeholders to address problems presented by the regulated community (e.g., electrical power generating stations, primary and secondary nonferrous metals production, and a sewage treatment facility), and a high priority assignment to site cleanups in the area.

3.4.3 Region 3

Region 3 initiatives include both community-based, area-based, and issue-driven priorities. The community-based initiatives include ***Chester, Pennsylvania***, where Region 3 conducted community-based enforcement activities, including 44 RCRA inspections (over 2 years), which led to two formal enforcement actions (undertaken by the Pennsylvania Department of Environmental Protection [DEP]), nine Notices of Violation (five Pennsylvania DEP and four EPA), and 33 followup letters transmitting completed inspection reports and compliance assistance information. In addition, the region negotiated a SEP with Westinghouse requiring the company to purchase a street sweeper, perform physical plant modifications to control fugitive particulate emissions, and spend $50,000 to support a lead SEP still under development by the Delaware County Regional Water Quality Control Authority. Region 3 also issued an administrative complaint and order to BP Refining. This case, which was initiated in support of the Chester Community environmental justice and refinery initiatives, proposed a penalty of approximately $162,000 for alleged violations of the benzene waste National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and was resolved immediately. The region continued its CBEP initiative in the Chester area by holding a public meeting and two quality of life workgroup meetings to assess the community's environmental priorities, as well as two industry group meetings to discuss corporate response options.

South/Southwest Philadelphia, Pennsylvania -- Region 3 conducted a second community-based enforcement/compliance assistance initiative in south/southwest Philadelphia. The region conducted multimedia inspections at two major refineries in May and June 1996 and performed single media inspections and enforcement. EPA issued one RCRA Subtitle C penalty action and, based on observations made during the RCRA inspections subjected this facility to a Comprehensive Emergency Response, Liability, and Recovery Act (CERLCA) removal assessment. With respect to compliance assurance, EPA and the Pennsylvania DEP launched a work group with the city of Philadelphia and other partners to improve compliance with

environmental regulations among autoservice shops, starting with a pilot in south/southwest Philadelphia. An environmental seminar was held for autobody shops on October 1, 1996. In response to community concerns regarding air quality in the area, the region commenced an air monitoring program. To promote compliance by dry cleaners in Philadelphia, regional and city air management services staff inspected approximately 20 dry cleaners in Philadelphia. Nearly all of these facilities were violating the dry cleaner Maximum Available Control Technology (MACT) standard. Followup is planned for FY97. Regional staff, however, already gave a presentation on MACT compliance to 150 members of the Korean Dry Cleaner Association of Philadelphia.

Anacostia River, District of Columbia -- Based on inspections and sediment sampling, the region determined that the Washington Navy Yard (WNY), Southeast Federal Center (SEFC), and Bureau of Engraving and Printing (BEP) are past contributors of polychlorinated biphenyls (PCBs) and heavy metals to the Anacostia River and the Tidal Basin. The region further established that no current operations at these facilities are continuing sources of toxics and heavy metals and that the storm sewer outfalls remain the primary continuing source of contamination to the river and to Tidal Basin. Region 3 issued two administrative complaints for UST violations and improper management of hazardous constituents against the WNY and is negotiating a corrective action order. The order envisions that the WNY will conduct activities to support future remediation of contaminated Anacostia River sediment. As a result of these investigations and knowledge of the extent of contamination at the WNY, a National Priority List (NPL) status is being pursued.

Chesapeake Bay -- National Pollutant Discharge Elimination System (NPDES) enforcement efforts associated with the Chesapeake Bay include the Blue Plains settlement, which addresses key maintenance and financial issues, as well as a judicial complaint filed against Tug Tred for unpermitted discharge of reinforced concrete into the bay. The region settled administrative penalty cases against Pepco-Benning (Washington, DC), NGK Metals (PA), and city of Lebanon (PA) for effluent violations and city of Chambersburg (PA) for pretreatment violations. Region 3 also issued administrative complaints against Allied Signal (VA), Somerset County (MD), and city of Harrisburg (PA) for effluent violations.

Acid Mine Drainage -- Within Region 3, acid mine drainage degrades the water quality of hundreds of miles of surface water. To combat this, the Region 3 NPDES branch has taken a variety of enforcement actions against coal facilities. Region 3 mailed Section 308 letters to owners/operators of coal facilities in Maryland, Pennsylvania, and West Virginia. The region also issued and tracked administrative compliance orders, which addressed reporting and effluent violations. In addition, the NPDES branch issued three administrative penalty complaints for discharging without an NPDES permit, failing to submit discharge monitoring reports, and having effluent violations. These complaints propose penalties between $50,000 and $75,000. The region also referred three coal cases to EPA headquarters and DOJ, and settled a prior case (Rayle Coal Company, Tridell Realty Company, et al.) for a penalty of $145,000.

Acid Deposition -- The region is continuing its effort to target sources of acid deposition that are affecting sensitive resources. The government's litigation team in *U.S. v. Ohio Power Company*

reached an agreement with Ohio Power to settle the penalty claims arising from the defendant's violation of the sulfur dioxide emission limitation in the West Virginia state implementation plan (SIP). The settlement includes a $200,000 civil penalty payment and a SEP of two early compliance nitrous oxides (NO_x) reduction projects valued at $500,000.

Ozone Non-Attainment -- Region 3 performed volatile organic compound (VOC) and hazardous air pollutant (HAP) source leak detection and repair (LDAR) inspections at three refineries and six synthetic organic chemical manufacturers (SOCMI). These inspections identified two sources in violation (enforcement actions pending, including the **first** hazardous organic NESHAP [HON] referral in the Nation) and provided opportunities for the region to recommend fugitive VOC and HAP control improvements at all sources. At several petroleum and SOCMI facilities, regional inspectors identified poor management and documentation of LDAR activities and very high leakage rates. Although not violations of LDAR requirements, the high leakage rates prompted the region to recommend and encourage the facilities to improve their LDAR programs in ways that would directly or indirectly reduce emissions. The region has also used its reviews of periodic compliance reports as opportunities to assist industry in improving compliance, as well as emissions monitoring. Moreover, during inspections of 15 potential VOC sources for compliance with EPCRA Section 313, Region 3 identified five violations.

> When inspecting several petroleum and SOCMI facilities, regional inspectors identified at least two facilities that were documenting leak rates approximately 10 times lower than those measured by the region during inspections. Such discrepancies suggest that the region's efforts to identify necessary LDAR program improvements can substantially reduce emissions, even in the absence of LDAR program violations.

3.4.4 Region 4

The Region 4 enforcement and compliance program made significant contributions to support community-based environmental protection during FY96. By working with state partners and local agencies, the region pursued numerous activities to help communities meet their objectives for a safe and healthy environment. Most of these activities are ongoing and, thus, it is difficult to assess overall success. Nevertheless, the progress made in FY96 and that which will follow in FY97, exemplifies the important role of enforcement and compliance in supporting community-based efforts. Key Region 4 community-based enforcement and compliance projects include the following projects.

Charleston/North Charleston, South Carolina -- Activities in the heavily industrialized area of Charleston and North Charleston, South Carolina, focused on environmental justice concerns, heavy industrialization in the area, local community and economic concerns, and facilities with suspected or known multimedia noncompliance, as well as the presence of numerous CERCLA sites and a major Base Realignment and Closure (BRAC) facility. The region organized an internal group that included all program areas with ongoing activity in the North Charleston area. Close collaboration and coordination among members of EPA's internal CBEP working group has yielded significant environmental results and raised several cross-program issues that may not

have been discovered had it not been for the multimedia attention focused on this region under the CBEP. The following activities were undertaken and accomplishments achieved, among others:

- Ten targeted RCRA inspections (3 multimedia) that resulted in six informal enforcement actions taken by South Carolina Department of Health and Environmental Control, three pending enforcement actions, and one consent order that specified $150,000 in penalties and an agreement to perform RCRA corrective action across the entire facility. A multimedia inspection of a bulk petroleum distribution terminal revealed contaminated storm water ponds, which prompted the region to focus additional resources on these types of facilities in the Charleston/North Charleston area.

- NPDES inspections of Macalloy (smelting) and Allied Terminals (bulk petroleum) revealed significant amounts of surface water discharges from heavily contaminated storm water runoff and undocumented storm water discharges, respectively, which are currently being evaluated.

- Early indications of progress include the coordination on the Allied Terminals multimedia inspection may lead to an EPA-lead multimedia enforcement action addressing NPDES and RCRA violations; and the concerns raised during the multimedia Macalloy inspection have resulted in EPA's request for the posting of adjacent Shipyard Creek and may result in an EPA-lead NPDES enforcement action against the facility.

The largest benefit of these community-based, multimedia efforts has been a significant improvement in the coordination of EPA's overall activities in the Charleston/North Charleston area. Yet, it also has become increasingly apparent that significantly more resources are essential for the success of this CBEP effort to engage the community and address the many important multimedia issues and community/ environmental justice concerns that exist here. In addition, a coordinated effort with other federal and state agencies is needed so that information on environmental studies in the Charleston/North Charleston area can be shared among agencies.

Lower Mississippi Valley -- The region's enforcement and compliance programs also supported region-wide efforts to target critical geographic areas. Such efforts included conducting 9 RCRA inspections and taking 2 informal enforcement actions at facilities located within the counties that border the Mississippi River, conducting 37 UIC inspections, and conducting 24 NPDES inspections, which resulted in 17 notices of violation (NOVs), eight Section 308 requests, five AOs, and five administrative penalty orders (APOs). The region has also worked closely with state staff from Tennessee to develop a strategy to minimize storm water pollution in Fayette, Lauderdale, Shelby, and Tipton counties. This strategy includes obtaining technical assistance from the Tennessee Department of Agriculture.

Mobile County, Alabama -- The Mobile Bay study area is another region-wide priority area. To augment ongoing environmental assessments, planning, and other activities, the region's enforcement program responded to citizen complaints regarding air pollution by conducting activities focused on environmental justice. The region also secured a grant for Tuskegee

University to develop a nontraditional survey to determine community concerns. In addition, Region 4 performed 16 inspections in Mobile and Baldwin counties, Alabama.

Brunswick, Georgia -- Region 4 is conducting a large-scale study to assess environmental and health concerns in Brunswick, Georgia. To support the goal of ensuring that activities in the area address community concerns, tools such as inspections, sampling, technical assistance, and monitoring have been utilized. The Region 4 Environmental Services Division, Water Compliance Team (WCT) assisted the Water Management Division by characterizing the wastewater contribution of the most significant NPDES facilities to the Turtle/Mackay river systems. In addition, the Air Division worked with the Georgia Environmental Protection Division (EPD), Environmental Services Division (ESD) and the Waste Management Division to plan and conduct extensive ambient air monitoring in support of the Brunswick initiative.

3.4.5 Region 5

Region 5 employs a team approach to coordinate and manage environmental activities within discrete geographic areas. The region's CBEP initiatives are discussed below.

Northwest Indiana Environmental Initiative -- Region 5 and the Indiana Department of Environmental Management (DEM) finalized the Northwest Indiana Environmental Initiative Action Plan, which targets high-risk areas, including ozone and hazardous air pollutants, contaminated sediments (a major cause of use impairments), and discharges of toxics under the NPDES program. Under this plan, Region 5 has conducted both inspections and formal enforcement during the fiscal year, either on a single media or multimedia basis. In addition, the DEM reached a significant settlement with USX Corporation for its Gary Works under the air program, and Region 5 notified the public of the USX cleanup plan for 5 miles of the river under RCRA, the Toxic Substances Control Act (TSCA) and the Clean Water Act (CWA). In addition, Region 5 and the Indiana DEM jointly announced a CWA settlement between the government and a number of industries in the Hammond area that will put $4.7 million in payments into a trust fund for remedial and restoration work.

Northeast Ohio Initiative - The Northeast Ohio Initiative focuses on improving environmental quality in this historically industrialized area by working with the community to develop a strategic action plan that helps the community solve its highest priority environmental concerns. Under this initiative, Region 5 participated in 25 meetings with a range of individuals or groups; worked with the Toxic Sweep Task Force to achieve a voluntary cleanup of the Beck Chemical site in Cleveland, Ohio; co-sponsored with the Occupational Safety and Health Administration (OSHA) and the Ohio EPA an asbestos workshop for state and local agency personnel; and funded the Regional Environmental Priorities Project (REPP), which assessed and identified the top environmental concerns (e.g., out-migration from the urban core, quality of the urban environment, quality of outdoor air, quality of surface water, and use of resources/energy) in 7 of the 15 counties in the Northeast Ohio Initiative area.

Ashtabula River Partnership -- The Ashtabula River Partnership is a unique and dynamic approach to a watershed's environmental problems. The International Joint Commission (IJC) has designated the Ashtabula River and Harbor, including the Fields Brook tributary as 1 of the 43 Great Lakes areas of Concern (AOC). The system is contaminated by various pollutants including PCBs, heavy metals, and organics (e.g., trichloroethylene and hexachlorobutadiene).

A key component to the Ashtabula River Partnership is the local participation in the planning and execution of the remediation. A core group of interested parties, including federal and state agencies, formed the partnership in summer 1994. Additional members of the watershed community volunteered and were solicited to participate in this partnership. The partnership chose to follow the National Environmental Policy Act process and have the U.S. Army Corps of Engineers oversee the project.

The goal of the Region 5 Ashtabula River Partnership is to remediate the site so that it can be removed from the AOC list. Interim goals include removal of contaminated sediments from the river and harbor, completion of the Fields Brook Site remediation, and identification and control of other contaminant sources to the system. During FY96 the partnership completed sediment sampling for TSCA and RCRA characterization, completed field surveys for sediment volume estimates, established a local project coordinator, identified final candidate disposal sites, finalized projected volume of sediment (TSCA and non-TSCA), and identified preferred disposal site alternative using criteria based on the National Environmental Policy Act (NEPA) among other accomplishments.

Southeast Michigan Initiative -- The Southeast Michigan Initiative involved numerous CBEP activities during FY96. The scope of the activities ranged broadly from enhancement of local enforcement efforts to assistance in empowering local communities through good neighbor agreements and environmental education. The primary mechanism used was allocation of grant funds, which were dedicated and available through Agency appropriations for regional geographic initiatives.

Region 5 provided various grant support for the Southeast Michigan Initiative including a grant of $85,000 established with the Southeast Michigan Council of Governments to develop a profile of environmental indicators to use as a baseline against which success can be measured, a grant of $85,000 to a not-for-profit organization to facilitate "Good Neighbor" discussions between communities and industry in areas where there are controversial environmental issues or issues not amenable to traditional enforcement (e.g., odors), and funding in the amount of $135,000 and technical assistance to the city of Detroit to use city law enforcement agencies to address a major problem of illegal dumping. This last project has achieved great success in the number of violators prosecuted, vehicles impounded, and cleanups ordered.

Gateway Initiative -- The Gateway Initiative is a community-based effort that targets 18 communities, many with environmental justice populations, in the metropolitan East St. Louis, Illinois, area. The goal of this initiative is to improve the quality of life and protect the natural resources within these communities, as well as build sustainable public involvement in local environmental issues. Region 5 accomplished this by taking direct action in facilitating the involvement of other federal, state, and local agencies; awarding grants that will develop environmental stewardship at the local

level; and empowering individuals with education and opportunities for increased public involvement. The following list highlights selected accomplishments:

Some of the successes in the Gateway Initiative are the result of direct regional program involvement, while others are the result of actions taken by Agency partners, grantees, and other individuals. All can be attributed to the synergy and partnerships generated by the Gateway Initiative, however, EPA and Illinois EPA enforcement staff, for example, are promoting community issues when asked by facilities for suggestions for SEPs during enforcement discussions. Most recently, a state of Illinois consent decree resulted in a company setting out containers in communities plagued by illegal dumping and paying for disposal.

- More than 17,000 illegally dumped tires from at least five communities were collected and shredded for use as a fuel supplement by local plants.

- Twenty of the 1,800 abandoned and derelict structures in East St. Louis were demolished through a private donation to a neighborhood organization. Twenty more are proposed for demolition under Superfund emergency response due to the poor condition of exterior transite (asbestos) siding.

- Two NOVs (Illinois Power and Shell), one finding of violation (FOV) (Clark), and one administrative complaint (National Steel) were issued for Clean Air Act (CAA) violations.

- A grant awarded to the St. Clair County Sheriff's Department was used to establish an environmental crimes unit.

- Site assessment work was done at 20 abandoned sites in East St. Louis at the request of the community. The vast majority of the sites do not appear to be contaminated. Only one, an old lead smelter, warranted offsite sampling.

Upper Mississippi River Initiative -- Over the past year the region has formed a team to focus attention on the Upper Mississippi River basin. Members from each of the regional programs are represented on the team, as well as representatives from Region 7; the Office of Wetlands, Oceans and Watersheds; and the Office of Research and Development. The team has formed partnerships with the U.S. Geological Survey (USGS), Biological Resources Division; U.S. Fish and Wildlife Service (USFWS); and the states. One the successes of the team has been to help facilitate the "Environmental Summit," which was held in February 1996. This summit brought together representatives from environmental organizations, agriculture, the barge industry, and federal and state agencies to begin to discuss the environmental and economic problems facing the river. Several IAGs between EPA and USGS' Biological Resources Division, were also initiated. One grant was for the completion of a "Status and Trends" report for the river. A second IAG addressed the fate and transport of nutrients and sediments in the Upper Mississippi River basin. A final IAG is for the completion of a survey of persons who use the river to determine their knowledge of the river and to determine whether their greatest areas of concern for the river environmental or economic.

The team has also worked with local community groups to identify where EPA's support for environmental justice and education activities are needed. In addition, an Adaptive Environmental

Assessment model funded by the Minnesota Department of Natural Resources (DNR), is being developed based on broad input.

3.4.6 Region 6

Region 6's community-based initiatives addressed several specific sites, including ***Galveston Bay.*** Region 6 undertook an initiative focused on the large number (more than 1,400) of minor facilities in the Galveston Bay watershed area historically not tracked for NPDES compliance. The long-term goals of this project are to improve both compliance rates and water quality in the receiving streams.

> Through appropriate enforcement combined with outreach and education, the Galveston Bay project demonstrates how compliance assistance can be used to provide facilities with opportunities to comply without jeopardizing enforcement efforts.

Permitting, outreach, and enforcement actions were prioritized using water quality data to identify stream segments with water quality standards violations. Four areas comprising several stream segments into which approximately 300 minor facilities discharge were identified. Approximately 150 minor facilities with active permits were targeted for inspections. The Texas Natural Resources Conservation Commission (TNRCC) performed these inspections under a Section 106 grant. EPA reviewed the inspection reports and other information. Many facilities had no prior contact with EPA and were not aware of CWA requirements. Enforcement followup activities included 25 warning letters for minor violations and 10 AOs for significant violations. The 114 remaining inspection reports will be addressed in FY97. As part of compliance assistance/outreach, all facilities were mailed packages with information concerning monitoring and reporting requirements, a copy of their NPDES permit, preprinted discharge monitoring reports (DMRs), and a contact name. Approximately 100 followup calls were made to explain the information.

Texas City Community-Based Project -- This initiative, which is in the planning phase, is a pilot to determine how local governments can work cooperatively with industry, state and federal entities in promoting compliance and enforcement. The basic concept is to involve local government and community in improving environmental compliance in Texas City, Texas. Six meetings/roundtable discussions with representatives from the TNRCC, Galveston County Health Department, Texas City municipal offices, and Region 6 have been held to establish a framework for the project. The project will include both an enforcement and a compliance assistance component.

Compliance Assistance Workshops for Maquiladora Industry -- In partnership with the Mexican Environmental Prosecutor (PROFEPA) and the TNRCC, the region held six compliance assistance workshops for the Maquiladora hazardous waste importers. As a result of these workshops, the region received voluntary self-disclosures from more than 19 facilities. Each company discovered its violations through its voluntary self-audit programs, reported and corrected its violations, and developed procedures to prevent future occurrences. These disclosures qualified for full civil penalty mitigation. This program marks a milestone toward

bringing the participating companies which handle more than 325 tons of hazardous waste annually, into voluntary compliance through a self-policing and self-disclosure initiative.

U.S./Mexico Border Hazardous Waste Tracking -- Region 6 continued to provide leadership regarding international hazardous waste tracking efforts. The region trained EPA headquarters and Canadian and Mexican governments, thereby facilitating efforts to develop waste tracking and reporting systems patterned after Haztraks. In addition, the region completed procurement, computer installation, and training to support the Mexican component of the binational hazardous waste tracking system.

Osage Mineral Reserve -- Through a work group, Region 6 evaluated training needs for 500 to 600 oil producers operating more than 3,000 injection wells on the Osage Mineral Reserve. The group developed the *Osage Operators' Environmental Handbook* and an *Osage Operators' Environmental Manual*, which include practical information on how small oil producers can comply with Bureau of Indian Affairs (BIA) and EPA requirements. This effort has been very successful in opening communication channels between the work group participants and increasing understanding of each member's goals and responsibilities.

Hobbs & Farmington -- Based on discussions with the New Mexico Environmental Department, the region learned that the community of Hobbs had concerns about the impacts its oil service industry was having on municipal facilities and the potential for contamination of its sole source aquifer. The region conducted three RCRA inspections at the suspected facilities and "windshield tours" of several others. As industry became aware of EPA's compliance monitoring activities, virtually every oil service facility in the town "cleaned up their operations" (i.e., immediately and unilaterally began implementing appropriate waste management practices). RCRA violations were confirmed at two facilities and enforcement actions taken. The region also helped the city develop protective ordinances and discussed with city representatives the option of leveraging SEPs that might benefit the community. More than 82 tons of hazardous wastes were removed from the community with more than $228,000 expended to address community concerns and compliance issues.

3.4.7 Region 7

Region 7 identified and designated team leaders for several place-based projects, including the ***Mississippi River Basin***. The Region 7 Section 404 program targeted several areas in the Mississippi River basin for enforcement actions and is cooperating with the Corps of Engineers to obtain better case documentation. A draft enforcement agreement with the St. Louis District was initiated.

Heartland Sky Program -- The 1996 Heartland Sky Program is the Kansas City region's public/private community effort to voluntarily reduce emissions that contribute to ozone formation. The program consists of 1) increasing public awareness and ascertaining public perception of air quality issues and 2) securing commitments from key organizations to take specific measures on ozone alert days. Highlights of the program include completing a public

opinion survey covering several metro area counties, mailing 460,000 educational brochures with area residents' electric service bills, securing commitments from 6 of the 30 major fleet operators with 6,700 vehicles to schedule refueling operations during conditions less conducive to ozone formation, and securing commitments from 15 local governments.

3.4.8 Region 8

Region 8 expended significant effort during FY96 exploring ways to integrate community-based environmental projects into regional operations. This section highlights some specific community-based projects conducted by Region 8.

French Gulch Remediation Opportunities Group -- Region 8 has been actively involved in the formation of a CBEP effort to address the impacts of historical mining operations in French Gulch near Breckenridge, Colorado. EPA has provided funding for facilitation and organization of a local stakeholder group. A group consisting of representatives from government; private landowners; community residents; local business interests; and others has been meeting to develop goals and approaches for addressing the impacts of historic mining operations in this area. The work of the French Gulch Remediation Opportunities Group is an example of the holistic community-based approach that Region 8 is piloting to address inactive and abandoned mine sites.

Through both technical and enforcement representatives, EPA has been providing leadership and expertise in helping the French Gulch Remediation Opportunities Group work toward characterizing and cleaning up a historical mining site. Region 8 is using a multimedia "toolbox" approach to this site so the group can evaluate the most appropriate and effective tools for remediating the site. The presence of federal, state, and local enforcement representatives has encouraged the group to consider a variety of regulatory and funding approaches.

Headwaters Funding -- The Rocky Mountain Headwaters Mining Waste Initiative was the first regional geographic initiative to be implemented. Since its inception in FY 94, Headwaters has awarded approximately $3 million in grants and cooperative agreements to local and state recipients to build community-based programs or to solve technical and administrative problems associated with primarily abandoned or inactive mining sites throughout the Western United States. These expenditures are resulting in on-the-ground recognition of the unusual nature and complexity of mining sites.

Marty Indian School -- Marty School is on the Yankton Sioux Indian Reservation, South Dakota. An oil spill occurred in 1995. EPA investigated in 1996 and determined that no imminent hazard existed, but a number of environmental and regulatory issues were noted. Region 8 is supporting efforts at the Marty School as a CBEP activity. The enforcement program will work in concert with the community to conduct inspections and compliance assistance activities and take enforcement action, if necessary, consistent with the Indian Policy Act of 1984. Also, the region envisions that the Office of Enforcement, Compliance, and Environmental Justice will participate in long-term environmental studies involving Marty School, adjacent Mosquito Creek, and the agricultural environs. At the present time, compliance with NPDES, Oil Pollution

Act (OPA), RCRA, UST, EPCRA, Asbestos Hazard and Emergency Response Act (AHERA), and TSCA will be determined.

3.4.9. Region 9

Region 9's community-based initiatives addressed several sites, including ***Brownfields***. During FY96, numerous new Brownfields sites in California were officially designated, including Emeryville, Hunters Point (San Francisco), portions of Los Angeles, Oakland, Richmond, Sacramento, and Stockton. In addition, the Navajo Forest Products Industries mill site in McKinley County, New Mexico, was selected as a Brownfields site in conjunction with the Navajo Nation. The region also conducted significant groundwork on the Prospective Purchaser Agreement with Monsanto with regard to the San Gabriel Superfund site (closure with Monsanto was achieved in FY97). In addition, numerous "comfort letters" were issued in FY96 to prospective Region 9 developers, who are seeking some level of comfort if they purchase, develop, or operate on brownfields property. The comfort letters represent a win-win situation for EPA, the developers, and the community, while minimizing environmental risk and encouraging cleanup and reuse.

Oakland -- In West Oakland, Region 9 worked closely with the community to evaluate major issues of concern (e.g., contaminated soil and groundwater, air quality, and lead) using various tools, including the TRI. In an effort to increase utilization of the TRI data by citizen groups, Region 9 conducted a mailing that contained information on what TRI data are available, how to access the data, and how the data can be used to reduce toxic emissions in communities. In addition, the region conducted targeted inspections of facilities in Oakland to follow up on specific complaints. The results of each inspection were communicated to the community liaison and, ultimately, to neighborhood residents. As a result of these inspections, one civil complaint was filed against a foundry located adjacent to residential housing.

Tribal Lands -- As the lead region for tribal activities in FY96, Region 9 invested significant resources in supporting tribal programs. In response to a pattern of noncompliance with RCRA and other statutes at BIA-owned and operated facilities on tribal lands, the region began working with BIA national and area offices to develop a plan to improve BIA compliance. Concurrently, the region's RCRA and Safe Drinking Water Act (SDWA) compliance staff conducted enforcement actions against several BIA facilities. Upon learning that the BIA budget is less than $5 million nation-wide for compliance with all environmental regulations, Region 9 worked with BIA to ensure that the Tribal Operations Committee addressed this concern. The region maintained regulatory and public pressure on BIA to improve its compliance record by continuing to conduct compliance and enforcement activities at BIA facilities.

U.S./Mexico Border -- Region 9 conducted a lead education project designed to foster international cooperation in addressing the issue of childhood lead poisoning through the development of a model that could be replicated in sister cities along the U.S./Mexico border. This is being pursued through recruiting and training a team of community health workers to

identify lead sources unique to the border area and to conduct a door-to-door outreach campaign to educate residents on the health effect of lead exposure.

Pesticides Projects -- In communities subject to pesticide drift (Lompoc and Watsonville, as well as Warner Springs, Davis, and Brentwood in previous years), Region 9 has worked to verify the efficacy of the compliance program and to correct any deficiencies in that area. In addition, the region has pursued a dialogue within the community to more fully assess the scope of the issue.

The "beyond-compliance" approach regarding pesticide drift has multiple purposes: to provide opportunities for affected communities and their historically underrepresented members to participate in the regulatory process; to support the resolution of conflicts arising from the use of agricultural pesticides within the community of origin; and to glean the lessons of playing a participatory, rather than a leadership, role vis a vis the impact of federal policy in individual communities.

Region 9 conducted the Lompoc Reduced Risk Pesticides Management Demonstration Project to develop and design multidisciplinary pollution prevention projects focusing on integrated pest management practices in the agricultural/urban interface area of Lompoc, California. After ensuring that there was an excellent compliance rate with agriculture regulations, the region worked with growers in going beyond compliance. The project is facilitating dialogue among growers, university scientists, pest control advisors, and others in the agricultural industry. In addition, a pest management advisory group with broad participation from both the private and public agricultural industry is working to identify and prioritize practices, technologies, and products with the potential to reduce the risk of pollution from pesticides.

3.4.10 Region 10

Region 10's community-based initiatives included projects, such as the ***Coeur d'Alene Basin Restoration Project.*** EPA, the Coeur d'Alene Tribe, and the state of Idaho Division of Environmental Quality entered into an MOA in 1992 to "coordinate efforts to improve, restore, and protect the quality of the aquatic and terrestrial ecosystems, human health, and other related natural resources in the Basin." The three parties established the Coeur d'Alene Basin Restoration Project (CBRP), which integrates all participants into a coordinated, multiorganizational approach for addressing environmental issues. A framework document prepared as part of the CBRP, identifies the activities of basin participants that focus on improving water quality, remediating hazardous waste, and protecting human health and the environment. Within the context of the basin project, EPA achieved the following accomplishments during FY96:

- A number of CERCLA removal actions were ongoing and/or planned in response to mining and milling impacts in the basin.

- Other remediation activities related to mine and milling included continued work on a pending complaint filed by the U.S. Department of Justice (DOJ) for environmental damage caused by historic metals mining and ore-processing activities in the Coeur d'Alene River Basin, commitment of staff for implementation of the NPDES program

strategy, and commitment of staff and funding resources for completion of a comprehensive environmental information management system and strategic ecosystem management plan.

- Several activities are underway to respond to the adverse impacts to water quality associated with the increase in nutrients and sediments. These activities include, for example, a $20,000 grant for the Panhandle Health District to develop a guidance manual addressing the use, storage, management, and disposal of wood or mill yard debris and a $38,000 grant for the Kootenai Regional Wastewater Coordinating Committee to complete the Spokane River Water Quality Management Plan.

Tribal Lands -- Region 10 awarded grants to 52 tribes or consortia to enable them to conduct environmental assessments and develop environmental programs. This included six new consortia in Alaska, working with more than 50 additional tribes. Work among these groups focused on the development of water programs and participation in watershed planning, development of tribal implementation plans and Title V permit programs, improving solid and hazardous waste management, and conducting inspections and enforcement actions.

Region 10 found that impediments of community-based work include the high cost of visiting the many tribal lands (especially in Alaska), lack of a complete inventory of all hazardous waste generators on tribal lands, and lack of familiarity with RCRA regulations on the part of the tribes and the resultant lack of awareness of the wastes generated on their lands.

The result of the RCRA program's work on tribal lands is that the tribes are now much more cognizant of activities on their land that are regulated by RCRA. In addition, work focused on improving waste management is continuing.

3.5 Federal Facilities

The primary goal of EPA's Federal Facility Program is to ensure that all agencies reach a level of compliance with environmental requirements that equal or surpass the rest of the regulated community. To accomplish this goal, EPA uses a three-pronged approach: compliance assistance and training, compliance oversight and enforcement, and review of federal agency environmental plans and programs.

In FY 96, the federal facilities enforcement program emphasized three major program areas: environmental restoration under RCRA and CERCLA; implementation of a multimedia enforcement strategy; and fostering the adoption and implementation of environmental management standards by federal agencies and states.

During FY96, the EPA placed particular emphasis on a number of key initiatives including the issuance of the following:

- Strategy for Improving Environmental Management Programs at Civilian Federal Agencies
- Interim Policy on Conducting Environmental Management levels at Federal Facilities
- E.O. 12856 Code of Environmental Management Principles for Federal Agencies
- Guidance for EPA Participation in Department of Energy Environmental Budget Formulation
- The Final Report of the Federal Facilities Environmental Restoration Dialogue Committee.

Significant progress was also made in assisting federal agencies in implementing E.O. 12856 and other environmental executive orders including the development of pollution prevention strategies and plans and the first year of reporting for federal facilities under the national TRI. On the legislative front, significant new federal facilities enforcement authorities have been gained for EPA and states as a result of the Safe Drinking Water Act reauthorization. Key enforcement and compliance assurance accomplishments are described below.

Compliance Assurance - The fourth year of the Federal Facilities Multimedia Enforcement/Compliance Program (FMECP) concluded in FY96 with a total of 29 multimedia inspections performed at federal facilities. Of the 29 inspections, 11 were performed at Civilian Federal Agency facilities with the remaining inspections at DOD and DOE facilities.

Beginning with the Second Quarter of FY96, EPA began distributing Environmental Compliance Status Reports to all federal agencies on a quarterly basis. These reports, which are sent directly to senior agency environmental officials, contain information on EPA and state inspections and enforcement actions undertaken in the previous quarter. The reports highlight significant administrative orders and penalty actions taken and includes a name list of facilities in SNC in each media program. The purpose of these quarterly reports is to ensure that senior environmental managers in all agencies are regularly receiving information on their environmental performance and any related compliance issues or problems at their facilities.

Compliance Assistance - On May 31, 1996, EPA issued an interim policy and guidance on conducting Environmental Management Reviews (EMR) at federal facilities. The interim final policy defines an EMR, specifies the operating principles under which EMRs are to be conducted by the EPA Federal Facility Program, and describes the context in which EMRs will be conducted by EPA during the FY 96 EMR pilot program.

A final version of the Code of Environmental Management Principles (CEMP) was developed by EPA working with representatives of other federal agencies and published in the Federal Register. (61 FR 54062, October 16, 1996). The CEMP includes five broad environmental management principles developed to address all areas of environmental responsibility at federal agencies, including: 1) management commitment, 2) compliance assurance and pollution prevention, 3) enabling systems, 4) performance and accountability, and 5) measurement and improvement.

In addition, the Civilian Federal Agency Task Force issued the Strategy for Improving Environmental Management Programs at Civilian Federal Agencies. This document addresses the problems faced by civilian federal agencies (non-DOD, non-DOE) in meeting environmental challenges.

Environmental Restoration Activities Under CERCLA - EPA continues enforcement efforts related to cleanup and environmental restoration. At the end of FY 96, 152 final and proposed federal facilities were on the NPL, including 122 military installations, the major DOE nuclear weapons production sites, and civilian federal agency sites. At the end of FY96, 77 interagency agreements with federal agencies defined the cleanup process. These agreements all contain a creative dispute resolution process providing all parties the opportunity fully to air their views. Through the resolution of five IAG disputes this year, EPA avoided unnecessary cleanup delays, reached a variety of agreements with federal agencies including methods of determining exposure scenarios, remediation goals, risk assessments and reached agreement over cleanup standards.

At the Rocky Mountain Arsenal (Offpost & Onpost), near Denver, Colorado, there were multiple disputes over groundwater standards, institutional controls, cross contamination of an aquifer and characterization of risk and soil. In December 1995, the parties resolved the dispute and avoided additional litigation and delay by signing the Rocky Mountain Arsenal Conceptual Remedy Agreement. This agreement also facilitated the signing of the Offpost ROD, signed in December 1995, and the Onpost ROD signed in June 1996. These RODs document the cleanup activities at the site including the cleanup of basin F waste piles and PCBs.

Other Initiatives/Projects - In February 1996, nine Region 2 programs participated in a four day inspection of the Veterans Affairs Medical Center in Northport, New York. In June 1996, 10 Region 2 programs and one New York City Department of Health program participated in a 4-day inspection of the Coast Guard Support Center, Governors Island, New York, prior to the facility's closure in August. Three UST violations were detected for which one NOV was issued, and two air violations were detected for which one CO was issued. Minor deficiencies found during the PWS inspection were corrected.

During FY 96, Region 8 began work on a joint services pollution prevention video highlighting some success stories at both Fort Carson and the Air Force Academy. EPA contributed $5,000 to production costs, and contributed staff time for script writing and editing. Fort Carson and the

Air Force Academy each contributed $20,000 as well as considerable staff time and on-site filming. Region 8 plans to distribute copies of the video throughout the Army and Air Force, as well as to Regional Federal Facility Coordinators, FFEO, and EPA Region 8 states.

The Region 9 Federal Facilities Coordinator worked with EPA program offices, the Navajo Nation Environmental Protection Agency, Bureau of Land Management, Bureau of Indian Affairs and Office of Surface Mining and Reclamation to identify environmental issues and roles and responsibilities related to coal mining activities on Navajo and Hopi lands. During FY96, a Superfund site investigation was conducted and an environmental justice grant awarded to a stakeholder group to address some of these issues. Region 9 will continue to work with involved parties during FY97.

3.6 Cross-cutting or Multimedia Initiatives

Cross-cutting or multimedia initiatives are those special projects or activities that do not target specific areas, industry sectors, or media programs, but cut across all of these to ensure a better protection of human health and the environment. Such projects or activities may consist of policies, data systems, voluntary programs, training, or strategic planning. The following sections describe some of these types of programs, specifically cross-cutting or multimedia projects/highlights, federal activities, federal facility programs, criminal program, pollution prevention, environmental justice, and compliance assistance.

3.6.1 Cross-cutting or Multimedia Projects/Highlights

Small Business Policy - On June 3, 1996, EPA issued the final version of its Policy on Compliance Incentives for Small Businesses. Based on comments since publication of the interim version, the policy was expanded to allow businesses to obtain the penalty relief not only by using on-site compliance assistance, but also by conducting an environmental audit, promptly disclosing and correcting the violations. The policy provides incentives for small businesses to seek compliance assistance and to identify potential environmental problems.

Policy on Flexible State Responses to Small Community Violations - EPA's Policy on Flexible State Enforcement Responses to Small Community Violations was signed by Assistant Administrator Steve Herman on November 22, 1995. The policy encourages establishment of state small community environmental compliance assistance programs (SCECAPs) that provide flexible enforcement responses to small communities making good faith efforts to comply with environmental mandates. With the policy, EPA responded to these states' expressed needs and gave states an unprecedented degree of flexibility in responding to the environmental noncompliance of municipalities while defining parameters of acceptable conduct that ensure adequate protection of public health and the environment. Dangerous environmental problems must be corrected immediately. Criminal violations must be prosecuted as always.

IDEA & IDEAWin - For the 5 years prior to FY1996, the Integrated Data for Enforcement Analysis (IDEA) capability was a mainframe-only system that, due mostly to its' inherent complexity, had a limited user community of highly computer oriented individuals. In FY1996, IDEA for Windows (IDEAWin) was placed into production. IDEAWin, a user-friendly, Windows version of IDEA (with a rapid link to the mainframe within it) dramatically simplified the use of the Agency's powerful multimedia enforcement and compliance analytical capability.

In its initial two and one-half months, 83 different HQ and regional users accessed IDEAWin and performed 601 queries in which at least one IDEA report was requested. For reference, the original mainframe IDEA, responded to 11,868 queries over the full fiscal year. However, a casual telephone survey of regional expert users determined that most were likely to learn and then use IDEAWin instead of mainframe IDEA. To assure rapid user support to the increasing IDEA user community, DMB established an automated hotline for public access user support with menu system containing information about IDEA and how to obtain public access. The

system includes a capability to fax fact sheets to the caller. This service, reached by calling 1-888-EPA-IDEA supplements the existing user support hotline, which is staffed by three individuals (on a rotating basis).

The IDEA team also established and ran a public access pilot to determine public use and reaction to IDEA. Developed a list of diverse set of organizations to be included in the pilot and made arrangements for their participation. Provided guidance on how to access and use the system. As a result of this pilot, arrangements were made with the National Technical Information Services (NTIS), to provide mainframe registration and documentation to public users and with the National Center for Environmental Publications and Information (NCEPI) to provide user documentation. To make the information about IDEA available to the largest group of people, two approaches were used. Information about IDEA can now be obtained on the World Wide Web (http://es.inel.gov/EPA/idea) and through the automated hotline (1-888-EPA-IDEA), which provides fax-back capability.

MERIT Partnership for Pollution Prevention - The MERIT Partnership for Pollution Prevention is a voluntary and cooperative venture of the public and private sectors. The MERIT Partnership produced a promotional video targeted at prospective partners (potential steering committee members and community advisory panel members; industrial associations, companies, governmental agencies, etc.), which helped gain Vice President Al Gore's support for MERIT. Under MERIT's ISO 14000 Project, the group was successful at bringing together the major players in manufacturing, banking, insurance, environmental risk assessment, accounting and auditing, and government to facilitate demonstration projects that will show how EMSs can be strengthened and implemented in different industries to achieve both improved environmental performance and economic competitiveness among businesses in the U.S. In the second half of FY 1996, Merit began the new series of precedent-setting projects involving EMSs based on the ISO 14001 standard. One of Merit's EMS projects has already been nationally recognized as the premiere effort in exploring financial incentives that may drive companies to develop strong EMSs. This project focuses on the insurance benefits that companies may accrue as a result of having ISO 14001 EMSs.

Environmental Leadership Program - In FY96, the Environmental Leadership Program (ELP) concluded a successful pilot program and began developing and preparing to implement a full-scale program. Twelve facilities participated in the pilot program; the lessons learned from the pilot will form the basis for establishing the full-scale program, which will be implemented in FY97 or 98. The ELP concluded its pilot program by sponsoring a two-day workshop to present information on the pilot and discuss its plans for a full-scale program. During the workshop, pilot facilities shared information on their projects and EPA shared information on its designs for a full-scale program. The workshop was attended by more than 100 people from all levels of government, trade associations, and industry.

The ELP is a national initiative that provides recognition and certain other benefits to facilities demonstrating strong commitments to continued compliance and "beyond compliance" efforts. To qualify for participation in the ELP, a facility must have a good record of complying with

environmental laws, regulations, and permits. It must also demonstrate that it has an environmental management system (EMS) that meets ELP requirements. These requirements include having an auditing program and community outreach and employee involvement program, and undertaking environmental enhancement activities. ELP is voluntary in that no facility is required to participate, and any facility may choose to apply if it believes it has met the Program requirements.

Through the ELP, EPA expects to better protect the environment and human health by promoting a systematic approach to managing environmental issues and by encouraging environmental enhancement activities. Another goal of the Program is increased identification and timely resolution of environmental compliance issues. EPA expects that implementation of the full-scale ELP will multiply compliance assistance efforts by engaging facilities as mentors and by reallocating regulatory resources for inspections toward facilities that pose greater environmental risks than those posed by ELP facilities. ELP was also developed with the intent of fostering constructive and open relationships among agencies, the regulated community, and the public.

Compliance Assistance Centers - During FY96, EPA established four compliance assistance centers -- one each for the printing, automotive service and repair, metal finishing, and agriculture sectors. The centers function as communication centers and serve sectors with large populations of companies, particularly small companies. The ultimate goal of the centers is to provide small businesses with an understanding of their specific environmental requirements and encourage them to take appropriate steps to improve their compliance status.

Each center provides its services via the internet or through telephone and fax back/mail back capabilities. To date, the centers have received significant interest from their various regulated communities. For example, the National Metal Finishers Resource Center has 1,600 registered users (48 percent are metal finishers). GreenLink, which is the auto service and repair center, has received 322 telephone calls and fax-back requests and nearly 100,000 visits to its website. Because of this high rate of interest, EPA is developing four new compliance assistance centers. These centers will assist chemical manufacturers, municipal/local governments, transportation, and printed wiring board manufacturers. These new centers are targeted to open in FY98.

Environmental Training - The National Enforcement Training Institute's statutory mandate is to provide training for federal, state, local and tribal environmental enforcement personnel, including attorneys, inspectors, technical staff and investigators. NETI and its partners trained almost 4,700 environmental

Contacting EPA's Compliance Assistance Centers

National Metal Finishing Resource Center
(http://www.nmfrc.org)

GreenLink: the Automotive Compliance Information Assistance Center
(http://www.ccar-greenlink.org)
1-888-GRN-LINK (476-5465)

Printer's National Compliance Assistance Center
(http://www.hazard.uiuc.edu/pneac/pneac.html)

National Agriculture Compliance Assistance Center
(http://es.inel.gov/oeca/ag/aghmpg.html)

enforcement professionals in fiscal year 1996. Providing training for state, local and tribal personnel remained a strong focus of NETI's efforts, as 2,512 students were trained from these organizations. A total of 1,436 federal employees received training, and international students numbered 739. Approximately 50 training courses were offered by NETI and its partners during FY 96. The majority of courses taught were in the civil enforcement arena: 2,426 students were trained in a variety of civil enforcement matters. Students taking courses in criminal enforcement numbered 1,522.

National Enforcement Screening Strategy - Development of the National Enforcement Screening Strategy continued during FY 1996. NESS is a program to conduct multimedia analyses of companies with facilities in several regions to determine their compliance with environmental requirements on a national basis. The program was developed by EPA, the regional offices, and several states. The project began with a screening of over 300 companies with potential compliance problems. The group was then refined into a smaller number of companies for further analysis. The project continues on into FY 97, with specific activities being conducted with respect to the target companies and planning continuing with the regions and states on a new round of screening.

Revised Interim Supplemental Environmental Projects (SEP) Policy - EPA continued to collect information on the Revised Interim Supplemental Environmental Projects Policy and to consult with regions and other offices on the applicability of this policy to specific cases. As a result of this experience, action to put the policy into final form was initiated at the end of FY 96, for completion in FY 97. Further, an Internet-based information site, the SEP National Data Base, began development. This site, located on EPA's Enviro$ense web site, includes information on previously performed SEPs. By "browsing" on parameters such as statute, violation, pollutant, cost of the project and category of SEP, a defendant in an enforcement action or a regulatory authority can receive a listing of projects, with technical details, appropriate to the proposed settlement. Further, the data base includes model settlement language and applicable guidance documents.

3.6.2 Federal Activities

EPA's Office of Federal Activities (OFA) in OECA manages: 1) the Agency's responsibilities under the authority of the National Environmental Policy Act and Section 309 of the Clean Air Act, including administration of the EPA filing system for all federal environmental impact statements (EISs), 2) the Agency's internal responsibilities for the "cross-cutters" (e.g., Endangered Species Act [ESA], National Historic Preservation Act, and Executive Orders on Wetlands and Floodplains), and 3) the Agency's international enforcement and compliance assurance program activities, including capacity building and cooperative international enforcement activities.

NEPA Compliance - Since 1989, the number of EISs filed has steadily increased. In FY96, 571 EISs were filed (333 draft and 238 final). During FY96, EPA commented on 219 draft EISs and 159 final EISs. Of these, EPA identified significant problems in 30 draft EISs and environmental

concerns in 123. EPA also referred one project to the Council on Environmental Quality (CEQ) for resolution during this period.

Under the 309 Review Program, OFA has continued to work with agencies sponsoring projects to improve the environmental impact assessment (EIA) process used, and to modify those projects deemed to be environmentally unsatisfactory. Below are some of the targeted projects, grouped by agency, that merited EPA's continued efforts to ensure environmental accountability. (Note: although not specifically mentioned, all of the projects listed herein involved close cooperation with regional staff and leadership).

- Federal Energy Regulatory Commission (FERC):

  - Two dam re-licensing projects pitting issues of water quality versus hydropower (Kingsley and North Platte/Keystone Diversion Dams, NE; Cushman Hydroelectric Project, Skokomish River, WA).
  - FERC's proposed rule (open access rule) to increase competition in the electricity market that could have led to significant increases in air pollution. In May 1996, the Administrator formally referred the proposed rule to CEQ, leading to an agreement with FERC on potential mitigation measures.
  - Two new dam projects involving trade-offs among hydropower objectives vs. stream and wetland impacts, water quality, aquatic resources, and wildlife (Basin Mills Hydroelectric Project, Penobscot River, ME; Felts Mill Hydroelectric Project, NY).

- U.S. Forest Service (FS):

  - EPA worked to resolve environmental issues on three controversial mining proposals on FS lands: Stibnite Mine Expansion (heap leach gold mining), East Fork South Fork Salmon River, ID; Carlota Open-Pit Copper Mine Project, AZ; and New World Mine (gold), near Yellowstone National Park, MT (a World Heritage Site). The mining projects raised potential issues of ground and surface water contamination, aquatic life and riparian habitat impacts, tailings stability, endangered species, habitat loss, and air quality. EPA worked with the FS to resolve the issues and develop appropriate mitigation. In the case of the highly controversial New World mine, EPA represented the Agency in the Administration's effort to strike an agreement with the proponent, Toronto-based Crown Butte, that stopped the proposed New World Mine.
  - Salvage Timber Sales. Following enactment of PL 104-19 (the Rescissions Act and Salvage Rider) and President Clinton's Memorandum to Implement the Timber-Related Provisions of the Act, OFA represented EPA in the inter-Agency deliberations on timber salvage activities. OFA also participated on the policy workgroup, and as a technical representative on the interagency workgroup that reviewed the national timber salvage program in the northwest and southeast.

- Bureau of Reclamation: In April 1996, the Bureau of Reclamation issued a final supplement to its 1990 final EIS on the controversial Animas-La Plata Irrigation Project,

CO. EPA's environmental concerns were not resolved by the final supplement. The Agency continues to pursue resolution of the environmental issues through participation in a public forum, led by Governor Romer of Colorado, to explore alternatives to the proposed project.

- Corps of Engineers (COE):

  - EPA identified significant environmental issues including wetland and habitat loss from proposed construction of two controversial water supply projects (City of Marion Water Supply Project, IL; Regional Raw Water Supply Plan, Lower Virginia Peninsula). EPA negotiated successful resolution of its concerns over the City of Marion project, and continues to work for resolution of the Virginia project.
  - The COE's draft EIS addressed proposed revisions to the Missouri River Master Water Control Manual, the basic water control plan and objectives for the operation of the mainstream reservoirs. The EIS did not address continuing degradation of the Missouri River ecosystem, likely jeopardy to three federally listed endangered species, nor adequately examine alternatives. EPA continues to discuss resolution of the issues with COE.
  - The COE's draft EIS for the American River Watershed Project-Auburn Detention Dam Plan, CA, examined American River flood control measures, including a flood detention dam to be constructed at Auburn, with potential for impacts on water quality, air quality, the canyon ecosystem and associated recreational resources. EPA was able to reach an agreement with the COE that it would not to go forward with the detention dam alternative at this time.
  - The COE proposed to reissue its CWA Nationwide Permits (NWPs). EPA's review of the proposal revealed deficiencies including, in particular, lack of environmental documentation for the NWP proposal. EPA worked with the COE to develop a proposal meeting the requirements of the CWA and NEPA.

- Federal Highway Administration (FHWA):

  - EPA and the regions continued to work with the FHWA to improve its analyses of potential direct, indirect and cumulative impacts to wetlands and habitat and to decrease the number of segmented projects. Specific significant projects included: Route 125 South, CA; Wilmington Bypass, NC; US Highway 12, WI (involving potential impacts to the Baraboo Hills, a National Natural Landmark); and the South Lawrence Trafficway, Lawrence, KS (also involving environmental justice issues).

EPA's NEPA Compliance Policy - EPA is required to comply with the procedural requirements of NEPA for its research and development activities, facilities construction, wastewater treatment construction grants, and EPA-issued NPDES permits for new sources, and is considered to be "functionally equivalent" to the procedural requirements of NEPA for its other activities. Among its responsibilities in this area, EPA: continued to ensure Agency compliance with cross-cutting environmental laws; prepared draft preliminary guidance for adding environmental justice to

EPA's NEPA compliance process and released it for public comment; and worked closely with OW, OGC and the regions to develop guidance for NEPA compliance for grants for 20 wastewater projects directed under the FY96 Appropriations Act.

International Enforcement and Compliance - OECA continued to manage the Agency's international enforcement and compliance assurance program activities, including capacity building and cooperative enforcement and compliance assurance activities in the international arena.

- Developed enforcement and compliance assurance plans for Border XXI, a comprehensive binational plan that will guide government action, infrastructure development and industrial growth in the border area. Our contribution focused on cooperative targeted enforcement initiatives, aggressive inspection programs on both sides of the border, networks of state, local and federal agencies, compliance monitoring, and promotion of pollution prevention and voluntary compliance.

- Supported task forces in the Attorney General offices of Texas and New Mexico to utilize state and local enforcement authorities against developers of colonias on the U.S. side of the border with Mexico. Colonias are unplanned communities in which developers often sell or lease land to economically disadvantaged minority members without providing basic water and sewer services.

- In cooperation with Regions 6 and 9 and other offices, developed and implemented the 1996 workplan for the U. S./Mexico Cooperative Enforcement Workgroup, which calls for building interagency cooperation on both sides of the U.S.-Mexico border and among all agencies involved in environmental enforcement, such as training for U.S. and Mexican Customs in transboundary hazardous waste and CFC shipment compliance monitoring along the border.

- In connection with case development on the Mexican Border, EPA worked: 1) to develop complex targeting methodologies and to supplement HAZTRAKS with industry data; 2) with Mexican authorities in the Chihuahua area, to target follow up on suspected violators regarding wastes abandoned in Mexico; 3) in the Sea-Soil case (involving sale by a U.S. company of a fertilizer the salinity of which compromised the drinking water on several ranches in Mexico), with Region 9 and Cal-EPA to develop an enforcement response; 4) to provide state grants to assist with environmental enforcement to benefit colonias; 5) to assist communications in maquiladora audit-disclosure cases; 6) to promote use of SEPS; and 7) to provide counsel generally regarding proposed transboundary enforcement initiatives.

- In cooperation with the regions and other offices, EPA developed and implemented the 1996 Commission for Environmental Cooperation's work plan calling for cooperation among the U.S., Mexico and Canada in environmental enforcement and compliance. Partnership-building activities have included: working toward a common approach for

voluntary EMSs companies are expected to adopt under ISO 14000; developing a continent-wide waste tracking system to improve enforcement and compliance of requirements controlling hazardous wastes; improving enforcement of CFC requirements under the Montreal Protocol; and promoting voluntary compliance.

- On behalf of EPA and in partnership with the Netherlands' Ministry of Housing, Spatial Planning and the Environment, OFA planned and conducted the Fourth International Conference on Environmental Compliance and Enforcement in Chiang Mai, Thailand; 200 governmental and non-governmental participants from 100 countries and international organizations attended. Associated OFA accomplishments included: commitments from participants to form six regional environmental enforcement networks; Conference Proceedings contributions from over 55 countries and international organizations; five new capacity building support documents printed and distributed for comment which provide comparative hands-on information on source self monitoring requirements, multimedia inspection protocols, and transboundary shipments of potentially hazardous (waste, pesticides and ozone depleting) substances, and, in partnership with the Dutch, documents financing environmental permit, compliance monitoring and enforcement programs; communication strategies for enforcement; and organizing programs an Internet homepage for all conference-related material.

- EPA provided support for the successful effort required to develop and enact the Antarctic Environmental Protection Act. In anticipation of an EPA rulemaking and associated EIA for tourism activities in Antarctica, OFA has supported a study that provides data on the 46 sites most heavily visited in Antarctica.

- Capacity building:

  - EIA Outreach: OFA delivered training in the Principles of Environmental Impact Assessment to four more countries (Russia, Hungary, India and Ukraine). Hand-off was completed for Hungary and Ukraine. In addition, OFA provided technical assistance and information on EIA policies and procedures to representatives from France, Australia, Korea, India, Japan, the Newly Independent States, and China.
  - Principles of Environmental Enforcement and Compliance. This course serves as an important component of the U.S. program to meet its commitments undertaken at the United Nations' Conference on Environment and Development (the 1992 Earth Summit in Rio de Janeiro), including the commitment to develop institutions and capacity for effective environmental enforcement. During FY96, OFA presented the course in one- or three-day versions in Belize, El Salvador, Malaysia (2 deliveries), and Thailand; in the Washington area, the course was delivered to South Africa, the World Bank, and as a training session to forty potential EPA facilitators.

3.6.3 Pollution Prevention

In FY96 Region 1 established a new, multimedia organization that places compliance and pollution prevention within a single office, the Office of Environmental Stewardship (OES). As

part of the new organization, Region 1 built an unprecedented multimedia Office of Assistance and Pollution Prevention that has introduced and expanded upon a number of initiatives. In this way, all assistance efforts of the region incorporate pollution prevention objectives.

Region 2 negotiated several SEPs in FY96 that resulted in significant pollution prevention. For example, the RCRA program negotiated eight SEPs that will result in environmental improvements, including:

- Proper management and recycling of 144,000 gallons of used oil at one facility and the implementation of a used oil characterization program for one million gallons per year at another
- Safe management of 10,000 gallons of lead paint waste that was being improperly disposed
- Safe management of 8,000 gallons of hazardous waste that had been abandoned
- Elimination of 100 pounds per month of volatile hazardous waste that had been previously released into the atmosphere
- Cleanup of 268 cubic yards of lead contaminated soil at a foundry, of which 30 cubic yards have already been removed.

In addition, the Region 2 TSCA program has continued to actively promote pollution prevention through its use of SEPs. TSCA settlements in FY96 incorporated numerous SEPs, as well as injunctive relief, which has resulted in the following types of environmental improvements beyond compliance:

- Total of 31 PCB transformers containing 7,265 gallons of PCB contaminated liquids, were removed from active use and properly disposed eliminating risk of fire, spills or exposure
- The Coast Guard has agreed to notify all their facilities nationwide of the requirements for proper handling of CFC's, during servicing & disposal of Coast Guard's air conditioning & refrigeration equipment
- School buildings in at least five school districts in environmental justice areas of Long Island were cleared of aged hazardous chemicals that had accumulated in classrooms and laboratory storage areas, thereby reducing risk to students & faculty
- Day care centers at five locations in New York have been tested for lead and have successfully undergone lead abatement and/or encapsulation of lead in paint and playground soils to meet federal standards.

Region 4 produced two videos on the subjects of pollution prevention and field citations respectively. The videos were viewed at the annual EPA/state/local enforcement workshop in lieu

of sending personnel. This was a flexible, innovative method to accomplish EPA's mission during the budget constraints era.

Region 6, in partnership with the U.S./Mexico Pollution Prevention Workgroup, produced and distributed the third in a series of bilingual pollution prevention industry specific manuals. The bilingual Pollution Prevention in the Electronics Industry manual was reviewed extensively by the Workgroup members, finalized and distributed to maquiladoras, Universities, Chambers of Commerce and through the Workgroup contacts. A fourth manual, Pollution Prevention in the Textile Industry, had also been extensively reviewed by the Workgroup members, and will be published by March 1997.

Region 6 developed the pollution prevention portions of the Border XXI Framework Document, which codifies how the United States and Mexico will coordinate environmental management issues into the next century. The region also awarded six cooperative agreements under the Pollution Prevention Incentives for states grant program, two special cooperative agreements under the set aside grant program, and two grants to support the activities of the US/Mexico Pollution Prevention Work Group under the regional geographic initiatives and Office of International Activities grant programs.

Region 7 incorporated various pollution prevention SEPs into its administrative penalty settlements. The SEPs represented expenditures by the respondents of almost $2,250,000. One facility alone will reduce toluene usage at their facility by approximately 90 percent and will achieve a reduction of EPCRA section 313 chemicals to below the 10,000 pounds per year threshold level to meet the TRI requirements.

Region 7 presented 11 Pollution Prevention Environmental Excellence Awards to environmental, community and nonprofit organizations; large and small business, industry, trade and professional organizations; and federal, state and local governments. These organizations sponsored a wide variety of projects ranging from education, communication, technology transfer, and cooperative geographic efforts to innovative incentives that prevent pollution. The annual awards program recognizes environmental excellence through pollution prevention.

Region 7 staff initiated a multimedia pollution prevention pilot project to identify commercial grain storage sites that could contaminate drinking water supplies. Review of the available data indicate that the groundwater near 107 grain storage sites operated by the U.S. Department of Agriculture (USDA) have been contaminated by carbon tetrachloride, a commonly used grain fumigant. This pilot project targets commercial grain storage facilities with the potential to contaminate drinking water based on the region's experience with USDA sites, to determine whether groundwater contamination is present, and to work with the facilities to identify and take steps to protect any threatened public water systems.

During FY96 the procedure of having RCRA inspectors provide pollution prevention handouts during their regular compliance inspections was expanded to include air and water inspections. Region 7 staff have established a records system that includes industry-specific pollution

prevention material. This allows inspectors to provide pollution prevention information specific to a particular industry during each inspection.

Region 9 presented the first Regional Pollution Prevention Awards to four companies for their longstanding commitment to pollution prevention. EPA recognized:

- IBM Corporation's Storage Systems Division in San Jose, California, for its aggressive pollution prevention program that has shown impressive environmental benefits over the past decade as well as economic savings of $7.3 million since 1991.

- Larry's AutoWorks of Mountain View, California, for its continuing pollution prevention efforts and its leadership and initiative in advancing pollution prevention practices in the automotive repair industry.

- Lockheed Martin Missiles and Space of Sunnyvale, California, for its continuing dedication to pollution prevention, including its comprehensive staff and management participation which reduced the facility's Toxic Release Inventory emissions from 241,900 pounds to 12,200 pounds (95 percent) since 1990.

- The Monsanto Company's Avon plant in Martinez, California, for its history of continuous improvement of environmental management systems. The plant reduced air emissions 75 percent since 1982, despite a 91 percent increase in annual production. Further, the plant achieved a 16-fold reduction in potential employee exposure to catalyst dust, eliminating the need for respirators. The cost for Monsanto's improvements was $40,000 with an annual savings of $77,000.

In Region 9, the MERIT Partnership for Pollution Prevention has conducted projects with the metal finishing and industrial laundry industries. The metal finishing work involves the implementation of pollution projects at small and medium-sized metal finishing facilities in southern California. The projects include technical and financial support to participating facilities to implement and evaluate pollution prevention techniques and technologies for targeted metal finishing processes. The industrial laundry work focused on assessing the effectiveness of various pollution prevention measures in a small industrial laundry and in some of the small businesses that are customers of the laundry. Activities completed in the second half of FY96 include one pollution prevention component that involved the development and implementation of best management practices

During FY96, MERIT program in Region 9 completed the reverse osmosis applications for anodizing operations project at DANCO Metal Surfacing and Anodizing of Ontario, California which implemented and evaluated a reverse osmosis (RO) technology. Installation of the RO unit resulted in the recycling to the process bath concentrated black dye and nickel acetate solutions, recycling clean water back to the rinse tank, and eliminating the discharge to the POTW. Results from the project indicated the RO units have (1) reduced water use and waste water generation by 60,000 gallons per month and (2) reduced black dye usage by 11.5 pounds per month. Consequently, the trivalent chromium present in the black dye and the nickel present in the nickel acetate have been eliminated as pollutants discharged to the POTW. The payback period was approximately 2 years.

(BMPs). This included training of the laundry personnel to implement BMPs. In addition, the design of an in-process recycling and treatment system was completed.

Region 9 has partnered with the Arizona Department of Environmental Quality, DOE Lawrence Livermore National Laboratory, the City of Phoenix, and the Phoenix Chapter of the American Electroplaters and Surface Finishers Society to provide pollution prevention technology transfer to Arizona metal finishers. In late 1995, the project selected three volunteer demonstration facilities in South Phoenix, an environmental justice community, to receive pollution prevention opportunity assessments. The lessons learned from these three local facilities are now being used in a series of twelve in-depth technical workshops for other area metal finishers to prove to them the benefits of implementing pollution prevention.

3.6.4 Environmental Justice

Despite conflicting views as to the cause, there continues to exist a wealth of evidence that residents in communities of color and poor people bear a disproportionate burden of exposure to pesticides and other environmental hazards. Environmental justice is about raising awareness to the issues, trying to achieve fairness in environmental policy and trying to impact how environmental policy decisions are made. This section summarizes selected environmental justice accomplishments in headquarters and in the regions.

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee established in September 1993 to provide independent advice, consultation and recommendations to the EPA Administrator on matters related to environmental justice. It is a unique and effective means of identifying and addressing environmental justice problems in a comprehensive manner. The following examples highlight some of the NEJAC's activities in FY96:

- A Model Plan for Public Participation was developed by the Public Participation and Accountability Subcommittee of the NEJAC. The plan encourages public participation in all aspects of environmental decision and stresses several keys to building successful partnerships: interaction and community participation are essential and maintaining honesty and integrity in the process and articulating goals, expectations, and limitations. EPA has used the plan in its public meetings with excellent results.

- The NEJAC/OSWER National Relocation Pilot came about as a result of public comments provided at a NEJAC council meeting and a NEJAC public roundtable on relocation. Public meetings were held with the community in Pensacola, Florida to ensure that relocation was in the best interest of the 358 residents in this predominantly African American community living adjacent to two contaminated Superfund sites. The relocation will cost approximately $25 million and the site will be cleaned up, redeveloped and rezoned by the city for non-residential use. The Pensacola Relocation Pilot will serve as a national model and has wide ranging implications for the Agency's policy on relocation.

- In FY96, the Agency awarded $3 million in Office of Environmental Justice Small Grants to 152 organizations across the nation to address such issues as childhood lead poisoning,

pollution prevention and sustainable development. These small grants were awarded through the regional offices.

- The Community/University Partnership is in its third year and has allotted over $4 million to awardees addressing environmental justice issues. Such grants help community groups efficiently address local environmental justice issues through active partnership with institutions of higher education. This year the office awarded an estimated $2 million in grants, with a maximum grant award of $250,000.

- The National Enforcement Training Institute and the Office of Environmental Justice (OEJ) developed an environmental justice training program for enforcement personnel. The course provides an overview of environmental justice, beginning with the history of pollution and examines the impact the environmental justice movement has had on society in general and on enforcement and compliance activities in particular. The objectives of the course are to raise awareness of the environmental justice issue and provide the student with knowledge of what constitutes an environmental justice enforcement issue.

At the regional level, there were also significant accomplishments in environmental justice. The following are examples of such accomplishments:

- Region 1 created a cross-cutting Urban Environments Team to coordinate compliance and pollution prevention actions in support of the region's comprehensive strategy for its Urban Environment Initiative. The Urban Team targets activities within urban communities for which environmental justice is a primary consideration, and for these areas coordinates planning across media enforcement programs and our Office of Assistance and Pollution Prevention.

- In August 1992, within Region 2, the Comite De Apoye a Los Trabajadores Agricolas (CATA)- Farmworkers Support Committee, tested water wells serving 51 camps in four counties in New Jersey and found that 33 percent had exceedances of nitrate standards. Based on these results, CATA applied for and received an EPA environmental justice grant to repeat and expand the monitoring. Similar results were reported to EPA in February 1996. As a result, EPA has taken action to ensure the water supply in these camps is tested on a more frequent basis and that contamination problems are resolved. By the end of FY96:

    - 30 of the 100 migrant worker camps were determined by the appropriate state agency to meet the definition for public water supply under the SDWA. As such, these camps have been added to the states PWS inventory and are subject to SDWA monitoring.
    - Region 2 is monitoring compliance of the newly inventoried water systems and performing data audits of state and local agencies that oversee the camps. Where compliance is not maintained and the state fails to take action, Region 2 will issue enforcement actions.

- In Region 3, the Baltimore Urban Environmental Initiative includes a Childhood Lead Poisoning Prevention Program, aimed at providing families who live in high-risk housing, with at-risk children, with materials and techniques needed for cleaning their homes to reduce lead-bearing dust. Over 1,300 lead-dust cleaning kits have been distributed to families in targeted areas around Baltimore City. The Baltimore City Health Department trains families to use the Lead-dust cleaning kits, provides lead education, and produces lead awareness videos.

- In Region 3, the City of Chester has the highest concentration of industrial facilities in the Commonwealth of Pennsylvania. It has the highest infant mortality rate coupled with the lowest birth rate in the state, the highest death rate due to malignant tumors, the highest percentage of African-Americans of any municipality in the state, and is the poorest community in Delaware County. The Chester Risk Assessment Project was part of an initiative by Region 3 and agencies of the Commonwealth to study environmental health risks. Findings include: 1) blood lead in Chester children is unacceptably high, 2) both cancer and non-cancer risks from the pollution sources at locations in the city of Chester exceed EPA acceptable levels, 3) air emissions from facilities in and around Chester contribute to cancer risk to the citizens of Chester, and 4) health risks from eating contaminated fish from streams in Chester and the Delaware River are unacceptably high. The Chester Implementation Workgroup, comprised of people from different federal, state, county or city agencies or departments, and citizens groups address health and quality of life issues. The first area to be addressed is the reduction of children's blood lead levels. Public awareness efforts have begun, testing and a comprehensive health study is being planned and potential abatement/mitigation actions are being developed along with location funding mechanisms to implement these clean up efforts.

- Region 3's Drinking Water/Ground Water Protection Branch of the Water Protection Division completed a project with Edison High School, Philadelphia. EPA helped students restore and maintain an on-site school pond which had fallen into disarray. The student body is mostly Hispanic and African-American and the school is located in a blighted section of the city. This pond was created by the students/faculty and served as a resource for biology classes.

- Region 3 has a Cooperative Agreement with the Johns Hopkins University School of Hygiene and Public Health to conduct an environmental and health characterization of south/southwest Philadelphia. The purpose of the study is to determine the state of the environment using existing data bases and to develop a health profile of the community. The region participates on the Environmental Implementation Team (EIT), which reviews the progress of the study. Johns Hopkins will conduct educational seminars to provide the community with a background that will allow them to review the report and understand its findings.

- Region 3 launched the Anacostia Ecosystem Initiative to help address interstate environmental issues in the Anacostia River watershed (MD and DC) and the minority areas of the District, known as the Anacostia neighborhood. This project includes watershed restoration, multimedia risk reduction, and public education and awareness. The project has had a profound impact on the community and in offering EPA services to the community in a coordinated and targeted fashion. Regular community meetings have been held to keep the public informed of EPA activities. The project has resulted in several firsts for the region, including a full-time community liaison. In addition, EPA was instrumental in getting public fish consumption advisories strengthened and new signs posted along the River, conducting Clean Water Act enforcement actions to stem major waste oil spills into Hickey Run. A comprehensive hazardous Waste Site Assessment activity has been undertaken to respond to significant community concerns to address historical dumping activities in the community and related to Anacostia River pollution.

- In FY 96, Region 4 conducted an environmental justice investigation at the Pineview Sanitary Landfill/Yerkwood Community. The investigation was requested by the Region 4 Water Management Division in support of the environmental justice program and in response to environmental concerns from the Yerkwood Community about the Pineview Sanitary Landfill. The region found that two creeks that traverse the Yerkwood community were polluted and identified some of the sources impacting the creeks. In addition, it was determined that the NPDES permit requirement to sample the landfill outfalls following a 0.1 inch rainfall event may not provide representative samples of storm water discharges, and that the semi-annual sampling frequency for the outfalls may not provide sufficient information for decision making.

- Region 4's Air and EPCRA Enforcement Branch along with the Alabama Department of Environmental Management pursued a community-based protection approach to address complaints of air pollution originating from various sources (e.g., area sandblasting, painting of boats, and open burning of laminants from wood furniture manufactures.) received from citizens living in and around Mobile, Alabama. The Office of Environmental Justice awarded a grant of $150,000 to Tuskegee University, an historically black university, to survey the community and design an educational outreach program for the community that will educate them on environmental processes such as regulatory development, permitting, and enforcement.

- Region 5 sponsored a conference on community involvement in the enforcement process on June 27, 1996, in conjunction with Chicago-Kent College of Law that brought together public interest attorneys, community representative, and EPA. The conference focused on the issues of identifying the community, community involvement in enforcement targeting; and community involvement in settlement negotiations. Important issues and suggestions were raised and discussed, yielding a few general themes. Community skepticism toward the Agency needs to be addressed by trust-building efforts, notably establishment and care of better informational networks available to communities. Via Internet and other means,

EPA needs to improve communication of information on specific cases and educate the public about the enforcement process.

- Region 6 awarded 16 environmental justice grants totaling $300,000 for activities in Region 6 environmental justice communities. These grant projects serve as vehicles for community outreach and support of environmental justice initiatives.

- The Region 6 environmental justice workgroup recently completed work to draft a regional environmental justice strategy implementation process. Included in the strategy is the development of a more-defined structure and implementation protocol for the regional environmental justice program, internal environmental justice training and grant-writing training for communities.

- Utilizing the regional GIS, Region 7 overlaid media-specific facility information such as location of RCRA facilities, RCRA large quantity generators, Superfund sites, USTs, air emission sources, and TRI releases in the St. Louis area with pertinent socioeconomic information obtained from the U.S. Census Bureau. Based on this information FY97 multimedia inspection targets have been identified in areas of environmental justice concern.

- A principal Region 8 environmental justice activity was conducting multimedia inspections/ compliance assistance at two major Tribally owned and operated businesses in North Dakota (Sioux Manufacturing Company, and Turtle Mountain Manufacturing Company). Based on information in our data systems, these two companies are the largest employers on Tribal lands in Region 8, excluding casino operations. They each employ over 100 people and have multimedia environmental concerns.

- Region 8 developed an environmental justice applications GIS model to address the need to respond quickly to requests for site-specific information about environmental justice concerns. The model is available on the computers of Region 8 staff and permits anyone to identify quickly the demographics of a site and to map other permitted facilities in the area. The model prints a map showing the site and the location of nearby permitted facilities as well as demographic information. In addition, it creates a report listing demographic data and the names of permitted facilities that are shown on the map.

- Region 8 developed environmental justice protocols for inspection targeting, which relies on readily available information in the regional GIS system to rank all facilities in a given sector using specific environmental justice criteria. These criteria include demographics (low income data and minority data) and a surrogate factor for potential disproportionate risk (number of TRI facilities within a one-mile radius).

- Region 8 has integrated environmental justice concerns into the NEPA process through having environmental justice staff coordinate with regional NEPA staff, national NEPA training efforts, and national NEPA guidance initiatives. For example, for the Zortman-

Landusky EIS for the expansion of a mine and heap leach facility adjacent to the Fort Belknap Reservation in Montana, staff provided comments that identified environmental justice considerations that needed to be addressed in the NEPA process. These considerations included treaty issues and cultural and religious use of resources that may be impacted by the mine expansion.

- Region 9 conducted an environmental justice pilot projects in West Oakland and Watsonville as part of the region's environmental justice assessment project. These projects seek to identify minority and/or low-income communities with numerous existing or potential environmental hazards, identify options for addressing the most significant environmental problems in these communities, and begin to address the problems through EPA action and the involvement of other agencies with jurisdiction.

3.6.5 Compliance Assistance

Over the past 2 years, since its reorganization, one of OECA's new responsibilities is fostering compliance among the regulated community. The Agency uses several tools to help meet these responsibilities. Discussed below are some of the activities undertaken during the last fiscal year that promoted and encouraged compliance assistance in the regulated community. Additionally, many of the sector-based and media-specific sections of the report include discussions of compliance assistance efforts.

- Region 1's Assistance and Pollution Prevention Unit provided technical assistance in many different forms. The region handled more than 7,000 requests for assistance, sponsored over 80 workshops and training sessions, visited over 150 businesses and municipalities, developed compliance manuals, organized innovative technology demonstration projects, and provided nearly $1 million in grants for assistance and pollution prevention projects. Noteworthy achievements in FY96 include:

  - Launching the New England Environmental Leadership Program and StarTrack third-party certification pilot
  - Establishing the CLEAN program pollution prevention and compliance audits for small metal finishing businesses in New Hampshire and Maine.

- Region 1 focused its compliance and pollution prevention assistance work on sectors that had a history of compliance problems, had assistance needs unmet by other sources, had the potential to improve significantly with information on compliance and pollution prevention, were willing to work with EPA, and were not enforcement targets. The region targeted: metal plating and finishing (SICs 3471 and 3479), electronics (SICs 3672 and SIC 3674), printing (SICs 2711-2789), auto repair (SICs 753 and 754; also, 554) and municipalities. Three of these sectors were also CSI priorities. Combined, these include over 75,000 entities.

- In Region 1, assistance and pollution prevention staff were involved in 53 on-site assistance visits during FY 1996. Of the 53 visits, 21 visits provided technical and

compliance assistance to wastewater treatment plants, 6 provided technical and compliance assistance to LEPCs and SERCs, and one visit was part of the CLEAN program described below. The remaining 25 assistance visits included 10 audits of environmental management system as part as the StarTrack, ELP, and Federal Facilities programs, 8 visits to provide technical assistance in EPCRA, 6 visits to conduct chemical safety of accident investigations under EPCRA, and one visit to provide technical assistance regarding the reuse of materials in a closing operation.

- Region 2 established the Compliance Assistance and Program Support Branch within the Division of Enforcement and Compliance Assistance to serve as the focal point for delivering multimedia compliance assistance and facilitating technology transfer to the regulated community, the public, states and other local partners. This new branch coordinates with Region 2's inspectors and local partners up-front to ensure more efficient targeting and effective delivery of outreach.

> More than 70 industry representatives attended Region 1's Metal Finishing 2000 workshop in Portsmouth, NH. Northeast Utilities, NH Department of Environmental Services, and Maine Metal Products Association co-sponsored this compliance and pollution prevention education event. Participants rated the workshop high, especially the technology demonstrations provided by vendors and EPA's presentation on energy savings.

- Region 2 teamed with local partners to offer workshops designed for priority sectors (e.g., dry cleaners) and Federal Facilities. Multimedia seminars for industry-wide audiences were also held - these provided "one stop" overviews of EPA's new regulations, policy updates and innovative approaches. Single media compliance assistance information packets and seminar invitations were mailed to facilities potentially impacted by new regulations (e.g., RCRA Air Emission and UST rules).

> Region 2 found that small businesses along with civilian federal agencies (CFAs) have lower compliance rates than larger companies and DOD and DOE facilities because of their general lack of resources and expertise with environmental compliance. The region decided to conduct a networking campaign to ensure inclusion of small businesses and CFA's on its mailing lists for outreach events. It also partnered with other agencies on providing seminars targeted to these groups to help promote compliance.

- Region 2 held three multimedia seminars to provide businesses across industry sectors with regulatory/policy updates on 7 EPA programs. 1,149 New Jersey and 1,200 New York companies were invited; 263 attended. These seminars resulted in an increased awareness of regulatory requirements and contacts for assistance. All participants requested EPA to conduct more multimedia seminars. Fifty RCRA technical assistance manuals (i.e., TC, LDR and waste minimization) were requested and distributed to industry as follow-up to the multimedia seminars.

- Region 2 conducted TRI outreach by mailing 1,600 facilities the latest changes to the regulations, holding 9 seminars attended by 600 facility representatives, conducting 3 multimedia seminars with over 150 facility representatives, supporting 4 NJDEP seminars attended by 200 facility representatives, and making 8 presentations concerning the

recently effective Section 1018 Disclosure Regulations (4 were for the new regulated communities and 4 were for other government agencies). A total of 1,100 people were trained.

- Region 2 hosted two Common Sense Initiative meetings in New York City whereby local stakeholders agreed to learn, and in turn, educate small printers within their communities on how to incorporate pollution prevention into business practices. The community developed a technical directory for compliance and pollution prevention. This project could serve as a national model for outreach to printers and their communities and could impact nearly 2,500 printers in New York City.

- Region 2 also: 1) cosponsored with New Jersey 5 workshops reaching approximately 350 mostly small businesses on complying with the 1988 UST upgrade requirements, 2) conducted 2 seminars for small businesses on stormwater permitting, 3) conducted a seminar in New York in partnership with Research Triangle Park and EPA headquarters on the new RCRA Subpart CC Air Emissions Rule, and 4) made 5 presentations at industry seminars on EPA internet resources for providing compliance assistance.

- Region 3's CWA 104(g) Operator Outreach Program provides free onsite technical assistance to small communities having problems complying with their NPDES permit. A part-time or full-time onsite trainer is assigned to a community and helps evaluate problems and develop a remedial work plan. Trainers work with the community, the operator, and authority members to achieve compliance. Assistance is provided in areas such as process control, maintenance management, laboratory procedures, sludge treatment and disposal, financial management, safety, energy efficiency, and right-to know compliance. Innovative tools being used in this program include on-site computers with special software, video tapes for lab procedures, a handbook to accompany these videos, and a handbook for local officials is also being prepared.

- Region 4's compliance assistance highlights range from general compliance assistance activities to efforts targeted at specific high priority sectors. For example, North Carolina's RCRA program reported over 1450 man-hours of on and off-site technical assistance to industries in the state. Thirty-one percent of these hours were waste minimization technical assistance.

- Region 4 examples of targeted efforts included dry cleaners and chrome electroplaters. These two industries were targeted for major compliance assistance efforts in Florida and Georgia due to new NESHAPs aimed at reducing inhalation risks to the public and workers. These initiatives were highly successful in educating industry to enhance compliance, evoke changes in behavior, and either have or are expected to result in increases in sector compliance rates. Georgia reported an 81 percent compliance rate for chrome electroplaters with the new air toxics NESHAP. Florida reported 64 percent of dry cleaners targeted this year entered the regulatory system via notification as a result of on-site compliance assistance. However, while most states report a significant amount of activity, reporting of results such as the above was very limited.

- Region 5's Pretreatment Team provides both informal and more formalized assistance to members of state and local governments, regulated industries and their consultants to improve understanding and compliance with the requirements of the National Pretreatment Program. In FY96, formal assistance included working with approximately 20 POTWs to upgrade their legal authority, enforcement procedures, and/or local limits to improve their programs and make them consistent with current federal limits. Onsite assistance was provided during the course of two pretreatment audits and three pretreatment compliance inspections; offsite assistance was provided to a POTW in bringing a centralized waste treater under control. Team members also participated in three national meetings for those involved in the pretreatment program. More than 500 people attended. Team members also contributed to five workshops and meetings reaching statewide or geographic area audiences.

- Region 5 conducted workshops for more than 900 violators of the SDWA nitrate monitoring requirements. Since the workshops, 780 systems have voluntarily returned to compliance; the remaining 120 are receiving federal followup. It is anticipated that at least 30 of the 120 remaining systems will return to compliance via other methods of compliance assistance.

- Under the Region 5 RCRA program, the direct implementation program completed assistance to tribes applying for monitoring waivers and was able to approve waivers that saved the tribes more than $1 million in monitoring costs. Similarly, the Region 5 states implemented waiver programs that also significantly reduced monitoring costs for regulated public water systems.

- Region 8 conducted compliance assistance as part of the asbestos awareness training, implementing EPCRA 313 TRI provisions for federal facilities, auto service/ RCRA compliance assistance, and the agriculture sector chemical safety initiative.

- Region 9 organized a highly successful roundtable on regulatory reform involving over a dozen small business representatives from the San Francisco Bay Area. The dialogue resulted in several useful recommendations for the Agency and strengthened the region's communication with the local business community and the Small Business Administration. In FY 1996, Region 9 developed strategies for identifying its priority activities and outcomes for small business assistance in two related areas: 1) assisting small businesses in complying with environmental regulations, and 2) providing small and disadvantaged businesses greater access to government procurement opportunities. These strategies will be implemented in FY 1997. Interviews and internal focus groups will be used to evaluate current programs and identify ways to better coordinate assistance and outreach.

- EPA issued a document that provides a list of EPA statutory and regulatory provisions that may affect agricultural commodity producers. The document also provides a partial list of EPA publications associated with the various legal provisions that allows interested

persons to obtain additional information about specific requirements. There is also a list of direct sources of assistance (e.g., hotlines).

- EPA issued a set of 17 new questions and answers interpreting the Worker Protection Standards. The question and answers are additions to a larger document developed in prior years and accessible to the regulated community and federal and state regulators. The division also substantially completed an inspectors' pocket guide to the standard, which will also be available to the regulated community when published in FY 97.

- EPA produced the Multimedia Compliance/Pollution Prevention Assessment Guidance for Lithographic Printing Facilities. This guidance helps regions and states determine the compliance status of printing facilities and identify ways to bring them into compliance and go beyond compliance. This document can be provided to the printing community for conducting self-assessments/self-audits and can be valuable in assisting printers to develop methods to incorporate pollution prevention into their everyday practices.

- OECA's Chemical Industry Branch completed the EPA/CMA Section 608 compliance assistance pilot project, which developed an overview of the amendments to the 608 requirements, training module, and self-audit checklist were developed and were made available to the public through CMA and the Stratospheric Ozone Information Hotline. Approximately 700 copies of the regulatory overview and 300 copies of the training module and self-audit checklist were distributed through the hotline. EPA received positive feedback from the industry on these tools.

3.7 Performance Partnership Agreements

To ensure the best possible protection of human health and the environment across the country, it is imperative that environmental regulatory agencies at all levels of government share the same priorities and present a unified approach to environmental protection. Just as EPA headquarters and the regions negotiate MOAs, the regions and their respective states develop PPAs. PPAs are tools that allow the regions and the states to present that unified approach and work together to develop and implement environmental management programs. Such agreements are the framework on which environmental protection is based.

FY 1996 was the charter year for PPAs nationwide. The National Environmental Performance Partnership System (NEPPS) set them into motion. NEPPS created a new approach to the relationship between federal implementation of environmental protection activities and state implementation. The principles focus on joint planning based on environmental goals, more public understanding of environmental protection and government activities, and a differential approach to oversight.

In FY96, several regions began the process of negotiating PPAs with their states. In Region 1, for example, principal negotiation teams were developed for all six New England states -- Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The scope of each of the PPAs is presented in Table 3-2.

Table 3-2. Scope of Performance Partnership Agreements in Region 1

State Agency	Scope of PPA	Scope of Grants
CT Department of Environmental Protection	All programs	Water, RCRA, UST, pesticides, PCBs, air
ME Department of Environmental Protection	All programs	All programs
MA Department of Environmental Protection	All programs	All programs
NH Department of Environmental Services	All programs	Water, RCRA, UST, air
RI Department of Environmental Management	Waste	Waste, water, pesticides, air
RI Department of Health	All programs	PWSS, lead, asbestos, radon
VT Department of Environment and Conservation	Water	Water, air, UST, RCRA
VT Department of Agriculture	Pesticides	FIFRA

In Region 2, the region and New Jersey DEP negotiated and signed a PPA that shifts the emphasis from traditional measures used to evaluate compliance and enforcement programs to measures such as compliance rates and timely and appropriate enforcement response. A PPA is currently being negotiated with New York in a similar fashion.

In Region 4, the Regional Environmental Strategic Plan (RESP) recognizes, as a guiding principle, the need for the region and the states to develop stronger, more collaborative partnerships to strengthen their joint capacity to address environmental issues. The RESP recognizes PPAs as a key vehicle to accomplish this objective. During FY96, Region 4 promoted and developed such partnerships with its state counterparts. As a result of these efforts, the region is poised to sign its first PPA/Performance Partnership Grant with the state of Georgia for FY97, its first PPA with the state of North Carolina for FY97, and is working toward an FY97 PPA with the state of Florida.

The region's pending partnership agreement with the state of Georgia is particularly noteworthy because Georgia will be the first Region 4 state to take advantage of the new performance partnership grant authority. The pending agreement represents a joint effort on environmental strategic planning covering 13 environmental programs, including air, water and hazardous waste. The agreement will also cover important areas such as pollution prevention, environmental justice, and community-based environmental protection.

In FY96, Region 5 was operating with one signed Environmental Performance Partnership Agreement (EnPPA). By the end of the fiscal year, the region was renegotiating the standing PPA for FY97, along with four new EnPPAs in other states. To better implement its EnPPA process in the future, and to assist other regions in the same process, Region 5 reviewed its activities and developed a list of lessons learned. The following are some of the recommendations that resulted from the regional review:

- Having a solid NEPPS workgroup, including members from all levels, participation of the Office of Inspector General, and having a core group to screen all agreements
- Assigning individual state leads, with a coordinator
- Conducting an informal internal process to review and negotiate EnPPAs
- Obtaining senior leadership team (SLT) attention
- Implementing the new NEPPS approach, including environmental indicators, cross-media awareness, and single media communication
- Encouraging high state participation, each with a different EnPPA approach.

During FY96, Region 8 discussed, negotiated, and implemented two PPAs. Colorado and Utah entered into PPAs, while all six states were funded through categorical grants for three quarters

and then with PPGs in quarter four. NEPPS set into motion the development of the Colorado and Utah agreements.

- Colorado - While the negotiations that took place during FY95 were quite time consuming and detailed, there were still a number of issues that needed to be resolved in regard to comments received from the public. Specifically, the federal enforcement role was an area that required extensive negotiations to be able to finalize the responsiveness summary. Even then, several areas had to be agreed upon. The state of Colorado was the only state in the nation to work with EPA to pilot the development of leadership criteria, to evaluate state performance for leadership designation of high performing programs. A working group developed a comprehensive set of measures, now known as the Fundamental Performance Measures Document, that describes the performance levels necessary for acceptable core program performance, (including the 10 EPA measures) and for leadership program performance.

- Utah - Region 8 and the state discovered that the enforcement measures portion of the FY95 PPA were not as useful as intended. During the course of the second quarter, regional and state management agreed to develop an EPA-Utah DEQ Quality Assurance Team to develop better measures of success for enforcement and compliance efforts to be piloted in FY97. The workgroup developed a report that includes measures for each sector area, by media.

The four states of Region 9 (Arizona, California, Hawaii, and Nevada) have yet to express active interest in a PPA. Thus, in the absence of a declaration of intent to develop an agreement, the region is pursuing joint priority-setting with the states, through the opportunity presented in Performance Partnership Grant (PPG) proposals received from Arizona and Hawaii. Region 9 has established task forces of in-house state expertise to work with each state on setting a strategic direction, aside from working through the mechanics of their PPG proposals. For the near term, the object of implementation is to identify with each state, within each media, opportunities for program and administrative improvements and flexibility, areas for reduced federal oversight, areas for streamlining, and ways to benchmark program performance. For the long term, the object of implementation will be to operate on the basis of joint decision-making, using more environmental indicators and public outreach to shape our priorities with the states.

Appendix A

Current and Historical Enforcement Data

Table A-1. National Totals - FY 1996 Enforcement Activity

EPA Regional Inspections

	FY 94	FY 95	FY 96
CAA Stationary	1,248	1,081	2,064
CAA Mob. Source	NA	NA	107
Asbestos D & R	615	961	635
NPDES Minors	636	558	499
NPDES Majors	1,510	1,250	1,046
CWA 311	NA	NA	2,267
CWA 404	NA	NA	342
EPCRA 313	765	644	571
EPCRA non-313	NA	NA	689
FIFRA	569	587	116
RCRA	1,498	2,112	1,529
UST	NA	NA	579
SDWA	11,259	6,095	6,569
TSCA	1,452	1,241	898
Total	19,542	14,529	18,211

SOURCE: program databases/IDEA, manual reports

EOY projection includes 60 CERCLA 103 and 70 CAA CFC inspections.

There were also 95 GLP inspections by HQ (OC/AED/LDIB); 94 FIFRA and 1 TSCA

EPA Adm. Penalty Final Orders (Conclusions)

	FY 94	FY 95	FY 96
CAA		127	103
CERCLA		28	39
CWA		210	169
EPCRA	Data	201	184
FIFRA	Not	105	107
RCRA	Available	104	119
SDWA		55	76
TSCA		239	207
Total*		1,069	1,004

SOURCE: Case Conclusion Data Sheets

EPA Field Citations

	FY 94	FY 95	FY 96
UST	NA	NA	115

SOURCE: Case Conclusion Data Sheets and Docket

EPA Administrative Compliance Orders Issued

	FY 94	FY 95	FY 96
CAA	279	130	154
CERCLA	264	257	197
CWA	1,127	865	504
EPCRA	NA	NA	2
FIFRA	NA	NA	10
RCRA	16	1	35
SDWA	330	611	284
Total	2,016	1,864	1,186

SOURCE: Docket, PCS and AFS

New EPA Civil Referrals to DOJ

	FY 94	FY 95	FY 96
CAA	141	37	70
CERCLA	144	102	127
CWA	86	49	49
EPCRA	6	3	9
FIFRA	1	1	3
RCRA	35	14	19
SDWA	11	5	17
TSCA	6	3	2
Total	430	214	295

SOURCE: Docket

EPA Administrative Penalty Order Complaints

	FY 94	FY 95	FY 96
CAA	152	102	88
CERCLA	0	23	37
CWA	284	212	153
EPCRA	305	244	196
FIFRA	230	160	73
RCRA	99	91	88
SDWA	100	86	57
TSCA	304	187	178
Total	1,474	1,105	870

SOURCE: Docket

EPA Civil Judicial Conclusions

	FY 94	FY 95	FY 96
CAA		43	62
CERCLA		87	121
CWA		24	60
EPCRA	Data	1	10
FIFRA	Not	1	5
RCRA	Available	6	22
SDWA		4	7
TSCA		4	5
Total*		170	292

SOURCE: Case Conclusion Data Sheets

Table A-2
Dollar Value of FY 1996 EPA Enforcement Actions (by Statute)

Statute	Type of Enforcement Action				
	Criminal Penalties Assessed	Civil Judicial Penalties Assessed	Administrative Penalties Assessed	Dollar Value of Injunctive Relief	Dollar Value of SEPs
CAA	5,202,800	30,885,091	2,439,633	205,580,107	16,973,165
CERCLA	2,000	2,367,491	708,057	452,148,874	267,675
CWA	62,214,200	19,790,390	3,441,475	576,958,752	5,219,412
EPCRA	0	1,373,700	4,090,324	698,560	5,133,681
FIFRA	118,000	11,610	1,336,785	502,599	1,594,210
RCRA	8,076,000	9,066,018	7,771,104	60,988,395	14,173,682
SDWA	50,300	2,720,000	240,081	117,704,795	77,000
TSCA	600	40,151	9,969,019	15,267,648	22,371,389
Other *	997,000	0	0	0	0
Total	**76,660,900**	**66,254,451**	**29,996,478**	**1,429,849,730**	**65,810,214**

* = Includes cases with U.S. Code - Title 18 violations and cases involving falsification of groundwater sampling and lab analysis.

Table A-3. EPA Administrative Actions Initiated (by Statute)
FY 1973 through FY 1996

Statute	Fiscal Year											
	1973	**1974**	**1975**	**1976**	**1977**	**1978**	**1979**	**1980**	**1981**	**1982**	**1983**	**1984**
CAA	0	0	0	210	297	129	404	86	112	21	41	141
CWA/ SDWA	0	0	738	915	1,128	730	506	569	562	329	781	1,644
RCRA	0	0	0	0	0	0	0	0	159	237	436	554
CERCLA	0	0	0	0	0	0	0	0	0	0	0	137
FIFRA	1,274	1,387	1,614	2,488	1,219	762	253	176	154	176	296	272
TSCA	0	0	0	0	0	1	22	70	120	101	294	376
Totals	**1,274**	**1,387**	**2,352**	**3,613**	**2,644**	**1,622**	**1,185**	**901**	**1,107**	**864**	**1,848**	**3,124**
Statute	**Fiscal Year**											
	1985	**1986**	**1987**	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**
CAA	122	143	191	224	336	249	214	354	279	435	232	257
CWA/ SDWA	1,031	990	1,214	1,345	2,146	1,780	2,177	1,977	2,216	1,841	1,174	1,033
RCRA	327	235	243	309	453	366	364	291	282	115	92	269
CERCLA	160	139	135	224	220	270	269	245	260	264	280	236
FIFRA	236	338	360	376	443	402	300	311	233	249	178	117
TSCA	733	781	1,051	607	538	531	422	355	319	333	240	207
EPCRA	0	0	0	0	0	206	179	134	219	307	244	186
Totals	**2,609**	**2,626**	**3,194**	**3,085**	**4,136**	**3,804**	**3,925**	**3,667**	**3,808**	**3,544**	**2,440**	**2,305**

Table A-4. EPA Criminal Enforcement
FY 1982 through FY 1996

Action	Fiscal Year														
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Referrals to DOJ	20	26	31	40	41	41	59	60	65	81	107	140	220	256	262
Defendants charged	14	34	36	40	98	66	97	95	100	104	150	161	250	245	221
Months sentenced	0	0	6	78	279	456	278	325	745	963	1,135	892	1,188	888	1,116

Table A-5. EPA Civil Referrals to the Department of Justice FY 1973 through FY 1996

Statute	Fiscal Year											
	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Air	4	3	5	15	50	123	149	100	66	36	69	82
Water	0	0	20	67	93	137	81	56	37	45	56	95
CERCLA	0	0	0	0	0	2	5	10	2	20	28	41
RCRA	0	0	0	0	0	0	4	43	12	9	5	19
Toxics/ Pesticides	0	0	0	0	0	0	3	1	1	2	7	14
Totals	**4**	**3**	**25**	**82**	**143**	**262**	**242**	**210**	**118**	**112**	**165**	**251**
Statute	**Fiscal Year**											
	1985	**1986**	**1987**	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**
Air	116	115	122	86	92	102	86	92	80	141	37	70
Water	93	119	92	123	94	87	94	77	84	97	54	65
CERCLA	35	41	54	114	153	157	164	137	129	144	102	127
RCRA	13	43	23	29	16	18	34	40	30	35	14	19
Toxics/ Pesticides	19	24	13	20	9	11	15	15	15	13	7	14
Totals	**276**	**342**	**304**	**372**	**364**	**375**	**393**	**361**	**338**	**430**	**214**	**295**

Table A-6. State Environmental Agencies Judicial Referrals and Administrative Actions FY 1987 through FY 1996

Administrative Actions										
Program Area	**Fiscal Year**									
	1987	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**
FIFRA	5,922	5,078	6,698	4,145	3,245	3,095	4,172	3,528	2,486	2,333
Water	1,663	2,887	3,100	3,298	3,180	2,748	3,960	4,063	4,231	4,598
Air	907	655	1,139	1,312	1,687	1,411	2,005	2,050	1,833	1,534
RCRA	613	743	1,189	1,350	1,495	1,389	1,744	1,609	1,235	841
Totals	**9,105**	**9,363**	**12,126**	**10,105**	**9,607**	**8,643**	**11,881**	**11,250**	**9,785**	**9,306**
Judicial Referrals										
Program Area	**Fiscal Year**									
	1987	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**
Water	286	687	489	429	297	204	383	162	169	169
Air	351	171	96	156	190	258	174	325	124	198
RCRA	86	46	129	64	57	112	133	91	104	66
Totals	**723**	**904**	**714**	**649**	**544**	**574**	**690**	**578**	**397**	**433**

Appendix B

Significant Administrative, Judicial, and Criminal Cases

TABLE OF CONTENTS

REGION I

CLEAN AIR ACT

U.S. v. Avon Tape, Inc. (D. Mass.): On March 7, 1996, the District Court entered a consent decree in EPA's action against Avon Tape, Inc. for Clean Air Act permitting violations and excess emissions of volatile organic compounds (VOCs). Avon Tape is a small, closely held business headquartered in Brockton, MA that manufactures pressure sensitive tape for the shoe industry. From 1982 through 1993, Avon Tape's paper and fabric coating facility in Avon, MA used coatings that violated MA SIP limits for VOCs, with excess emissions of approximately 30 tons per year. These emissions contributed to ozone levels above the national ambient air quality standard. Avon Tape also installed new coating lines in 1982 and 1986 without applying for construction permits or meeting emission requirements for new construction in ozone nonattainment areas. The settlement requires Avon Tape to operate in compliance with applicable VOC limits, to keep VOC emissions below 42 tons per year, and to pay $180,000 in penalties.

U.S. v. General Electric Company (D. Mass.): General Electric (GE) operates a facility in Lynn, MA at which the company tests and manufactures aircraft. The enforcement issues arose from GE's failure to obtain prevention of significant deterioration (PSD) permits for one boiler and for four test cells used for the testing of jet engines. The boiler and the test cells emit NOx in quantities that trigger the PSD new source review requirements of the Clean Air Act. GE installed/constructed two new test cells in the early 1980s and modified two test cells in the late 1980s, without obtaining required permits. GE installed/constructed the boiler without obtaining an adequate permit. The boiler also emitted NOx in excess of the levels permissible in EPA's New Source Performance Standards (NSPS).

In May, 1996, the District Court entered a consent decree in which GE agreed to pay $225,000 in civil penalties and expend at least $1.2 million to perform an SEP involving the replacement of oil-based coolant with a water-based coolant to be used in its milling and lathing machine processes. The company also agreed to certain emissions restrictions for its test cells and boilers for the pollutants NOx and SO_2. The company will eventually receive a permit from the MA DEP consistent with these emissions restrictions.

Goodyear Tire and Rubber Company: A September 23, 1996 consent agreement and order resolved an action against Goodyear Tire and Rubber Company for CFC violations under the Clean Air Act. Goodyear will pay a penalty of $23,560 and implement a nation-wide SEP costing $709,000. At three New England automobile repair facilities, Goodyear had serviced automobile air conditioners using technicians lacking training and certification in CFC recovery and recycling, and without having certified to EPA that the facilities were in compliance. The three Goodyear stores cited are in Woonsocket, RI, Westfield, MA, and South Portland, ME. As a condition of settlement, Goodyear will establish company-wide management practices to promote and monitor compliance with CFC requirements and will purchase automotive antifreeze recycling machines for use at 575 Goodyear stores nation-wide, including 39 in New England.

Picatinny Arsenal (New Jersey): Region II issued a compliance order May 15, 1996 to the U.S. Army Armament Research, Development, and Engineering Center at Picatinny Arsenal, New Jersey for noncompliance with requirements under the Clean Air Act regarding prevention of significant deterioration in air quality (PSD). The Arsenal is subject to the PSD requirements because operation of two boilers on the facility have caused significant net emissions increases of Nox. Stack tests in November 1994 and January 1995 were made on two boilers that had been converted from coal to natural gas as a primary fuel and #6 fuel oil as a secondary fuel. Test results showed that net emissions of NOx from the Arsenal using fuel oil vs. natural gas would increase "significantly" using natural gas -- by more than 40 tons per year --above the level of emissions from fuel oil as it existed before the modification of the two boilers. The order directs the Army to display the PSD non-applicability of the #6 fuel oil to natural gas conversion within 60 calendar days or comply with the requirement of the PSD regulations. Picatinny Arsenal is in northern New Jersey. The installation employs approximately 5,500 people in research and development of munitions and weapons. The Arsenal is on the National Priorities List and has approximately 150 areas of concern.

U.S. v. Stanley-Bostitch, Inc. (D., R.I.): On January 16, 1996, the District Court of Rhode Island entered a consent decree in which Stanley-Bostitch, a Delaware corporation, agreed to pay $225,000 in civil penalties as part of a final settlement of this Clean Air Act case.

Arising out of an EPA inspection of Stanley's manufacturing facility in East Greenwich, RI, the complaint alleged violations of the SIP based on Stanley's use of a paint, in 1991 and 1992, containing VOCs in excess of allowable limits and on its failure, from 1991 to March 25, 1994, to obtain a minor source permit before installing and operating a boiler at that facility. The complaint also alleged that, in 1992 and 1993, Stanley violated the NSPS by failing to comply with regulations pertaining to the same boiler which require, among other things, compliance with a standard for sulfur dioxide, completion of certain performance tests, emissions monitoring, reporting and recordkeeping. Each of the violations was corrected by Stanley by the time the complaint and consent decree were filed.

CERCLA

U.S. v. C&M Corp. et al. (D. Conn.): On July 6, 1996, the District Court issued a decision upholding a consent agreement entered into between the U.S. and certain generators at the Yaworski Lagoon Superfund site. The consent agreement provides for a de minimis settlement. The settlement arose from a 1990 consent decree providing for payment of response costs and remediation of the Yaworski site. Under that consent decree, all obligations fall in the first instance on the principal generator, Pervel Industries. It also provides that if Pervel proves unable at some future time to continue the work, the remaining settling defendants would become responsible for completing it. In the fall of 1993, Pervel informed EPA that it was financially incapable of continuing the work. To resolve the liability of the other settling generators, who sent a combined total of 1.5% of the waste to the site, EPA entered a consent agreement with them by which they were given a de minimis settlement for payment of approximately $310,000.

The owners/operators opposed entry of the consent agreement. In its July, 9, 1996 ruling, the court held that entry was proper on the ground that the settlement was fair and reasonable and was within the U.S.'s discretion. The court also stated that the U.S. has the discretion to enter into CERCLA settlement discussions with any parties it chooses at any time as long it does so in good faith. The owners/operators have appealed entry of the consent agreement to the Second Circuit.

U.S. v. Charter International Oil Co. (1st Cir.): On May 9, 1996, the U.S. Court of Appeals for the First Circuit affirmed a trial court decision concerning the scope of contribution protection afforded by a CERCLA consent decree. The case concerned the Sullivan's Ledge site in New Bedford, MA. The United States alleged that Charter's predecessor-in-interest, a New Bedford fuel oil supplier which also cleaned fuel oil soot from boilers, disposed of this material at the Sullivan's Ledge site. In its consent decree with the United States, Charter agreed to pay $215,000 plus interest. In return, the government broadly covenanted not to sue Charter "pursuant to sections 106 and 107 of CERCLA ... for reimbursement of response costs or for implementation of ROD I or ROD II." As to contribution protection, the decree did not define what matters were addressed; rather, it stated that Charter was "entitled to such contribution protection ... as is provided by CERCLA § 113(f)(2)."

In its motion to enter the decree, the U.S. argued that Charter was only entitled to contribution protection for costs associated with the government's remainder case (i.e., costs that had not been recovered in prior settlements concerning the site). Charter disagreed, arguing that the decree provided it with complete protection against contribution suits by prior settlers. The trial court granted the government's motion to enter the decree and rejected Charter's position.

The First Circuit affirmed the trial court's decision and rejected Charter's argument that the scope of contribution protection afforded by a decree is as broad as the decree's covenant not to sue. Instead, the First Circuit expressly supported the government's view that the scope of a covenant not to sue is not necessarily the same as the matters addressed by a settlement, for which settlers receive contribution protection from other liable parties.

U.S. v. Cornell-Dubilier Electronics, Inc. et al. (D. Mass.); U.S. v. Coaters, Inc. et al. (D. Conn.): On August 21, 1996, a consent decree was lodged with the District Court which resolves the liability of two potentially responsible parties, Coaters, Inc. and Fibre Leather Manufacturing Co., for contamination at the Sullivan's Ledge Superfund site in New Bedford, MA, and the Solvents Recovery Systems of New England (SRS) Superfund site in Southington, CT. Both defendants generated wastes that were transported to these sites for disposal and, as a result, are liable to EPA under Section 107(a)(3) of CERCLA.

Coaters, Inc., a manufacturer of artificial leather and coated fabrics, is located in New Bedford, MA. Under the terms of the Sullivan's Ledge Superfund site settlement, Coaters will make payments totaling $418,000 to the U.S. in six annual installments. In addition, Coaters will pay the site's prior settlers (which are suing Coaters and Fibre Leather in a separate contribution action) $387,000 in four annual installments.

Fibre Leather, a manufacturer of artificial leather and latex saturated papers, is also located in New Bedford. Under the terms of the Sullivan's Ledge Superfund site settlement, Fibre Leather will pay the U.S. and prior settlers $380,000, which will be split evenly between the plaintiffs.

Under the terms of the settlement concerning the SRS Superfund site, Coaters and Fibre Leather will pay the U.S. $115,000 and $30,000, respectively, to resolve their site-related liabilities.

U.S. v. Federal Pacific Electric Co., Inc. et al. (D. Mass.): On September 27, 1996, two consent decrees were lodged in the U.S. District Court for the Norwood PCB Superfund site. In the first decree, Cornell-Dubilier Electronics, Inc. (CDE) and Federal Pacific Electric Company, Inc. (FPE) (prior owners/operators/generators) agreed to perform the bulk of the remaining remedial work at the site, valued at $9,900,000. In the second decree, Cooper Industries, Inc. (prior operator/generator) will pay approximately $5,500,000 toward past and future oversight costs at the site. Each PRP is also paying a $60,000 penalty for violation of a CERCLA § 106 administrative order issued on August 8, 1990. Both decrees also contain a provision designed to encourage future redevelopment of the site through waiver of claims against prospective purchasers. The court entered a consent decree between the U.S. and the remaining settling defendant, Friedland Brothers Enterprises, on August 14, 1995.

The significant provisions in the settlement concerning waiver of claims against future landowners/developers confirm EPA's new efforts to return Superfund sites to beneficial reuse. Additionally, the Region saved significant costs at the site by scaling back the cleanup without endangering human health. Consistent with the Agency's efforts to assess risks and clean sites mindful of possible future uses, the original remedy of cleaning up this industrial site to residential use at a cost of approximately $55 million through the use of solvent extraction was amended to an excavation and capping remedy for a cost savings of approximately $20 million.

Raymark Industries, Inc.: On July 29, 1996, Region I signed a landmark prospective purchaser agreement with Leach Family Holdings, Inc. The agreement clears a major hurdle allowing Leach to move forward with its plans to redevelop the Raymark site in Stratford, CT, including the estimated creation of 1,000 new jobs and the addition of $1,000,000 in local tax revenue. Under the agreement, Leach agrees to reimburse EPA for the costs the Agency will incur in constructing a protective cap over the Raymark site in a manner which will accommodate Leach's planned shopping mall development on the property. In addition, Leach agrees to pay EPA and the State of Connecticut a minimum of $500,000 in consideration and to adhere to all institutional controls at the site, including the requirement to avoid actions which could damage the protective cap and to provide EPA and the state with access to the site. The agreement also includes a windfall profits provision under which, if Leach or someone to whom Leach sells the property realizes a substantial profit from sale of the property during the three years following purchase of the property, a portion of those profits would be shared with the government. In exchange, the agreement grants to Leach and its successors a covenant not to sue and contribution protection for the existing contamination at the site.

U.S. v. Rhode Island Solid Waste Management Corporation (D. R.I.): In July, 1996, a consent decree was lodged with the District Court which provides for performance of the remedy set forth in the Record of Decision for Operable Unit 1 at the Central Landfill Superfund site in Johnston, RI. (The court subsequently entered this consent decree on October 2, 1996.) Under the consent decree, the RI Solid Waste Management Corporation, a quasi-state agency which owns and operates the landfill, will perform the remedy fully, at an estimated cost of $32-37 million. The settling defendant will also pay $250,000 in past costs. Liability for future oversight costs will be capped at $200,000 per year for remedial design and remedial action and at $25,000 per year for operation and maintenance activities, in 1995 dollars adjusted upward annually. The Operable Unit 1 remedy consists of capping the landfill and preventing the highly contaminated groundwater in a "hot spot" area from migrating off-site by using a groundwater pump-and-treat-system.

U.S. v. City of Somersworth et al. (D. N.H.): On March 19, 1996, the District Court entered a consent decree for the remedial design and remedial action at the Somersworth Sanitary Landfill Superfund site in Somersworth, NH. In a settlement which is the first of its kind in the nation, the agreement calls for the use of an innovative landfill cleanup technology, and commits EPA to share the risks of using that technology. Under the agreement, EPA will pay half of the costs of the new technology, not to exceed $3.5 million, if the technology does not fulfill expectations. The agreement also requires the settling parties to implement a contingent, more traditional landfill technology if necessary, and to pay certain past and future oversight costs related to the site. The

innovative technology has been estimated to cost approximately $7 million. The contingent remedy has been estimated to cost approximately $26 million.

A total of 20 parties signed the consent decree, including General Electric and the City of Somersworth. The settlement also caps a several year effort to reduce the transaction costs for small waste contributors at a landfill site, in part by including a unique negotiated two-tier de minimis settlement with 15 small contributors. This de minimis settlement provided the small parties with settlement options which were agreed by all the parties to be both modest and fair.

U.S. and the State of Vermont v. Browning-Ferris of Vermont, Inc. & Disposal Specialists, Inc. (D. Vt.): On September 16, 1996, a consent decree was lodged with the District Court which provided for 98% recovery of all EPA costs, as well as for the conduct of long-term operation, maintenance, and monitoring of a landfill cap, and other systems constructed under an administrative order on consent entered between EPA and the owner/operator, BFI-Vermont, Inc. and its related company, Disposal Specialists, Inc. The consent decree provides for significant recovery of EPA oversight costs for the site, BFI's landfill in Rockingham, VT. The consent decree also provides the State of Vermont with a Grant of Environmental Restrictions and Right of Access which ensures that necessary institutional controls will be adhered to and encourages the beneficial reuse of the property once cleanup levels are attained. The parties included language in the consent decree which allows EPA to require the PRPs to perform any additional response actions necessary to protect human health, welfare, or the environment.

Michael and David Vining: A Prospective Purchaser agreement became effective on May 29, 1996 concerning one parcel of land at the Industry-Plex Superfund site in Woburn, MA. The agreement provides the Vinings with protection from CERCLA liability in exchange for obtaining $30,000 and commitments to provide any necessary access to the parcel and to abide by all institutional controls developed as part of the remedy for the site. The Vinings intend to use the property for a materials recovery facility and paper recycling center.

CLEAN WATER ACT

U.S. v. CPF, Inc. (D. Mass.): On August 2, 1996, the U.S. District Court entered a consent decree settling the Clean Water Act action against CPF, Inc. of Ayer, MA. EPA's action arose out of CPF's discharges of wastewater to the Town of Ayer's municipal sewer system in violation of federally enforceable pretreatment reporting requirements and local limits on discharges of biochemical oxygen demand and total suspended solids. The Ayer wastewater treatment plant discharges to the Nashua River. CPF is a beverage bottler employing approximately 105 employees with sales of approximately $53,000,000, and is essentially a joint venture owned 20% each by five different Pepsi distributors. Ayer issued the company several municipal orders requiring actions to end the violations, but the company failed to fix the problems. EPA learned of the situation through inspections of the municipal pretreatment program.

In the settlement, CPF agreed to pay a penalty of $160,786 and to spend an additional $99,625 to fund a package of SEP projects to enhance protection of the Nashua River watershed. The SEPs include: (1) an $80,000 conservation land acquisition of 15 acres along the Nashua River for water quality and habitat protection and public recreational use; (2) a $7,000 project to stop sediment erosion plaguing a portion of the Squannacook River, a tributary to the Nashua and a prime trout fishery; and (3) a $12,625 bi-lingual (English/Spanish) storm-sewer stenciling project in Ayer and Fitchburg to help prevent the dumping of wastes down public storm drains to the Nashua River. Though not a SEP, CPF also agreed to spend an additional $50,000 to fund a volunteer water quality monitoring program throughout the Nashua River watershed under contract with a regional environmental group. By the time the case was settled, CPF attained compliance with applicable pretreatment limits.

U.S. v. Cumberland Farms Inc. et al. (D. Mass.): On September 18, 1996, the District Court entered a consent decree between the U.S. and Cumberland Farms, Inc., which resolves a long-standing wetlands enforcement action against Cumberland for its unpermitted filling of 180 acres of wetlands in Halifax and Hanson, MA between 1977 and 1990. Under the consent decree, Cumberland is required to deed two undeveloped tracts of land, totaling 225 acres, to the MA Division of Fisheries and Wildlife for permanent conservation. In addition, the company will establish a 30-acre wildlife and wetlands corridor on the most seriously damaged site and pay a $50,000 civil penalty. This settlement, together with an earlier agreement with the subsequent purchasers of the property on which the violations occurred, Baybank and Northland Cranberries, Inc., will preserve a total of 490 acres of undeveloped habitat in the same watershed as the violations. This represents the largest permanent preservation of habitat arising from a federal enforcement action in New England.

The 30-acre wildlife and wetland corridor to be created by Cumberland will include 16 acres of new wetlands and will provide critical access for wildlife between Burrage Pond and the Great Cedar Swamp. Large portions of the Great Cedar Swamp are being deeded to the MA Audubon Society as a result of the earlier Northland/Baybank agreement.

U.S. v. Dexter Corporation (D. Conn.): On August 26, 1996, a joint motion to terminate the Clean Water Act provisions of the U.S. v. Dexter Corp. consent decree was granted by the federal court. The motion was made after the company paid a $9 million civil penalty and completed all the water pollution remedial work which was required by the decree. The decree resolved the governments' action against Dexter for violations of the Clean Water Act and RCRA at its pulp and paper mill in Windsor Locks, CT. The company is still undertaking remedial work relating to hazardous waste contamination at the facility.

Over six million gallons per day of wastewater from the facility's pulp and paper operations is discharged into the Connecticut River. EPA, together with the State, had initiated civil, criminal, and administrative suspension and debarment actions against Dexter for, among other things, chronically discharging pollutants in excess of that allowed under its water discharge permit, and having numerous illegal spills and unauthorized discharges from various outfalls at the facility on a continuing basis.

As part of the civil settlement, the company agreed to pay $9 million in penalties and take extensive remedial action - in particular, installation of treatment facilities to significantly decrease the oxygen depleting pollutant loadings to the river.

Town of Essex, Massachusetts: Successful negotiations among EPA, the Commonwealth of Massachusetts, and the Town of Essex, MA on an innovative solution to the town's septic system problems concluded with the signing of a state court judgment in the spring of 1996. Under the judgment, the town agreed to address the long-standing bacterial contamination of the Essex Bay estuary and local clam flats caused by failing septic systems and illegal connections to the town storm drains. Specifically, Essex will be instituting a comprehensive program to inspect and correct septic system and illegal connection problems and institute a town-wide oversight and management program. EPA had referred this matter to DOJ with the intent of filing a federal action seeking injunctive relief under Section 504 of the Clean Water Act if settlement could not be expeditiously reached at the state level. Working closely together, EPA and MA were able to negotiate an agreement that satisfied all the parties.

This case is an example of state-federal cooperation that resulted in a solution to a serious problem that has been largely neglected in the past - septic system pollution of estuaries and shellfish beds in unsewered communities. In Essex, the shellfish bed closures and restrictions directly affect the local economy, such as the clam diggers and seafood restaurants in the area.

Ideal Forging Corporation: In FY 96, Region I settled its largest Clean Water Act Section 311 administrative enforcement action to date against Ideal Forging Corp. of Southington, CT for violations of the Oil Pollution Prevention Regulations. Ideal is a metal forging facility located near the Quinnipiac River that manufactures plumbing fixtures and valves. As a result of a spill investigation, EPA found that Ideal did not have a Spill Prevention, Control, and Countermeasure (SPCC) Plan for its facility. EPA also cited the company for an illegal spill of oil into the river.

Under the terms of the settlement, the company paid a $30,000 penalty and performed a $26,000 SEP. This project consisted of having the company hire consultants to conduct both an environmental compliance audit and a site assessment at its facility. The audits submitted by the company were comprehensive and will provide important information on the environmental compliance status of the facility. EPA, in cooperation with the CT DEP, is ensuring that the company implements the recommendations of the audits.

EPCRA

FL Industries, Inc.: On October 27, 1995, Region I issued a consent agreement which required FL Industries to pay a penalty of $97,930 in settlement of EPCRA violations. EPA initiated this action based on FL's failure to submit material safety data sheets (MSDSs) and Tier I and Tier II reports for certain EPCRA listed chemicals used at its Clinton, MA facility in 1987 to the local emergency planning committee, the Massachusetts Emergency Response Commission, and the local fire department. The complaint also cited FL for its failure to submit Form Rs for certain chemicals.

RCRA

Boston Veterans Affairs Medical Center (Boston, Massachusetts): On August 2, 1996, Region I issued a complaint and compliance order under Section 3008

(a) of the Resource Conservation and Recovery Act to the South Huntington Avenue Veterans Affairs Medical Center in Boston, Massachusetts. The complaint alleges eight violations and assesses a penalty of $76,550. Violations include the failure to safely store incompatible hazardous wastes and/or materials incompatible with hazardous wastes; storage in containers that were not compatible; the failure to appropriately label containers; and the failure to provide proper certification for land disposal restrictions. During a multimedia inspection, inspectors found that jars of caustics were stored with jars of acids and also that jars of explosives were stored with caustics in cardboard boxes. Such storage could trigger an explosion, putting VA employees and veterans at risk. They found 240 glass and plastic jars of waste chemicals stored in cardboard boxes labeled as hazardous waste containers.

U.S. Department of Veterans Affairs Medical Center (Boston): A consent agreement and Final order was signed on September 29, 1996 concerning the alleged failure of U.S. Department of Veterans Affairs Medical Center, Boston (VA) to comply with RCRA regulations. The several violations at issue concerned the management of hazardous waste, including the: 1) failure to safely store incompatible hazardous wastes and/or materials incompatible with hazardous wastes; 2) failure to appropriately label containers of hazardous waste; 3) failure to provide a proper lab pack certification on a land disposal restriction notification; and 4) failure to provide a proper land disposal certification notice. These violations were identified during a routine site inspection. Facts provided by the VA led Region I to reduce the proposed penalty amount to $74,300. In the settlement the VA agreed to conduct a SEP involving hazardous waste management training for appropriate personnel at all New England U.S. Department of Veteran Affairs Medical Centers.

U.S. Naval Undersea Warfare Center: A consent agreement and Final order (CAFO) was signed on September 16, 1996 concerning the U.S. Navy Undersea Warfare Center's alleged failure to comply with RCRA regulations at two facilities in New London and one facility in East Lyme, CT (Command Center at Newport, RI). The violations at issue concerned the management of hazardous waste, including the: 1) failure to properly label containers of hazardous wastes; 2) failure to conduct appropriate hazardous waste determinations; 3) failure to prepare an adequate hazardous waste contingency plan; and 4) failure to provide hazardous waste training to applicable personnel. These violations were identified during a routine site inspection by Region I. The penalty proposed in the complaint was $80,625. The penalty agreed to in the CAFO remained at $80,625.

TSCA

Teknor Apex Company: A September 30, 1996 consent agreement and order resolved TSCA violations by Teknor Apex of Pawtucket, RI. Teknor Apex had failed to report the identities and volumes of several chemicals manufactured in 1989, as required by EPA's Inventory Update Rule. Teknor Apex manufactures organic plasticizers, vinyl resins, garden hose, plastic sheeting, and color pigments. The violations, which occurred at facilities in Attleboro, MA and in Brownsville, TN, hampered EPA's efforts to assess the health and environmental risks of chemical manufacture and distribution. The settlement provides for a penalty of $52,950 and implementation of SEPs costing $ 300,000. Four SEPs at the Attleboro facility will reduce toxic emissions, reduce and improve the quality of wastewater discharges, and reduce the volume of industrial wastewater processed at Teknor's on-site wastewater treatment plant.

MULTIMEDIA

James River Paper Company (D. N.H.): In August 1996, the U.S. District Court in Concord, NH entered a consent decree settling a May 1995 case against James River Corporation and its successor, Crown Vantage, for violations at the James River pulp and paper mills in Berlin and Gorham, NH. The consent decree includes a $200,000 penalty, requires Crown to control foam in its discharges, and requires an assessment of all potential sources of illegal discharges to the Androscoggin River and evaluation of the adequacy of practices, procedures, and facilities in place to prevent unpermitted discharges. The consent decree also includes an SEP to reduce the release of sulfuric compounds into the air. The SEP is now operational and is removing more than 6 tons of sulfuric compound air emissions on a daily basis. The case arose primarily out of a sulfuric acid spill that reached the Berlin, NH wastewater treatment plant in 1993. The company had failed to follow proper procedures for reporting the spill.

REGION II

CLEAN AIR ACT

U.S. v. Automatic Rolls (D. NJ): Several years ago Region II carried out an initiative to assess the status of compliance of large commercial bakeries in New Jersey with applicable air emissions regulations. Under this initiative, Region II allowed the bakery owner to test the facility, or to waive the costly test and agree to a compliance agreement. A consent decree resolving a VOC emission case against Automatic Rolls was lodged in the District of New Jersey on March 14, 1996. Under the decree the defendant, Northeast Foods (the parent of Automatic Rolls), is required to install over $250,000 worth of emission collection and incineration equipment in order to come into compliance with the emission limits. The emissions in question are volatile organic compounds (VOC), a precursor to ozone (smog) formation. During the baking process, ethanol, a VOC, is emitted by the leavening action. Northeast will also pay a civil penalty of $81,831 for its past violations. This case is one of six similar cases which were part of the Region II initiative.

Baxter Healthcare, Corp.: Region II inspectors discovered, and confirmed by obtaining subsequent documentation, that Baxter Healthcare Corp. had installed and operated an NSPS-regulated steam generating unit without complying with NSPS producers and in violation of SO_2 emission standards. On September 27, 1996 Region II issued an administrative consent order to Baxter, located in Carolina, Puerto Rico, resolving these violations. Baxter agreed to pay a civil penalty of $85,000, comply with the applicable NSPS regulations at all affected units and perform a Supplemental Environmental Project. Under the SEP, which has a value of at least $51,600, Baxter agreed to use low sulfur fuel in its non-regulated boilers, thereby reducing total sulfur emissions at its facility. Baxter has agreed to use the low sulfur fuel in these additional units for a period of at least 12 months, after which it will phase out the use of these boilers.

U.S. v. Chevron (D. NJ): On February 26, 1996, the United States filed a complaint against Chevron USA, Inc. in the District of New Jersey, alleging violations of the Clean Air Act (CAA) arising out of Chevron's 1983 replacement of an air pollution control device with a less efficient device at its refinery in Perth Amboy, New Jersey. Also filed was a Stipulation settling the case for a total penalty of $698,349. The complaint against Chevron alleged multiple violations of the NSPS Subpart J Standards of Performance for Petroleum Refineries. During the period that the settlement was negotiated, Chevron demonstrated that it was able to meet the Subpart J sulfur oxide emission standards with pollution abatement equipment installed in 1993, and has now come into full compliance with the CAA.

U.S. v. Chevron, USA, Inc., PJS Construction Company, Inc., Mayer Pollock Steel Corporation, and Falcon Associates, Inc. (D.NJ): On December 8, 1995, the United States District Court for the District of New Jersey entered a consent decree that settles an enforcement action initiated by the United States under the Clean Air Act against Chevron and three of its contractors for violations of the Asbestos demolition NESHAP. Region II inspectors, as well as citizen observers, found that asbestos removal which occurred in 1989 and 1990 at the Chevron Refinery facility in Perth Amboy, NJ violated the asbestos NESHAP rules. The asbestos removal occurred as part of the renovation of Chevron's boiler house and the demolition of a catalytic cracking unit at the facility. The consent decree provides for the payment by the defendants of penalties of $155,000 for the violations. The decree also requires Chevron and the other defendants to comply at all times in the future with the requirements of the Asbestos NESHAP.

U.S. v. CITGO Asphalt Refining Company (D.NJ): EPA Region II and CITGO Asphalt Refining Company (CARCo) reached a settlement which requires CARCo to pay a penalty of $1,230,000, and to implement a compliance schedule. The injunctive centerpiece of this settlement requires CARCo's Paulsboro refinery to comply with the sulfur oxide emission standard set forth at 40 C.F.R. §§ 60.100 to 60.109 (Subpart J). The underlying enforcement action also addressed CARCo's violation of the Subpart J monitoring and testing requirements, portions of the New Jersey SIP, and NESHAP reporting violations.

U.S. v. General Electric (N.D.NY): On August 27, 1996, the court entered a Stipulation and order of Dismissal under which the United States settled a civil action against the General Electric Company for

violations of the New Source Performance Standards (NSPS) promulgated under the Clean Air Act. The Stipulation requires GE to pay penalties in the amount of $60,684 for violations of EPA's NSPS for Volatile Organic Liquid Storage Vessels. GE violated these regulations by failing to equip two methanol storage tanks which are located at its facility in Waterford, New York with internal floating roofs to control the emission of volatile organic compounds.

U.S. v. Harry Grant and Sandalwood Construction Corp. (D.NJ): On November 17, 1995 the court granted the United States' motion for Summary Judgement and awarded the requested statutory maximum penalty against both defendants. Harry Grant and Sandalwood were found to be operators of the demolition of approximately 70 acres of run down buildings (formerly a Bethlehem Steel shipyard) in an area of the Hoboken waterfront.

The Court found that there were 119 violations of the asbestos demolition NESHAP that occurred during the summer of 1988, resulting in a total penalty of $2.975 Million. The judge refused to mitigate the penalty, reasoning that the violations continued after EPA issued administrative orders requiring that they be ceased, and the violations may have endangered the health of hundreds of nearby residents. In applying the penalty assessment criteria of §113(e)(1) of the CAA, the Court found no basis from the evidence available in the record to assess anything less than the maximum $25,000 for each of the 119 violations found.

U.S. v. Mobil (D.NJ): On May 17, 1996, the United States filed a complaint against Mobil Oil Corporation, in the District of New Jersey, alleging violations of the Clean Air Act's NSPS Subpart J regulations at its refinery in Paulsboro, New Jersey. Also, filed was a Stipulation and order settling the case for a total penalty of $142,800. The complaint against Chevron alleged multiple violations of monitoring, testing, and reporting requirements. The complaint also alleged that Mobil's monitoring data indicated that Mobil failed to "operate and maintain" its facilities in a manner consistent with good pollution abatement practice. This count was supported by Mobil's own monitoring data, which consistently exceeded the applicable sulfur oxide standards.

In September 1993, EPA issued a compliance order addressing all the above-mentioned violations. Mobil swiftly responded to the order and has maintained consistent compliance with Subpart J since 1994. As such, the case was resolved as a penalty only settlement.

U.S. v. Owners Realty (S.D.NY): On September 6, 1996, a consent Judgment was entered against Owners Realty and Management Construction Corp, the last of seven contractors originally sued along with the New York City Board of Education as part of Region II's contribution to a nationwide asbestos initiative that resulted in the filing of 13 cases in 1989. This case involved falsification of testing data about asbestos in schools, required to be gathered under federal law. The judgment mandates that no principal of the company may ever again engage in the asbestos abatement business and the Company must pay a $412,500 penalty. This civil action was stayed for approximately three years while EPA was conducting criminal investigations.

CERCLA

U.S. v. 175 Inwood Associates, et al. (E.D.NY): On March 29, 1996, a complaint was filed in federal District Court on behalf of EPA Region II with respect to the Rockaway Metal Products Superfund site, located in Inwood, Nassau County, NY. The action seeks cost recovery from 175 Roger Corp., a partnership named 175 Inwood Associates, and the individual partners of that partnership (Abraham Woldiger, Abraham Taub, and Peter Hoffman). The complaint also seeks civil penalties under CERCLA for failure to fully respond to EPA information requests, failure to comply with EPA's request for access and administrative access order, and failure to comply with an EPA administrative clean-up order relating to the site.

Rockaway Metal Products leased the site from 175 Inwood Associates. In May 1989, Rockaway abandoned its facility at the site, leaving behind approximately 150-250 drums, 22 pressurized cylinders, a tanker-trailer and 4 underground storage tanks. These conditions led, in 1992, to the issuance by EPA of an administrative order to 175 Inwood Associates, then the owner of the site. The order required the respondent to perform a removal action at the site. 175 Inwood Associates ultimately did carry out the removal action, but failed to comply with a number of the deadlines and other requirements of the administrative order. Indeed, 175 Inwood Associates' noncompliance forced EPA, in early 1993, to make preparations for carrying out the removal action itself; 175 Inwood Associates resisted that effort by refusing to provide EPA with access to the site so that EPA could carry out the cleanup. The partnership and its partners also failed to comply with several EPA information requests.

United States v. Allied Signal, et al. (D.NJ): A consent decree resolving litigation related to the Bridgeport Rental and Oil Services (BROS) Superfund site, Logan Township, New Jersey was lodged with the District Court in Camden, New Jersey, on Monday, September 30, 1996. More than 90 companies and federal and state agencies agree under the consent decree to contribute at least $221.5 million in reimbursement of past costs and towards future groundwater and wetlands work at the site.

The parties include EPA, the State of New Jersey, some 79 private PRPs, and a number of other Federal and State agencies (named as generator defendants in contribution claims). The extremely complex settlement, valued at $221.5 million -- one of the largest Superfund settlements ever -- provides for cost recovery and performance of future response work. The federal PRPs will be paying the majority of the costs of the settlement.

U.S. v. Allied Signal et al. (S.D.NY): On May 1, 1996 a CERCLA consent decree was entered on behalf of Region II, relating to the Cortese Landfill Superfund site located in Narrowsburg, New York. Thirty parties executed the decree, which requires the parties to implement the remedy selected in the September 30, 1994 Record of Decision for the site, as well as reimburse the United States for future response costs that will be incurred in overseeing the implementation of the remedy. The selected remedy to be implemented by the parties has an estimated value of approximately $10 million. The site remedy includes a low permeability cover system, the removal and off-site treatment and/or disposal of drum disposal areas, the extraction and treatment of contaminated ground water, establishment of institutional controls, and future monitoring to evaluate the remedy's effectiveness.

U.S. v. Barrier Industries, Inc. (S.D.NY): On October 24, 1995, the Department of Justice filed a complaint in the Southern District of New York on behalf of EPA Region II. The action seeks the recovery from Barrier Industries, Inc. and Kurt Wasserman, its CEO, of the response costs incurred by EPA with respect to the Barrier Industries, Inc. Superfund site, located in Port Jervis, New York. The complaint also seeks civil penalties for Kurt Wasserman's failure to respond to CERCLA §104(e) information requests, a temporary restraining order which bars Kurt Wasserman from transferring assets, and an order nullifying a fraudulent conveyance from Kurt Wasserman to his wife, Mildred Wasserman.

Barrier manufactured janitorial chemicals at the site from 1978 until December 1993, when an estimated 15,000 drums, pails, lab chemical containers, and approximately 200 storage tanks and reactor vessels of hazardous wastes, chemical products, and product precursors were abandoned in the facility and in trailers at the site. In 1994-95, EPA conducted a cleanup to remove these wastes. The removal action, and EPA's associated investigative and enforcement activities to date have cost in excess of $3.1 million.

U.S. v. Caribe General Electric Products, Inc., et al. (D.PR): On March 26, 1996 a complaint was filed in federal court on behalf of EPA Region II with respect to the G.E. Wiring Superfund site in Juana Diaz, Puerto Rico. The action seeks recovery from Caribe General Electric Products, Inc. ("Caribe G.E.") and its parent company, the General Electric Company ("G.E."), of the response costs incurred by EPA with respect to the site. EPA also seeks a declaratory judgment as to G.E. and Caribe G.E.'s liability for future response costs. The site is a National Priorities List site. Pursuant to an administrative consent order entered into by EPA and G.E. and Caribe G.E. in 1984, the companies completed a remedial investigation and feasibility study of the site and are also conducting the design and implementation of the remedy selected by EPA in its 1988 Record of Decision. EPA has incurred more than $1.4 million in response costs in overseeing the companies' response actions and in conducting other activities. G.E. has reimbursed $450,000 of this amount. The new lawsuit seeks the remainder of our costs.

Ciba-Geigy Superfund site: On October 18, 1995, Region II issued an administrative order on consent under Sections 104, 107, and 122 of CERCLA to the Ciba-Geigy Corporation. The order requires Ciba-Geigy to perform, under EPA oversight, a feasibility study for Operable Unit Two to develop and evaluate remedial alternatives for approximately twenty-one potential source areas of groundwater contamination on the site. The estimated cost of the work that Ciba-Geigy will perform is $20 million. In addition, Ciba-Geigy will also pay all of EPA's unreimbursed past response costs, $797,000, plus all of EPA's future response costs, including oversight costs.

The site is on the National Priorities List and located in Toms River, Ocean County, New Jersey. Groundwater at the site is contaminated with organic and inorganic compounds, and emanates from surface and subsurface former disposal areas on the site. Pursuant to a settlement with EPA in 1994, Ciba-Geigy is currently remediating the groundwater contamination. EPA recently completed a baseline public health risk assessment for source area surface soils, as well as a remedial investigation to examine the nature and extent

of the contamination in the source areas at the site. In performing the feasibility study for the source areas, Ciba-Geigy has agreed to adopt EPA's risk assessment and remedial investigation report.

U.S. v. First Marine Shipyard Inc., et al. (E.D.NY): On September 30, 1996 the U.S. filed a complaint for CERCLA cost recovery and penalties related to Region II's cleanup of the barge Nathan Berman. The complaint seeks recovery of approximately $1.8 million from First Marine Shipyard, Marine Facilities Inc., Marine Movements, Inc., and Peter Frank and Jane Frank Kresch individually. It also includes a second cause of action against First Marine Shipyard for failure to comply with an administrative CERCLA §106 order issued to it in March of 1993.

U.S. v. Kevan M. Green and Polymer Applications, Inc. (W.D.NY): On May 21, 1996 a complaint was filed on behalf of EPA Region II against Kevan M. Green and Polymer Applications, Inc. relating to the Polymer Applications Superfund site, located in the Town of Tonawanda, Erie County, NY. The complaint sought a court order allowing EPA access to the site so that the Agency could complete a cleanup. On August 29, 1996, the court issued an order granting EPA the access requested.

The site is a former phenolic resins and rubber products manufacturing facility. In March 1994, EPA inspected the essentially abandoned facility and discovered, among other things, large quantities of hazardous substances in numerous deteriorating drums, tanks and other containers. EPA commenced a removal action at the site immediately after the inspection.

U.S. v. International Paper Company, et al. (S.D.NY): This case relates to the Warwick Landfill site, located in Warwick, Orange County, NY. On June 10, 1996 the district court entered a consent decree signed on behalf of EPA Region II and two companies -- I.S.A. in New Jersey, Inc. ("I.S.A.") and Round Lake Sanitation Corporation ("Round Lake"). The consent decree requires the escrow agent who is holding the proceeds of the sale of assets of I.S.A. and Round Lake to pay the United States $262,500 (plus interest) in settlement of the US' claims under CERCLA for civil penalties and punitive damages, arising out of I.S.A. and Round Lake's noncompliance with an administrative order issued by EPA in 1992. The consent decree also requires the escrow agent to pay the United States $487,500 (plus interest) in partial reimbursement of EPA's past response costs at the site. The site is on the National Priorities List and is a former municipal landfill. The site was used for the disposal of industrial, commercial and municipal wastes from the mid-1950's until approximately 1980. I.S.A. and Round Lake were transporters of hazardous substances to the site. The companies were two of the PRPs whom EPA ordered to implement the selected remedy for the site, which includes capping of the landfill.

U.S. v. Occidental Chemical Corporation (W.D.NY): In March, 1996 a cost recovery consent decree memorializing partial settlement of the Love Canal litigation was entered by U.S. District Court. The settlement recovers $137 million that the U.S., primarily through EPA Region II, spent on the site -- $129 million (in four installments, plus interest) from Occidental, and $8 million from the U.S. Department of Defense on behalf of the Army.

Prior to the enactment of CERCLA, the United States filed a complaint (citing primarily §7003 of RCRA) against OCC, the successor corporation to the Hooker Chemicals & Plastics Corporation for the Love Canal site in December 1979. Of the $137 million total reimbursement, $108.3 million will be reimbursed to the Superfund, with the remainder going to the Federal Emergency Management Agency for its costs in relocating residents from the Love Canal area. The Army's contribution to the settlement resolves OCC's counterclaim which alleged that the Army disposed of hazardous wastes in the Canal during World War II.

U.S. v. Peirce, et al.: On August 10, 1996, the district court in this case entered a consent decree that had been signed on behalf of EPA Region II, 17 private parties, and four federal agency PRPs, relating to the York Oil Superfund site -- a National Priorities List site located in Moira, Franklin County, NY. The consent decree provides for the implementation of the remedy selected in EPA's February 1988 Record of Decision for the site, which involves the solidification and stabilization of contaminated soils and the pumping and treatment of groundwater. The decree embodies a mixed funding settlement under which EPA will be paying approximately 16% of the cost of the $17 million remedy. The settling PRPs also agreed to reimburse EPA for $4 million of its past costs at the site.

In September 1996, EPA Region II also signed a separate cost recovery consent decree in this case with 24 PRPs who had not signed the RD/RA consent decree. This new consent decree was lodged with the district court on November 6, 1996 and calls for the payment of an additional $2,225,000 to EPA. This

amount will help defray EPA's mixed funding share under the RD/RA consent decree, and also reimburses EPA for some of the past costs that were not covered by the RD/RA consent decree.

Quanta Resources site: On December 14, 1995 Region II issued an administrative order on consent under CERCLA in connection with the Quanta Resources site in Edgewater, New Jersey. The site is on the west bank of the Hudson River. The order requires respondents, County of Bergen and Metropolitan Edgewater Associates, to undertake certain removal activities to address surface and subsurface contamination on a portion of the fifteen-acre site. Furthermore, the respondents will reimburse EPA for all past response costs and oversight costs relating to the work under the order.

The site operated as a coal tar-processing facility from 1930 until 1974, and as a waste oil storage and recycling facility from 1974 until 1981, when it was closed by the State of New Jersey due to illegal waste disposal practices. A site assessment by EPA in 1985 revealed the existence of surface and subsurface contamination.

On September 27, 1996, Region II entered into another administrative order on consent with the Allied Signal, Inc., a former owner and operator for a removal action at the site. Under this order, AlliedSignal is obligated to sample and remove contaminated surface soils, as well as any underground storage tanks, pipes and other waste material that may be found during the removal action. The estimated value of the work is $350,000. In addition, this order obligates the respondent to reimburse EPA for all past and future response costs relating to the work and this order.

U.S. v. Rohm & Haas, et al.: In a case Region II has been litigating for over ten years, on September 26, 1996, Judge Joseph H. Rodriguez of the District Court of New Jersey, issued an order and Opinion granting the United States' motion for partial summary Judgment as to liability against defendant Owens-Illinois, and striking 21 of its 22 affirmative defenses. The Judge denied the United States' motion in regard to Owens-Illinois' affirmative defense relating to the issue of divisibility of harm. Trial on the issue of divisibility is pending.

Sidney Landfill site: This NPL site is located in the Towns of Masonville and Sidney, NY and was used as a waste disposal landfill from 1967 to 1972. On July 5, 1996, EPA issued a unilateral administrative order to Amphenol Corp. and AlliedSignal, Inc., requiring them to design and implement the remedy selected by EPA in its September 1995 Record of Decision. The selected remedy for the site includes excavating the waste from a portion of the site and consolidating it with another part of the landfill; constructing independent closure caps over four discrete areas; and extracting contaminated groundwater in one location at the site. The estimated cost of the selected remedy is $10.3 million, not including the contingent groundwater remedy, and $15.5 million if the contingent remedy is included.

EPA has also entered into administrative *de minimis* settlements with four small waste contributors at the site. The most recent of these settlements was signed by EPA and the Sidney Central School District in September, 1996. The School District will be paying EPA $40,701.95 in return for a covenant not to sue regarding the site.

CLEAN WATER ACT

United States v. Caribe Tuna, Inc. (D.PR): On April 30, 1996, a Stipulation, Settlement agreement and order was entered resolving this Clean Water Act NPDES action brought by Region II. Defendant operated a tuna packing operation in Ponce, Puerto Rico and had been in chronic violation of its NPDES permit. The settlement calls for a cash penalty of $300,000. There is no injunctive relief required because the facility has been closed and is not anticipated to reopen.

United States v. Hi-Temp Specialty Metals, Inc (D.NJ): A consent decree was entered on December 22, 1995 resolving this Clean Water Act (Pretreatment) case brought by Region II. This enforcement action was initiated against the Defendant for numerous violations of the pretreatment regulations promulgated pursuant to the Clean Water Act (CWA). The Defendant achieved compliance with the CWA in November 1993, therefore, this settlement was for penalties only. Defendant is required to pay a penalty of $300,000 (plus interest) in four installments over three years, with the final payment due on January 22, 1999.

Mayaguezanos por la Salud y el Ambiente, Inc. v. Mayaguez Water Treatment Company, Inc., et al. (D.PR): EPA Region II was actively engaged in the negotiations and was instrumental in assisting in the resolution of this Clean Water Act Section 505 citizens' suit. The parties involved included the citizens group, Mayaguezanos por la Salud y el Ambiente (MPSA), the Mayaguez Water Treatment Co. (MWTC) and its two parent companies -- Star-Kist Caribe, Inc. and Bumble

Bee International, Inc. -- and the Commonwealth of Puerto Rico.

A consent decree between MPSA and MWTC, Star-Kist and Bumble Bee was entered on May 23, 1996. The consent order requires MWTC to pay a penalty of $500,000 to EQB for all past violations of the permit and Water Quality Standards and contains stipulated penalty provisions payable to EQB for exceedences of the limits established in the order or for failures to meet the compliance schedules established in the order. The consent decree requires MWTC to construct an upgrade to its onsite waste water treatment plant; to conduct studies to determine if sedimentation and metals bioaccumulation in Mayaguez Bay are occurring as a result of the MWTC discharge; to conduct a waste minimization study; and to make a payment of $500,000 to the University of Mayaguez for the purposes of conducting an ecological study of Mayaguez Bay. The consent decree also requires MWTC to construct and operate the effluent diffuser required for the mixing zone included in the new NPDES Permit, which Region II issued on June 27, 1996.

Puerto Rico Aqueduct and Sewer Authority: Region II issued consent agreements/consent orders (CA/COs) resolving these three Clean Water Act 309(g) Class II administrative penalty actions against PRASA's Bayamon, Carolina and Puerto Nuevo POTWs for violations of their NPDES permits. Under the CA/COs, PRASA is required to pay an administrative penalty of $210,000 and undertake a SEP worth at least $60,000 to install a telemetry system at 20 pump stations associated with these POTWs. The telemetry system will allow remote, "real-time" monitoring of their operation.

United States v. Puerto Rico Aqueduct and Sewer Authority (PRASA I)(D. PR): A Joint Stipulation of the Parties Concerning Achievement of Final NPDES Permit Limitations, which was entered into between PRASA and Region II pursuant to the 1978 and 1983 Court orders, was signed by the parties in September and lodged with the Court on October 7, 1996. The Stipulation provides for a cash payment of $375,000 by PRASA in settlement of all pending quarterly enforcement motion penalty amounts assessed by EPA pursuant to the Court orders. It also requires that PRASA formulate a schedule for Water Quality Studies to determine appropriate advanced waste treatment (AWT) effluent limits; and sets forth design/construction schedules for necessary AWT facilities once the studies are completed. The Stipulation also modifies the 1985 Court order by allowing STPs to be removed from the order once they meet secondary treatment requirements, rather than the current requirement to meet permit limits for BOD (biological oxygen demand) and SS (suspended solids). The Stipulation covers 31 inland sewage treatment plants (STPs) under the order. The studies will cover all 55 inland STPs. The water quality studies are estimated to cost about $3 million, with additional injunctive relief requirements to cost over $25 million.

United States v. Puerto Rico Aqueduct and Sewer Authority (PRASA II)(D.PR): A consent decree was entered by the U.S. District Court of Puerto Rico on December 5, 1995 in this Clean Water Act NPDES action brought by Region II. The consent decree calls for a cash penalty of $200,000; the construction of sludge treatment and disposal facilities at eight of PRASA's water treatment plants; and the creation of a line of credit of $25 million with the Government Development Bank of Puerto Rico which is to be used by PRASA to help finance the construction of sludge treatment and disposal facilities at an additional seventy-four water treatment facilities which are the subject of a separate administrative order.

United States v. Virgin Islands Department of Public Works (D. VI): In January, 1996 an Amended consent decree was entered in this Clean Water Act (NPDES) action brought by Region II. The Amended consent decree sets compliance schedules for the Virgin Islands to construct improvements at eleven existing POTWs and construct two new POTWs. This injunctive relief is expected to cost approximately $35-40 million. Under the Amended consent decree, the Virgin Islands must also establish a $625,000 Corrective Action Fund to finance day-to-day operational improvements at all POTWs. A Court Monitor was appointed to oversee compliance and the Virgin Islands was required to pay $675,000 in stipulated penalties for violations of a prior Court order.

RCRA

1833 Nostrand Avenue Corporation: In July 1996, Region II entered into an administrative settlement resolving five related RCRA Underground Storage Tanks (UST) enforcement actions. The consent order contains three separate Supplemental Environmental Projects with a combined value of more than $500,000, and assessed a penalty of $29,500.

1833 Nostrand Avenue Corporation ("1833") and its sister corporations, all of Baldwin, New York, own gasoline service stations in Nassau, Suffolk, Kings, and Queens Counties in New York State. The action arose from violations of the release detection and closure

regulations for USTs, promulgated pursuant to Subtitle I of RCRA, at five Brooklyn gasoline service stations owned by 1833. Five separate administrative complaints were issued against 1833 and various operators of the stations. Settlements were negotiated with most of the operators, and another was found liable by the administrative law judge following a motion by EPA for accelerated decision. The owner would not settle, and the five cases against 1833 were consolidated into one action.

With a hearing imminent, the parties were able to negotiate a settlement. The agreement requires respondent to bring the five Brooklyn stations that were the subject of the EPA complaint, and twelve other stations located in Queens and owned by a corporation affiliated with 1833, into full compliance with the release detection requirements. Outside contractors had to be hired to perform tank tightness tests and to monitor the manual inventory of the tanks. The company must further contract for Statistical Inventory Reconciliation as an extra precaution to detect releases. Additionally, 1833 is required to perform site assessments at the six stations and to upgrade two facilities to the 1998 UST standards two years earlier than required by law. The Queens stations are owned by an 1833 affiliate corporation, LouHal Properties, Inc., and had not been named in the EPA complaints.

Caribbean Petroleum Corporation: Region II issued a corrective action order on consent to Caribbean Petroleum Corporation for work at the company's Bayamon, Puerto Rico facility. This facility has been the subject of past and ongoing multi-media enforcement efforts and is part of Region II's Cataño geographic initiative. Issued pursuant to §3008(h) of RCRA, the order requires the company to conduct a facility investigation to determine the nature and extent of any contamination at the site, to conduct a study of cleanup options (known as a corrective measures study), and to perform certain short term cleanup steps. The order also mandates an assessment of the nearby Las Lajas Creek and process sewers at the facility.

HOVIC and Amerada Hess: Region II filed in September, 1996 an administrative complaint against the Hess Oil Virgin Islands Corp. (HOVIC) and its corporate parent, the Amerada Hess Corporation (Amerada Hess). Both named respondents, through HOVIC, own and operate one of the largest petroleum refineries in the Western Hemisphere, located on the island of St. Croix in the United States Virgin Islands. The facility produces gasoline, other fuels and various petroleum distillates.

The complaint alleges violations of RCRA, including: (1) failure to determine whether certain wastes generated constituted a hazardous waste and (2) the improper land disposals of such wastes, a violation of the RCRA regulations as well as the operating permit for the HOVIC facility. The complaint seeks approximately $166,000 in penalties.

U.S. v. Oliver R. Hill and O.R. Hill Fuel Co. (N.D.NY): A complaint was filed in the Northern District of New York seeking injunctive relief and the assessment of civil penalties against Oliver R. Hill and O.R. Hill Fuel Co. Inc. for their violation of a Region II administrative order issued under §7003 of RCRA (the order authority for potential endangerment situations). This action stems from a petroleum release from underground storage tank systems located at a gasoline filling station and convenience store located on lands of the Onondaga Nation, a federally recognized Indian tribe, near Syracuse, New York.

The defendants had been doing business as O.R.'s GAS AND GROCERY until mid-1993. In October 1994, the occupant of a nearby residence detected gasoline fumes while digging a groundwater well. The Onondaga Council of Chiefs requested assistance from the New York State Department of Environmental Conservation and EPA Region II. Site assessment activities confirmed that the gas station was the source of the release. In March 1995, after unsuccessfully trying to negotiate an order on consent, Region II unilaterally issued an administrative order requiring the defendants to assess the structural integrity of all their underground storage tank systems; to repair and test, or permanently close any UST system determined to be corroded or potentially subject to structural failure; to characterize the rate and extent of vertical and horizontal migration of hazardous constituents in soils and groundwater at and adjacent to the facility, and to remediate such contamination. The Defendants did not comply with the order and, pending assumption of responsibility by the defendants, New York State, working cooperatively with EPA, has undertaken much of the required remedial work.

In the complaint, the government requests that the court enjoin the defendants to comply with the previously issued order and seeks civil penalties pursuant to §7003(b) of RCRA for the Defendants' violations of that order.

Puerto Rico Industrial Development Company: In June, 1996 Region II entered into an administrative consent order with the Puerto Rico Industrial Development Company ("PRIDCO") in which PRIDCO committed itself to spend over $170,000 on a

Supplemental Environmental Project. Under the project PRIDCO will, in an organized and methodical manner, increase its oversight of its tenants at its industrial properties (of which there are hundreds) in an attempt to identify earlier those tenants with financial and environmental compliance problems.

The settlement resolved an administrative complaint in which EPA had alleged that PRIDCO had stored hazardous waste without a permit in violation of §3005 of RCRA. One of PRIDCO's industrial tenants had abandoned hazardous waste for which PRIDCO had become legally responsible.

Under the settlement PRIDCO will perform site assessments and an increased number of inspections at its properties. It agreed to set up databases tracking such information and to create new internal management systems so that the newly acquired information would trigger prompt response actions where problems were observed at its facilities. PRIDCO also agreed to pay a $4,000 penalty as part of the settlement.

San Juan Cement: Continuing EPA's focus on combustion facilities, Region II issued an administrative complaint pursuant to Section 3008(a) of RCRA against San Juan Cement for alleged violations of RCRA at the company's Dorado, Puerto Rico facility. The complaint proposed a penalty of one hundred and forty-nine thousand dollars for the corporation's violation of regulations that apply to the burning of hazardous waste in an industrial furnace. Specifically, the complaint alleged that San Juan Cement violated various operating limits set forth in its Certificate of Compliance, as well as other operating limits and recordkeeping requirements set forth in 40 C.F.R. Part 266. The complaint also alleged that the company did not submit to EPA by the required deadline a complete and accurate Certificate of Compliance. In addition to this RCRA action, Region II has previously undertaken enforcement against this company under the Toxic Substances Control Act, the Clean Air Act, and the Clean Water Act.

U.S. v. Sugar Corporation, et al. (D.PR): A consent decree resolving the government's claims against one of several defendants in this RCRA case initiated by Region II was entered in September 1996 in federal District Court in Puerto Rico. Under the settlement, Sugar Corporation agreed to pay a civil judicial penalty of $250,000 to resolve its liability for violating the used oil requirements of RCRA. This is believed to be the largest civil judicial penalty that has been obtained to date for violations of EPA's used oil requirements.

A civil complaint had been filed in May 1996 charging the Sugar Corporation, Environmental Management Services Inc., Humberto Escabi-Trabal individually and doing business as South West Fuel Inc. and South West Trading Co., and Puerto Rico Used Oil Collectors Inc. with violating the used oil requirements under RCRA.

In May 1994, EPA had documented that Sugar Corporation and South West Fuel Inc. were storing used oil in violation of RCRA's used oil regulations (40 CFR 279 Subpart E) at Sugar Corporation's Guanica Mill facility situated in Ensenada Ward, Guanica, Puerto Rico. On May 14, 1994, approximately 125,000 gallons of used oil from this facility were discharged into the Guanica Bay. In June 1995, some used oil was illegally transported from the Guanica Mill facility to another facility owned by Environmental Management Services where it was temporarily stored in violation of the used oil requirements. Between June 1995 and May 1996, all of the remaining used oil was removed from Sugar Corporation's Guanica facility and properly disposed of.

Sugar Corporation has now constructed the appropriate secondary containment around the tank that had stored used oil and has agreed to pay for most of the costs associated with removing and disposing of the used oil that had remained at its facility. The government, continues to prosecute its claims against the other non-settling defendants in this case.

West Point U.S. Army Military Academy (West Point, New York): Region II issued a complaint, compliance order, and notice of opportunity for hearing February 22, 1996 for hazardous waste violations against the U.S. Army Military Academy at West Point, N.Y. The order included a total assessed penalty of $24,496 for alleged RCRA storage and manifesting violations, which involved "a large quantity generator that generates hazardous waste from laboratory, training, and vehicle and equipment maintenance operations." EPA discovered the violations during an August 11, 1995 RCRA compliance evaluation inspection at the facility.

SDWA

Seneca Army Depot (New York): Region II reached a final federal Facilities Compliance agreement (FFCA) June 25, 1996, which requires a New York Army facility to comply with the Surface Water Treatment Rule under the Safe Drinking Water Act. The FFCA, signed by EPA and Seneca Army Depot, in Romulus, New York, required the facility to comply by eliminating its unfiltered surface water source and

connecting to a water supply being developed by the Town of Varick, N.Y.

TSCA

Atlantic City Convention Center: Region II issued a TSCA administrative complaint on August 22, 1996 proposing a penalty of $180,000 against three New Jersey respondents: the New Jersey State Sports and Exposition Authority, the Atlantic City Convention Center Authority, and the Atlantic City Convention and Visitor's Authority. The complaint alleges respondents' failures to comply with TSCA and EPA regulations concerning the management of PCBs and equipment containing PCBs at the Atlantic City Convention Center in Atlantic City, New Jersey.

Chemical Waste Management: Region II and Chemical Waste Management (CWM), a subsidiary of Waste Management, Inc. and one of the nation's leading hazardous waste disposal operators, settled a longstanding PCB administrative complaint with CWM agreeing to pay a civil penalty over $200,000. The Region had alleged that CWM failed to test various shipments of biological treatment sludges for PCB concentration levels; the shipments were sent to CWM's Model City, New York, disposal facility. CWM accepted these shipments varying in number between one and six, on 48 separate days. The Region alleged that CWM's failure to conduct individual truckload testing violated a condition of a PCB disposal approval EPA had issued respondent pursuant to TSCA.

CWM disputed liability, and the parties engaged in extensive motion practice; CWM had argued that testing each waste stream (there were three) satisfied the applicable requirements. In September 1994, the Agency's Chief Administrative Law Judge Lotis ruled in the Region's favor. Rejecting CWM's arguments to dismiss the case (as well as its arguments that the Paperwork Reduction Act barred the proceeding), Judge Lotis upheld our interpretation of the PCB disposal approval and further held that the approval constituted an order under TSCA. The parties subsequently agreed to settle the matter for a civil penalty of $203,000.

New Jersey State Department of Corrections: On July 19, 1996 Region II issued an administrative complaint under the Toxic Substances Control Act (TSCA) against the New Jersey State Department of Corrections (DOC) for violations of the PCB regulations promulgated pursuant to Section 6(e) of the Act. The complaint cited sixteen violations of TSCA and proposed a civil penalty of $1,755,000. The violations occurred at two different correctional facilities in Yardville and Avenel, New Jersey. Inspections of these facilities revealed that the State DOC had numerous violations of inspection, record-keeping, disposal, marking and registration requirements for electrical transformers containing high levels of PCBs. Several of the deficiencies dated back a number of years.

New York City Board of Education: On September 25, 1996 Region II issued a consent agreement/consent order under the Asbestos Hazard Emergency Response Act (AHERA -- Title II of TSCA) to the New York City Board of Education. The order requires that the Board of Education pay a $1,500,000 fine, systematically reinspect each of its 1,069 schools for asbestos, and prepare new management plans to ensure that all school buildings are in compliance with AHERA. The settlement results from an administrative complaint filed against the Board after the criminal conviction for fraud in New York State court of the Board's employee chiefly responsible for asbestos management. As provided by AHERA, the Board will use the fine to pay some of the cost of compliance, estimated to total $10-12,000,000. The Board is required to finalize the work at a rate of 75 school buildings per calendar quarter.

New York State Office of Mental Health: On September 19, 1996, Region II entered into an administrative consent order and consent agreement with the New York State Office of Mental Health. The State Agency agreed to pay a penalty of $70,000, and to perform a substantial Supplemental Environmental Project (SEP) costing over $570,000. The order is in settlement of two administrative complaints issued by the Region against the State Agency alleging various violations of TSCA and its regulations regarding proper management of PCBs at the State's Bronx Psychiatric Center (Bronx, New York) and Central New York Psychiatric Center (Marcy, New York). In the complaints EPA alleged that the State had failed to properly dispose of leaked PCBs, and failed to compile and maintain various records including inspection reports for PCB-containing equipment. The SEP provides for the abatement and/or encapsulation of lead paint at 5 children's day care centers run by the State.

Port Authority of New York and New Jersey: Region II achieved a comprehensive settlement of a TSCA administrative complaint against the Port Authority of New York and New Jersey, a joint State agency which operates JFK and LaGuardia Airports in New York City. The Region had cited the Authority for multiple violations of PCB regulations at the airports. The settlement provides that respondent will pay a civil

penalty of $19,500, and undertake two Supplemental Environmental Projects (SEPs). One SEP consists of a three year fluorescent bulb recycling program for all Port Authority facilities in the New York metropolitan area at a total cost of $130,000. The second SEP is a storm water management training program to be carried out at the airports over a two year period at a cost of $90,000.

Prestolite Electric Incorporated: Region II entered into a consent agreement and consent order on July 24, 1996, with Prestolite Electric Incorporated, a manufacturer of motors, diodes, and alternators for motor vehicles, located in Arcade, New York. The agreement was the result of an administrative complaint issued under TSCA which alleged multiple violations of TSCA and the regulations promulgated thereunder concerning management of Polychlorinated Biphenyls (PCBs). The order requires Prestolite to pay a penalty of $7,500 and to perform a Supplemental Environmental Project (SEP). The SEP obligates Prestolite to spend a minimum of $64,000 on the removal and disposal of PCB Transformers to eliminate the presence of PCBs at the facility.

REGION III

CLEAN AIR ACT

Hercules, Inc. (Virginia): EPA entered into a Partial consent decree settling an action between the United States and Hercules, Inc. (Hercules), for violations of the Clean Air Act at a facility formerly owned by Hercules in Covington, Virginia.

U.S. v. Ohio Power Company (West Virginia): On May 21, 1996, the U.S. District Court for the Northern District of West Virginia entered the amended consent decree resolving a Clean Air Act action alleging violations of the state sulfur dioxide emission limitations at the Kammer Power Plant. The amended decree imposes interim SO_2 emission limitations for Kammer pending West Virginia's promulgation of a comprehensive, area-wide SO_2 SIP revision. In addition, Ohio Power has agreed to pay a $200,000 penalty and to perform a supplemental environmental project at another facility to reduce NOx emissions.

U.S. v. Sahara Holding Company (West Virginia): On December 21, 1995, the District Court in West Virginia entered a stipulated order wherein the defendants, David Marshall and Sahara Holding Company (Sahara) agreed to comply with a November 13, 1996 administrative order to cease violations of the asbestos NESHAP. The violations arose in the course of the renovation of an apartment building (Broaddus Apartments) owned by Sahara in Clarksburg, West Virginia. David Marshall was the contractor. Sahara failed to comply with the Stipulated order and the United States moved for contempt. It was determined that Sahara had violated numerous deadlines in the Stipulated order, including failure to secure and seal windows and doors on the building, and failure to submit a work plan for the cleanup. The Magistrate then recommended a total fine of $17,500. In addition, he recommended that the United States be awarded its costs and attorneys' fees, and Sahara be ordered to comply with an expedited schedule for sealing the building and submitting a work plan.

On July 1, 1996, EPA signed a referral of a second contempt action against Sahara. Sahara has continued to violate the outstanding orders, including the contempt order. In particular, Sahara has not implemented the work plan for remediation of asbestos contamination at the site and has communicated an intent to not implement the work plan in the future. The second contempt motion prompted another hearing in August, 1996. The Magistrate ruled in favor of EPA and again ordered Sahara to comply with the Stipulated order. Sahara completed some tasks, but not all and requested an extension of time. The extension was granted, but Sahara was ordered to hire an oversight contractor, which it did. EPA is still pursuing this matter.

CERCLA

U.S. v. American Cyanamid, et al.: On April 24, 1996, a consent decree between the United States, State of West Virginia, and 56 settling defendants was lodged with the Federal District Court for the Southern District of West Virginia resolving the United States and West Virginia's claims for past response costs at the Fike/Artel Superfund site in Nitro, West Virginia.

The United States will recoup $19.6 million of its $39.5 million in past response costs (West Virginia will also recoup $1.115 million). In addition, the settling parties have committed to further clean up the site, provided that the estimated cost for the site remediation does not exceed $59 million. Finally, certain ongoing site remediation measures, estimated at $30 million, are also included in the consent decree. Therefore, the total site remediation work being paid for by the settling defendants (either in reimbursement of past costs or implementation of present or future operable units) is valued at $109 million.

U.S. v. American Recovery Company, Carnegie National Gas Company, and USX Corporation (Pennsylvania): On September 18, 1996, the U.S. Department of Justice lodged a proposed settlement with three defendants in a federal court action seeking recovery of the United States costs under CERCLA. Under the terms of the proposed consent decree, submitted to the federal district court, the three Settling Defendants, American Recovery Company, Carnegie Natural Gas Company and USX Corporation, will pay the sum of $245,000 for recovery of past response costs incurred by the United States in connection with the Municipal and Industrial Disposal Company site. The settlement (coupled with three earlier settlements against nine other named defendants) reflects a 70 percent (70%) recovery of total response costs associated with the site. USX Corporation, along with Bethlehem Steel Corporation, has performed the removal action at the site.

Brown's Battery Breaking Superfund site (Pennsylvania): On May 30, 1996, EPA and General Battery Corporation entered into a consent decree with respect to the Brown's Battery Breaking Superfund site. The Defendants will perform various remedial activities at the site and will pay approximately $3,050,000 in past and future costs associated with cleanup of the site.

Centre County Kepone Superfund site (Pennsylvania): On September 30, 1996, EPA entered into a consent decree with the Centre County Kepone Superfund site. The site, a 32.3 acre chemical manufacturing facility, and a portion of the Spring Creek watershed, is located in State College, Centre County, Pennsylvania. RNC has agreed to perform various remedial actions at the site including: extraction and treatment of contaminated groundwater, excavation and offsite, disposal of contaminated soils, monitoring of surface water discharge from the site, and improvements to the surface water drainage system in the plant production area. RNC will also pay more than $292,000 in pasts costs to settle this matter.

Columbia Gas Transmission Corporation: Region III approved a modification to a 1995 CERCLA administrative consent order with Columbia Gas Transmission Corporation which permits the Agency to finance certain oversight activities using funds provided in advance by the settlor and maintained by EPA in a reimbursable account rather than from the Hazardous Substances Superfund. Under the 1995 settlement, Columbia will characterize contamination and perform CERCLA removal actions selected by EPA at compressor stations and other locations along the company's 19,000 mile pipeline system. The system, which spans Ohio, Kentucky, Pennsylvania, Virginia, West Virginia, New York, North Carolina, Maryland, New Jersey, and Delaware includes over 200 compressor stations, approximately 15,000 liquid removal points, approximately 3,000 mercury metering stations, and numerous other locations. Oversight is expected to range from $500,000 to several million dollars per year.

Croydon Superfund site (Pennsylvania): A Prospective Purchaser agreement for a parcel of property at the Croydon Superfund site (the site) in Bristol, Pennsylvania. was agreed to by EPA on September 20, 1996. The purchaser is Slogam Enterprises Limited. Buying property at the contaminated site could have exposed future owners to liability under CERCLA. Under the settlement, the purchasers are now obligated to pay the United States $20,000. The purchasers must also provide unrestricted access to the site, and may not interfere with remedial activities at the site. In exchange for these commitments from the purchasers, EPA is granting a limited Covenant Not to Sue the purchasers for CERCLA liability arising from existing contamination at the site.

Dover Gas Light Superfund site: On July 5, 1996, EPA entered into a CERCLA consent decree with the State of Delaware regarding the Dover Gas Light site. The State of Delaware is a current owner of the site, which formerly was the location of the Dover Gas Light Company, a coal gasification utility operation. The total settlement provides for the cash payment of $1 million, plus access to the site. It will reimburse the United States $200,000 for past costs; $200,000 for future costs; and $600,000 to reimburse future costs for work performed by the Chesapeake Utility Company. This settlement with the State is precedential in light of the Supreme Court's opinion in Seminole Tribe of Florida v. Florida et al., Civil No. 94-12 (March 27, 1996), holding that the Eleventh Amendment precludes some private party suits against States.

Drake Chemical Superfund site (Pennsylvania): On February 14, 1996, EPA and American Color and Chemical Corporation entered into a consent decree in regard to the Drake Chemical Superfund site in Lock Haven, Pennsylvania. Under the terms of the consent decree, the Settling Defendants will finance and perform a cleanup of contaminated groundwater at the Drake site. Additionally, the United States will be paid $3.6 million toward its response costs for the Drake site. The Commonwealth of Pennsylvania will receive $400,000 toward its costs at the site.

U.S. v. Fidelcor Business Credit Corporation (Pennsylvania): On July 19, 1996, the court entered this consent decree in the CERCLA cost recovery action. The consent decree requires the four original defendants (Fidelcor Business Credit Corporation and three of its officers) to pay the Superfund $720,000 as reimbursement of removal costs expended at the Thompson Street Trailer (Philadelphia, PA) and Eddystone Avenue Trailer (Eddystone, PA) sites.

HH, INC. Burn Pit Superfund site (Hanover County, Virginia): Reynolds Metals Company and Westvaco Corporation have agreed to perform certain removal actions at the HH Burn Pit Superfund site in Hanover County, Virginia. Under the consent order, the companies will dispose of drums containing decontamination water, soil and sediment cuttings, and drilling muds. These wastes were generated during the course of the Fund-lead RI/FS and were placed in 55-gallon metal drums and stored on-site for future

disposal. The companies will reimburse EPA oversight costs associated with this work.

Keystone Sanitation Landfill site (Pennsylvania): On May 3, 1996, DOJ lodged with the court a *de micromis* consent decree entered into with 73 settlers. This *de micromis* filing is the second in a series of *de micromis* settlements for this site. EPA and DOJ continue to evaluate *de micromis* petitions from approximately 700 third-and fourth-party defendants.

Merit Products Superfund site (Pennsylvania): Following a 30 day public comment period in which no comments were received, the Prospective Purchaser agreement for the Merit Products Superfund site was finalized. EPA previously had conducted a CERCLA Removal Action, removing drums, vats, and other containers of hazardous substances from the site, located in North Philadelphia, after it had been abandoned by its prior owner. Under the settlement, Henshell will initially pay $3,500 to EPA, and complete an environmental audit of the site. If Henshell decides to buy the site it would pay EPA an additional $14,000, and would remove and properly dispose of any underground storage tanks located at the site within ninety (90) days of acquisition. For its part, the City has assumed responsibility for the removal and proper disposal of any asbestos containing materials that may be contained in the site's structures.

Old City of York Landfill (Pennsylvania): On September 21, 1995, EPA issued a final determination for the Old City of York *de minimis* settlement. In September 1994, eleven *de minimis* generators for the Old City of York Landfill site located in York County, Pennsylvania entered into a CERCLA) administrative order on consent (AOC) to resolve their liability to the United States. The AOC requires each generator to pay its per capita share of EPA's past costs at the time of the settlement, its volumetric share of the site's future costs, and a 200% premium on the future costs. The total settlement equals $819,140.48.

Palmerton Zinc Superfund site (Palmerton, Pennsylvania): On September 30, 1996, EPA entered into eleven (11) administrative orders on consent (AOC) with *de minimis* landowners in Palmerton, Pennsylvania. Under the terms of the AOCs, the respondents agreed to grant access to EPA and to cooperate with EPA in an ongoing Removal Action in Palmerton. Under the terms of the settlement, Defendants agree to pay approximately $9 million as an initial payment. In addition to this initial payment, the Settling Defendants have agreed to pay, over a six year period, future payments of $4.35 million, plus interest.

Paoli Rail Yard Superfund site (Pennsylvania): On September 30, 1996, EPA issued a Unilateral administrative order to American Premier Underwriters, Inc. (formerly "Penn Central Corporation"), to perform response activities at the Paoli Rail Yard Superfund site. Under the order, American Premier is responsible for cleanup activities in the 400-acre watershed which includes the residential area adjacent to the site. Remediation activities include polychlorinated biphenyls ("PCBs")removal in the residential area and removal of sediments containing PCBs from the stream sediments along North Valley Creek, Hollow Creek, and Cedar Hollow Creek (all tributaries to Little Valley Creek) and Little Valley Creek and Valley Creek. Contaminated soils and sediments will be transported by American Premier back to the Rail Yard Property where they will be treated. The Rail Yard Property itself, the only remaining portion of the site, will be remediated by SEPTA, Amtrak and Conrail.

PECO Glenside Mercury Spill site (Pennsylvania): On March 8, 1996, the EPA issued an order to PECO as the result of a mercury spill in a residential home. In November of 1995, PECO performed routine gas line and service changeovers to twenty-three homes in the Glenside area. On February 20, 1996, a resident of Garfield Avenue reported a suspected spill of elemental mercury in the basement of his home and requested assistance. On the same day, EPA and PECO responded to the residence to perform a site assessment. PECO advised EPA that the spill of elemental mercury was likely the result of poor handling of the old gas regulator removed during the service meter changeover in November of 1995. The residents of that home were relocated that day. Several other homes on the block, which received service in November, were notified. PECO has been performing cleanup activities at the site.

Pneumo Abex Corp. v. Bessemer and Lake Erie Railroad Company, Inc., et al. (Virginia): On September 12, 1996, Judge Raymond A. Jackson, of the Eastern District of Virginia, issued a decision in the Pneumo Abex Corp. V. Bessemer and Lake Erie Railroad Company, Inc., et al. case. This case was filed by Pneumo Abex to seek recovery of costs incurred in responding to releases of hazardous substances at or from the Abex Superfund site in Portsmouth, Virginia. The action was filed against approximately nineteen railroads that had sent scrap journal bearings to the former Abex Foundry. The court found Abex liable for 50 percent (50%) liable of the total response costs at the site and the Railroads liable for the remaining 50 percent (50%) of the total response costs at the site.

The court concluded that recoverable response costs to date totaled $6.83 million.

Publicker Industries site (Pennsylvania): On April 11, 1996, EPA entered into a consent decree with Publicker Industries, Inc. and Sagrocry, Inc., Publicker's subsidiary (the "Settling Defendants"), for the Publicker Industries Superfund site in Philadelphia, Pennsylvania. EPA has spent over $17 million in response costs to date and will incur additional response costs in the future.

U.S. v. Woodlawn Landfill (Maryland): The $6 million cost recovery consent decree in the Woodlawn Landfill case was lodged in the U.S. District Court for the District of Maryland on September 30, 1996. Under the terms of the consent decree, the Board of County Commissioners for Cecil County, Maryland, the owner of the landfill, will pay the United States $4.75 million, plus interest, in installments over five years, and the U.S. Department of the Navy, a generator of wastes disposed in the landfill, will pay $1.25 million, toward the costs of cleaning up this Superfund site in Colora, Maryland. The first payments received will be used to reimburse the United States for its past response costs of $1,011,446. All other funds received will be deposited in a site-specific Special Account in the EPA Hazardous Substance Superfund and will be used both to reimburse EPA for its future response costs and to partially reimburse another PRP, Bridgestone/Firestone, for its costs in implementing the remedy under a unilateral administrative order.

CLEAN WATER ACT

U.S. v. Blue Plains (Virginia): On August 2, 1996, the U.S. District Court for the District of Columbia formally approved and entered the Stipulated agreement and order settling the enforcement action brought against the District of Columbia for violations of the Clean Water Act at its Blue Plains wastewater treatment plant. The agreement requires the District to rehabilitate and reconstruct certain treatment units at Blue Plains over the next two years, at an approximate cost of $20 million, to make timely payments to vendors and contractors supplying goods and services to Blue Plains, and to maintain adequate inventories of treatment chemicals at the plant.

Dean Dairy Products, Inc. (Pennsylvania): On July 10, 1996, the court issued a $4.031 million judgement against Dean Dairy Products, Inc. for Clean Water Act pretreatment violations. The court found Dean liable for 1,833 violations of the Clean Water Act: 79 for interference with the Union Publicly Owned Treatment Works (POTW) and 1,754 violations of its Industrial User Permit. Dean based its rebuttal case on the fact that it had not enjoyed an economic benefit from the delaying capital expenditures which eventually brought it into compliance with the Clean Water Act. The United States stipulated to this fact, thus negating the need for expert testimony, and introduced Dean documents that showed Dean could have reduced production to come into compliance, an option to which Dean had assigned a value of over $417,000 in 1994 alone. The court doubled the economic benefit to reach the final penalty of $4.031 million

DuPont, Inc. (Delaware): On August 1, 1996, EPA and DuPont, Inc. entered into an agreement to settle an action for alleged violations of the Clean Water Act at its Edge Moor, Delaware facility. The company will pay a $20,000 penalty and complete two special environmental projects. The Edge Moor plant processes titanium dioxide for paint and pigments. Under the terms of the consent order, the first SEP will consist of an upgrade of the facility's treatment system with the addition of a neutralizer. This project will involve a capital expenditure of at least $200,000. EPA believes that the project will result in water quality protection above Clean Water Act requirements. The second SEP will be a study of process waste reduction at the facility. DuPont will then implement the study's recommendations to the extent economically feasible. The company agrees to pay an additional sum (up to $52,000) if it fails to complete these projects.

Halle Enterprises, Inc. (Virginia): On September 11, 1996, EPA entered into a consent agreement and consent order in settlement of the CWA case against Halle Enterprises, Inc., Kingstowne Ltd. Partnership; and Warren E. Halle. This matter involved the illegal fill of wetlands in violation of the Clean Water Act on a 1,110 acre parcel of land which is a commercial and residential planned community known as Kingstowne, located in Fairfax County, Virginia. respondents agreed to mitigate and restore at least twenty-four (24) acres of wetlands, complete the conditions as set forth in two Wetlands Conservation Easements which cover different parts of the property, perform a Supplemental Environmental Project (SEP) by creating three storm water control structures upstream of the Kingstowne Lake, and pay a penalty of $25,000. In the event respondents do not complete the SEP an additional penalty of $25,000 will be paid. An administrative order on consent was issued at the same time which sets forth the details of the restoration/mitigation work to be performed.

Pennzoil Products Company and Eureka Pipe Line Company (West Virginia): The United States filed a

complaint against Pennzoil Products Company and Eureka Pipe Line Company (a wholly-owned subsidiary of Pennzoil) in the Southern District of West Virginia. The complaint seeks Clean Water Act penalties for thirty seven (37) Pennzoil oil discharges and for sixteen (16) Eureka oil discharges, all of which reached navigable waters of the United States. In addition to penalties, the United States seeks injunctive relief given the companies' long history of discharges caused by pipeline corrosion.

Sun Company (Pennsylvania): On September 23, 1996, EPA entered into an agreement with defendants to address alleged Clean Water Act violations at the Sun Company's oil refinery in Philadelphia. Under the terms of the consent decree, the company will pay a $600,000 penalty, restore over an acre of wetlands, and donate a hazardous materials emergency vehicle valued at $300,000 to the City of Philadelphia. The Settlement resolves Sun's liability for alleged violations of its Clean Water Act permit at the South Philadelphia refinery and its violations of its NPDES permit occurring at the oil refinery. On numerous occasions, the Philadelphia Refinery discharged pollutants (including oil and grease, total suspended solids, BOD, ammonia, pH and phenols) into the Schuylkill River in amounts exceeding the limitations set in their NPDES permit.

Defendants have completed all injunctive relief set forth in the decree. Sun upgraded their Philadelphia Refinery wastewater treatment, stormwater conveyance and operational practices to prevent further violations of the NPDES permit. Sun remains liable for all stipulated penalties incurred since June 1994. The proposed consent decree is subject to a thirty-day public notice and comment period and to final court approval.

EPCRA

Cage Graphic Arts, Inc. (Pennsylvania): The consent agreement and consent order was negotiated in settlement of a 15 count Administrative complaint issued against Gage Graphics Arts, Inc., (Cage), a manufacturer of printing plates, located in Philadelphia, Pennsylvania. respondent was charged with fifteen counts of failure to report to the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC), and the Local Fire Department. Cage paid a $5000 penalty and will complete a $577,114 SEP. The project will eliminate the use of the extremely hazardous chemical, nitric acid, from its manufacturing process.

EMI Company (Pennsylvania): On May 29, 1996, EPA executed a consent agreement and order settling an administrative action against EMI Company for payment of $20,000 and agreement to perform a Supplemental Environmental Project (SEP). The SEP requires respondent to install and operate (for one (1) year) baghouse emissions control technology for four (4) electric induction furnaces presently not subject to Best Available Control Technology (BAT) control requirements. The total SEP capital costs and operating expenditure costs for one year are estimated to be at least $786,664. Those particulates include some of the regulated materials (copper and manganese) that are the subject of this action. Region III filed the administrative complaint against EMI Company of Erie, Pennsylvania for EPCRA reporting violations.

HPC Associates et al. (Pennsylvania): On December 4, 1995, Administrative Law Judge Thomas W. Hoya ordered that the Administrative Hearing scheduled be canceled, after EPA and the respondents reached agreement. respondents were ordered to pay $80,000 within 60 days for failure to report the presence of Chlorine at an apartment complex in Huntington Valley, Pennsylvania.

Larstan Industries (Maryland): On February 13, 1996, EPA and Larstan Industries entered into a consent agreement, resolving the company's EPCRA reporting violations. Larstan agreed to pay a cash penalty of $5,000 and to perform a Supplemental Environmental Project (SEP) to eliminate the use of 1,1,1-Trichloroethane (TCA) in its operations. The SEP requires Larstan to spend at least $145,964 in capital costs and increased operating costs to substitute a water-based solution for TCA in its rubber-molding operations. Larstan has committed to not using TCA or any other toxic chemical in its rubber molding operations for at least 5 years. If Larstan fails to complete the SEP, it will be liable for an additional penalty of $14,047.

Service Wire Company (West Virginia): On May 15, 1996, EPA issued a consent order settling an EPCRA administrative action for a $35,000 total penalty. respondent had failed to file Toxic Release Inventory Reporting Forms for two years for copper used in the manufacture of wire at its Huntington, West Virginia plant. This settlement requires the payment of a $25,000 penalty, and completion of a Supplemental Environmental Project with a gross cost of $100,000, for which $10,000 in penalty mitigation will be recognized. This pollution reduction project involves the reclamation of copper fines and other pollutants

from a lubricating solution which would otherwise be sent to the South Charleston Treatment Plant.

RCRA

Bil-Dry Corporation (Pennsylvania): On September 30, 1996, EPA issued an administrative complaint against Bil-Dry Corporation of Philadelphia for violating the federal law on hazardous waste storage and disposal. The complaint seeks a $231,800 penalty for alleged violations of the Resource Conservation and Recovery Act (RCRA) at Bil-Dry's facility located at 5525 Grays Avenue in Philadelphia. The complaint alleges that EPA and Pennsylvania Department of Environmental Protection (PADEP) inspections in December 1995 and April 1996 uncovered violations of several hazardous waste requirements at the southwest Philadelphia facility. The alleged violations include failure to conduct hazardous waste determinations of solid wastes stored on the premises; violation of land disposal regulations; failure to develop and retain a written inspection plan at the site; failure to maintain and update a closure plan and closure cost estimate; improper management of hazardous waste containers; and failure to file a bond with PADEP.

Heritage Metals Finishing, Inc. (Pennsylvania): On September 30, 1996, EPA issued an administrative complaint against Heritage Metals Finishing, Inc., for alleged violations of the Resource Conservation and Recovery Act (RCRA). EPA alleges that the Elizabethtown, Pennsylvania metal finishing company violated RCRA's storage, disposal, and recordkeeping requirements. The agency seeks a penalty of $43,800 for these violations. The complaint alleges Heritage failed to determine whether its chromium and methyl ethyl ketone (MEK) wastes were hazardous and whether the wastes were restricted from land disposal; failed to comply with hazardous waste storage manifesting, and recordkeeping requirements; and failed to respond to information requests. EPA also issued Heritage a compliance order directing it to comply with these regulations.

Neville Chemical Company (Pennsylvania): On November 9, 1995, the United States District Court for the Western District of Pennsylvania entered a consent decree which requires Neville Chemical Company, Inc., located in Pittsburgh, Pennsylvania, to implement a Supplemental Environmental Protect (SEP). It is the first settlement pursuant to the May 8, 1995 "Interim Revised EPA Supplemental Projects Policy." The SEP required by this consent decree requires Neville to provide appropriate secondary containment of two tanks which are used to store fuel oil distillate. The current containment of these tanks consists primarily of "earthen" diking. The secondary containment required by the SEP must include concrete containment sufficient to provide for the entire contents of the large single tank plus sufficient freeboard to allow for precipitation. The cost of this project is approximately $390,000.

Remac USA, Inc. (District of Columbia): On September 27, 1996, EPA issued an Administrative complaint, Compliance order and Notice of Opportunity for Hearing ("complaint") against REMAC USA Inc. (REMAC), a transporter that owns and operates a hazardous waste transfer facility located at 1525 W Street, N.E., Washington, DC. respondent violated RCRA by operating a hazardous waste facility without a RCRA permit. In addition to injunctive relief, the proposed penalty is $203,500.

Washington Navy Yard (Washington, D.C.): On September 30, 1996, EPA issued two administrative complaints against the U.S. Navy, Washington Navy Yard located on the Anacostia River. The first of these complaints alleges that the U.S. Navy failed to file notification, operated without a permit, failed to maintain fire protection equipment, and failed to train facility personnel or to retain requisite documentation. This complaint seeks proposed civil penalties in excess of $196,000 and certain injunctive relief. The second complaint (Underground Storage Tank/UST) alleges that the U.S. Navy failed to submit timely notifications, failed to comply with release detection requirements, or failed to comply with record keeping requirements. This RCRA UST complaint seeks injunctive relief. These complaints are the first ever in the nation issued against a Federal Facility.

Wheeling Pittsburgh Steel Corporation (West Virginia): On September 27, 1996, EPA issued a RCRA Initial Unilateral administrative order to Wheeling Pittsburgh Steel Corporation (Wheeling Pitt). The order requires Wheeling Pitt to perform a RCRA facility investigation and corrective measures study at its facility located at 1134 Market Street, Wheeling, West Virginia.

SDWA

Government of the District of Columbia: On July 12, 1996, EPA entered into an agreement that requires the District of Columbia, Washington, D.C. (the District) to immediately address its public notification violations. On November 13, 1995, EPA Region III issued a Proposed administrative order to the District for several violations of monthly maximum contaminant levels (M.C.L.s) for total coliform bacteria and for acute violations of the M.C.L. for total coliform

in September, 1993; June, 1995; and November, 1995, in violation of the Safe Drinking Act (SDWA). The District also failed to give the proper notice of violation to the public or users of the system. EPA held a public meeting on April 9, 1996 to address public concerns. A formal public hearing was held on April 17, 1996. The public comment period closed in May, 1996.

This order requires the District to submit for EPA approval, a plan for remedial action and implementation. It will be a long term plan that will bring the District into full compliance. The plan will include a financial management program; a flushing and disinfection program; a sampling program; a cross connection control program; a program for the ultimate rehabilitation of all storage facilities; and a storage tank maintenance program. In addition, the plan will address corrosion control treatment and monitoring of the water quality effects on secondary bacteriological or biofilm growth.

TSCA

Bayer Corporation (Formerly Mobay Corporation) (West Virginia): On September 30, 1996, EPA filed a consent agreement and order settling a Toxic Substances Control Act (TSCA) case against Bayer Corporation (formerly Mobay Corporation). Under the terms of the settlement, Bayer has agreed to pay a $500,000 penalty, and perform two environmentally beneficial projects that will cost an estimated four million dollars. EPA's 1991 administrative complaint alleged that Mobay had violated TSCA's reporting requirements for the import and manufacture of toxic substances. In addition to the $500,000 penalty, Bayer has agreed to complete two Supplemental Environmental Projects (SEPs) that go beyond legal requirements. The first SEP, a pollution prevention project, involves modifications to a chemical manufacture system at Bayer's New Martinsville, West Virginia facility. This project, which will cost an estimated $3.5 million, should reduce the hazardous waste generated at the plant by approximately 2.4 million pounds. The second project is an "environmental audit" of Bayer's compliance with TSCA requirements, which will cost an estimated $500,000. The audit will cover chemical substances (as defined by TSCA) that were imported or manufactured by Bayer Corporation in 1994 and 1995. Bayer must report and pay stipulated penalties for all violations uncovered by the audit, and promptly correct these violations.

Southeastern Pennsylvania Transportation Authority, Inc. (SEPTA) (Pennsylvania): On September 24, 1996, EPA entered into a consent agreement, consent order and a Settlement Conditions Document with SEPTA, settling a TSCA administrative complaint. Under the terms of the Settlement Conditions Document SEPTA agreed to pay a $11,500 penalty and to perform a Supplemental Environmental Project (SEP) at a cost of $718,000. SEPTA will remove three (3) PCB Transformers containing a total of 42 gallons of PCB dielectric fluid at its 44th Street Pump Room and replace them with non-PCB transformers and will remove ten (10) PCB Transformers containing a total of 9,254 gallons of PCB dielectric fluid at its Butler Substation and Grange Substation that provide traction power to the Broad Street Subway and replace them with non-PCB transformers. SEPTA will also retrofill eight (8) PCB or PCB-contaminated transformers at various locations and convert them to non-PCB transformers.

MULTIMEDIA

Horsehead Industries (Pennsylvania): On November 13, 1995, a hazardous waste recycler near Allentown, Pennsylvania agreed to pay a $5.65 million penalty and to spend another $30-40 million dollars to reduce harmful releases of lead and cadmium into the soil, air and water. The settlement will upgrade the facility to limit release of contaminated dust and curb drainage from the Palmerton, Pennsylvania processing facility of Horsehead Industries and Horsehead Resources Development Company. This dust and drainage had contaminated the nearby Aquashicola Creek and the Lehigh River. The agreement resolves a lawsuit filed against Horsehead which alleged that the company violated the CAA, CWA, and RCRA.

The consent decree provides that Horsehead will upgrade and change its ongoing operations to limit dust and visible stack emissions from its processing operations. A visible air emissions monitoring system will be installed so that state environmental officials can monitor the emissions via an online computer system. This system will allow them to have instant access to air monitoring data, and be aware of any problems as they occur. Additionally, Horsehead will construct buildings to house materials that contain hazardous substances while those materials await processing. All outdoor storage piles will be removed, and those sites will be closed consistent with RCRA. Horsehead will also apply for a recycling permit from the state to extract, and resell zinc-containing materials from hazardous wastes received at the facility. Finally, control measures will be put in place to reduce run-off of contaminated water from the facility which includes a 2.5 mile long cinder bank that was generated over the life of the facility.

REGION IV

CLEAN AIR ACT

Willamette Industries, Inc.: On April 1, 1996, the Department of Justice filed a complaint against Willamette for emitting particulate matter from its waste wood boiler in excess of the limit in Subpart D and the limit in its state permit. The complaint alleges violations from June 1991 through October 1994 and seeks civil penalties of $25,000 for each day of violation. Willamette operates a paper mill in Bennettsville, S.C. that includes a waste wood boiler that provides steam for manufacturing. The boiler is subject to Subpart Db, which limits particulate emissions to 0.10 pounds per hour. The mill was constructed as a major source under South Carolina's PSD program. The PSD permit further limits particulate emissions to 0.05 pounds per hour. The boiler's particulate emissions were not adequately controlled until its scrubber was replaced by a different control device in 1994. Efforts to negotiate an appropriate civil penalty in the context of pre-referral negotiations were not successful.

CERCLA

Arlington Blending and Packaging site and Gallaway Pits site (Shelby County, Tennessee): On August 28, 1996, a CERCLA 107 consent decree was entered for the sites pursuant to which the settling defendant, Velsicol Chemical Company (Velsicol), will reimburse EPA $3,500,000 in past costs. In addition, Velsicol agreed to reimburse EPA for all of its future oversight costs of the remedial design/remedial action that Velsicol is performing pursuant to a unilateral administrative order. The Arlington site was a former pesticide formulation and packaging facility. The Gallaway site is a gravel mine in which wastes from the former Arlington facility were dumped. EPA's past costs were a result of fund-lead removal and investigatory activities.

The consent decree resolves over 10 years of litigation between the United States and various defendants. The complaint for past costs on the above sites was filed in 1986 against Velsicol, Terminix International, Inc. (Terminix), Chemwood Corporation (Chemwood), William Bell, and Robert Meeks. Pursuant to Court ordered mediation between the defendants, all of the defendants, including the third party defendants, have settled with Velsicol with the exception of Terminix.

Basket Creek site (Douglasville, Georgia): On June 28, 1996, the U.S. District Court entered a partial CERCLA Section 107 consent decree in which Young Refining Corporation agreed to pay $51,000 of EPA's past response costs at the site. After analysis of the defendant's financial condition by DOJ's Antitrust Division, EPA and DOJ concluded that Young Refining could not be expected to pay more than $85,000 without impacting its continued viability. This defendant was already incurring costs in defending a separate action brought by Chem-Nuclear Systems, Inc. (CNSI) for contribution based on CNSI's costs incurred in performing a removal action under an EPA unilateral order. Young was also obligated to expend substantial amounts in compliance with a consent order with the Georgia Environmental Protection Division to clean up its own facility. Accordingly, EPA and DOJ proposed that the total amount available ($85,000) be split between the U.S. ($51,000) and Chem-Nuclear Systems ($34,000). This settlement was designed to allow the defendant to remain in business and to complete its preexisting obligations for environmental restoration at its own facility. Chem-Nuclear Systems has concurred in writing with the entry of this decree, avoiding additional litigation expenses for all parties.

Carolawn site (Fortlawn, South Carolina): On October 19, 1995, a partial CERCLA Section 107 consent decree was entered in the U.S. District court for the District of South Carolina, Columbia Division pursuant to which the United States recovered $292,950 in past response costs incurred by EPA at the site for removal actions taken. The site was formerly operated as a disposal and recycling facility during the late 1970s and through the early 1980s. The settling defendants are a group of twenty-eight corporations who arranged for the disposal of hazardous substances at the site. The recovered costs represents the remainder of outstanding costs incurred by EPA during removal activities conducted in 1981 and 1982. This site has been the subject of previous cost recovery consent decrees for EPA's removal costs and is now on the NPL undergoing the remedial cleanup process.

Distler Farm and Brickyard sites (Louisville, Kentucky): On October 12, 1995, a CERCLA Section 107 cost recovery consent decree for the sites was entered in the United States District Court for the Eastern District of Kentucky. The consent decree settled complaints by the United States and the

Commonwealth of Kentucky against approximately 30 PRPs. The PRPs agreed to pay to EPA and the Commonwealth $6,355,000 in past response costs and to reimburse EPA for the future costs of performing the remedial action at the sites. The total value of the settlement was approximately $16,000,000.

The Brickyard and Farm sites were both repositories of hazardous wastes received by Donald Distler through his company Kentucky Liquid Recycling (KLR). When KLR was unable to receive a permit to operate a waste incinerator, the wastes the company had contracted to dispose of were either buried at a farm owned by Donald Distler's parents along the banks of the Ohio River or stored at the Brickyard, which was an abandoned brick manufacturing facility. The response costs incurred were for a series of removals at the farm and brickyard and for the RI/FS and RD/RA at the site.

J & A Enterprises site, (Huntsville, Alabama): In accordance with the Agency's commitment to assure enforcement fairness for PRPs, on February 29, 1996, EPA - Region IV entered into a Cost Recovery agreement with J & A Enterprises (J & A). J.& A. agreed to pay quarterly installments to EPA over a 3 year period totaling $60,000. EPA reviewed J & A's tax returns for the last 5 years along with other financial information. Based on the Agency's review of these documents, it was determined that J & A was able to pay $60,000 over a 3-year period and still remain in business. The total Agency response costs at the site through May 31, 1996, is $215,634.49. On September 16, 1996, EPA signed a 10 Point Settlement Document serving as a Decision Document Not to Pursue Cost Recovery for the outstanding balance of $155,634.49.

North Hollywood Dump site (Memphis, Tennessee): On November 8, 1995, two final partial CERCLA Section 107 consent decrees were entered in the U.S. District Court for the Western District of Tennessee. Both settled United States v. Velsicol Chemical Corporation, The Proctor & Gamble Cellulose Company, and City of Memphis, Tennessee v. Enco, Inc., et al. Pursuant to the terms of the first consent decree, the United States recovered $1,595,000 in response costs incurred at the site relating to the RI/FS and the supplemental RI/FS from the Velsicol Chemical Corporation and the City of Memphis, Tennessee. Pursuant to the terms of the second consent decree, the United States recovered $300,000 in oversight response costs from Proctor & Gamble.

This site, a landfill for municipal and industrial waste, was the State of Tennessee's first NPL listing. This landfill was used from the mid-1930s through the mid-1960s, though dumping was believed to have continued through the 1970s. The City of Memphis was the operator, while Proctor & Gamble and Velsicol Chemical were the two largest generators. Contaminants deposited at the site included chlorinated hydrocarbons and other pesticides, plus also heptachlor, chlordane, endrin, copper, and other toxic wastes. A variety of emergency removal actions were undertaken during the years 1980-1984. The ROD, issued on September 13, 1990, requires a number of remedial measures, including solidification and/or removal of contaminated sediments in the surface impoundments and installation of a permanent cap on the landfill.

Old ATC Refinery (Wilmington, North Carolina): On July 30, 1996, EPA signed the final AOC for an EE/CA and the non-time critical removal action for the site. Investigation of the site, conducted by Black & Veatch, showed that the presence of hazardous substances at the facility, including lead, zinc and cadmium, which may constitute a threat to the public health, welfare, and the environment. The removal action recommended by the EE/CA calls for removal of all containerized waste from the site and proper disposal at an off-site facility. It is further recommended that the contents of the tanks and piping associated with the Above Ground Storage Tanks (ASTs) be removed and disposed. Last, two source areas will be treated or removed to an off-site facility and additional sampling will be conducted in the portion of the areas defined in the EE/CA.

Olin Corporation (McIntosh, Alabama): On July 26, 1996, EPA issued a RCRA Section 7003 administrative order to the Olin Corporation in McIntosh, Alabama. The Olin McIntosh Plant is a Superfund site, and in May 1996, EPA and Olin lodged a consent decree with the 4th U.S. District Court, Southern District of Alabama, to implement RD/RA activities at that site. District Judge W.B. Hand refused to enter the consent decree on the basis that Superfund is unconstitutional. Since that conditions exist at the facility that may present an imminent and substantial endangerment, RCRA issued a § 7003 order to Olin to implement certain conditions of the Superfund Record of Decision.

Piper Aircraft Corporation site (Vero Beach, Florida): On July 19, 1996, a consent decree for remedial design/remedial action (RD/RA) between the United States and The New Piper Aircraft Corporation (New Piper), a Delaware corporation, was entered in the U.S. District Court for the Southern District of Florida, Fort Pierce Division. After Piper Aircraft Corporation (Old Piper) negotiated a consent decree

with the United States, New Piper purchased in July 1995 the assets of Old Piper pursuant to a plan of reorganization of Old Piper confirmed (also in July 1995) in the U.S. Bankruptcy Court for the Southern District of Florida, and assumed all obligations of Old Piper under the negotiated consent decree. Under this settlement, New Piper will conduct RD/RA for groundwater and reimburse 100% of past and future response costs. The RD/RA requires groundwater extraction and air stripping of volatile organic compounds to meet applicable state and federal surface water discharge criteria.

Fred Ramsey Tank site (Valdosta, Georgia): On February 15, 1996, DOJ filed a cost recovery action styled *United States v. Fred Ramsey*, in the U.S. District Court for the Middle District of Georgia. The action seeks approximately $265,000 in response costs at the time of the complaint plus penalties for Mr. Ramsey's non-compliance with Section 104(e) CERCLA Information Requests issued to Mr. Ramsey. The Fred Ramsey Tank site is the location where Mr. Ramsey disposed of 3 above-ground storage tanks and a tanker trailer which contained tank bottoms from Mr. Ramsey's former solvent recycling operation, Ramsey Chemical, Inc. Mr. Ramsey had sold the Ramsey Chemical facility to another operator and the buyer had required that Mr. Ramsey remove the out-of-use tanks from the facility. Instead of disposing of the tanks and their contents legally, Mr. Ramsey bought a vacant lot and disposed of the tanks on the lot without obtaining a permit or notifying any regulating entity. In August of 1996, EPA referred additional claims against Mr. Ramsey under RCRA to DOJ, requesting that DOJ amend the complaint to add RCRA counts. Subsequent settlement negotiations have led to a settlement in principle pursuant to which Mr. Ramsey will pay $325,000 for CERCLA response costs, CERCLA Section 104(e) penalties and RCRA penalties, and a parallel settlement will obtain remaining response costs from certain generator PRPs who were former customers of Ramsey Chemical, Inc.

S&S Flying Service site (Marianna, Florida): On October 6, 1995, the District Court for the Middle District of Florida entered a consent decree to resolve EPA's CERCLA Section 107 cost recovery action against the City of Marianna, Florida, for costs incurred by EPA for removal actions at the site. The consent decree provides for payment of $500,000 towards past response costs at the site which is the City's municipal airport. The removal involved the incineration of pesticide-contaminated soil at the end of one of the airport runways which was completed in September 1990. After an exhaustive search of PRPs, the Region determined that while the owner of S&S Flying Service (William Singleton) was insolvent, a financial analysis of the City indicated that Marianna could pay a portion of the $1.5 million costs incurred in the cleanup. The government filed a complaint against the City on April 6, 1994. Under the agreement the City will pay $500,000 plus interest accrued in four payments over three years. The first payment of $200,000 was paid within 30 days of the entry of the consent decree.

T H Agriculture & Nutrition site (Montgomery, Alabama): On April 12, 1996, the United States District Court for the Middle District of Alabama entered a consent decree whereby the owners and operators of T H Agriculture Superfund site in Montgomery, Alabama will perform and fund the interim remedial action/remedial design, and reimburse the United States for costs incurred in connection with such work, including, but not limited to, oversight costs. The estimated cost of implementing the selected remedy is $6,100,000. T H Agriculture & Nutrition Company, Inc., (THAN) formerly owned and operated a storage and distribution facility for industrial and agricultural chemicals on a portion of the site. Elf Atochem North America, Inc., f/k/a Pennwalt Corporation (Elf), owned and operated a chemical formulation and distribution facility on a portion of the site adjacent to and up gradient from the THAN Property, handling substances similar to those handled by THAN. Elf and THAN are both signatories to the consent decree.

Welco Plating Dump site (Jackson County, Alabama): On March 5, 1996, the U.S. District Court for the Northern District of Alabama, in a case captioned United States v. J.C. Collins, Jr. et al., entered a CERCLA § 107 consent decree for recovery of costs associated with EPA's removal of settling defendants' metal plating wastes at the site. After establishing the settling defendants' limited ability-to-pay, the parties agreed to settle EPA's $1.8 million outstanding response costs for the amount of $130,000. Originally, the settling defendants initiated removal activities at the site in 1987 pursuant to a Unilateral administrative order issued by EPA. However, in 1988 defendants J.C. Collins and Welco, Inc. were indicted and subsequently pled guilty to several criminal counts of violating CERCLA, RCRA, and the Clean Water Act; the court sentenced J.C. Collins to jail and a fine and Welco Inc. to probation and payment of a fine and EPA's response costs. EPA performed the actual removal in 1989 after establishing that the settling defendants were thereafter not able to complete the action in a timely and satisfactory manner.

Woodbury Chemical Company site (Dade County, Florida): On May 25, 1996, a consent decree was

entered providing for payment of $40,000 in settlement of a §107 cost recovery action against Woodbury Chemical Company and related PRPs. The case raised policy issues concerning the extent to which EPA should pursue recovery for costs in matters where "no action" RODs follow PRP removal actions, as well as legal issues concerning the scope of the § 107(I) "FIFRA exemption." Based on the distinctive facts of this case, the United States agreed to a substantial compromise of its costs, in part because this site probably would never have been listed on the NPL under EPA's current policy making it appropriate to consider all activities, including removals, conducted before the final listing decision. EPA deleted the site from the NPL on November 27, 1995.

CLEAN WATER ACT

CAPS Development, Inc.(Lamar County, Mississippi): respondent conducted unauthorized excavation, mechanical land clearing and dam construction in waters of the U.S. On July 3, 1996, EPA issued a consent agreement which required the respondent to pay a $50,000 penalty and undertake the following Supplemental Environmental Project (SEP) which the parties agree is intended to secure significant environmental protection and improvements. respondent agrees to perform a one-day workshop on Section 404 of the Clean Water Act for contractors, developers and other interested parties in the Hattiesburg, Mississippi area. Appropriate outlines and written materials shall be included in the workshop. The total expenditure for the SEP shall not be more than $5,000. This was the first of several similar cases where developers in the Mississippi coastal area are constructing residential developments without the proper U.S. Army Corps of Engineer's permit.

Cobb County Department of Community Development (Cobb County, Georgia): respondent, during the widening of Sandy Plains Road in northeastern Cobb County, required the discharge of fill into waters of the U.S. pursuant to Nationwide permit 24. The County's failure to adequately implement and/or maintain erosion and sedimentation control devices for the project resulted in erosion of road fill into tributaries of Willeo Creek, degrading stream water quality and resulting in sediment deposition in downstream lakes. The penalty consisted of a $10,000 penalty and the County will sponsor training for its employees and road contractors and their personnel in all pertinent aspects of county standards for land disturbing activities, particularly wetland impacts.

Jack Freeman (Lee County, Florida): respondent mechanically land cleared approximately 30 acres of pine flatwood wetlands during conversion of the site to pasture land. A settlement was negotiated to include a $15,000 penalty plus restoration of 20 acres. Restoration consisted of natural revegetation and removal of invasive exotic vegetation.

Georgia Department of Transportation (GDOT) (Cobb County, Georgia): respondent, by its failure to properly implement and/or maintain erosion and sedimentation control measures at two road construction sites in Cobb County, Georgia, has caused earthen fill to be deposited in approximately 3.5 acres of wetlands. respondent paid a penalty of $34,000 and provided state wide training on erosion control for 763 employees of GDOT and their contractors. GDOT is also being required to remove sediment from a private lake impacted by the erosion.

Sam Hall, d/b/a Hall's Septic Services: EPA learned that Sam Hall was dumping sewage wastes into 3 abandoned coal mine entrances in Floyd County, Kentucky. On March 5, 1996 (after respondent refused to accept Certified Mail delivery), EPA had the U.S. Marshall's Office serve Sam Hall with an Emergency administrative order issued and effective on January 31, 1996. The order required Mr. Hall to, in part, cease and desist from dumping fluid wastes into mine entrances and to notify EPA within 24 hours of receipt of the order whether and how he would comply. Failing to receive a response from the respondent, the Water Programs Enforcement Branch (former Groundwater Protection Branch) requested that the Emergency Response and Removal Branch initiate a cleanup of the mines and mine entrances. The cleanup is continuing. In addition, ERRB is conducting tests to determine the extent and source of Fecal Coliform contamination in the drinking water supplies of area residents.

In the interim, EPA has referred the case to the Department of Justice, recommending that Justice file a civil judicial action against Sam Hall, d/b/a Hall's Septic Service, for enforcement of the Emergency administrative order. Additional relief may be sought to include the provision of alternate sources of drinking water for area residents and to recover the costs of the cleanup.

Jefferson County, Alabama: EPA signed a consent decree with the Jefferson County Commission, the Cahaba River Society and Kipps and Angwins (citizens), to settle an EPA complaint against Jefferson County, Alabama for violations of the Clean Water Act. The lawsuit alleged that Jefferson County committed

violations of the Clean Water Act at its wastewater treatment facilities which discharge into the Cahaba and Black Warrior Rivers. Jefferson County is a municipality in Alabama which owns and operates 10 wastewater treatment plants discharging into the Cahaba and Black Warrior Rivers. The violations include effluent violations of National Pollutant Discharge Elimination (NPDES) permits, intentional bypass of treatment works resulting in discharges of untreated sanitary sewage, overflows of the sanitary sewer collection systems resulting in discharges of untreated sanitary sewage, and discharging without a NPDES permit.

The consent decree requires the County to eliminate further bypasses and unpermitted discharges of untreated wastewater containing raw sewage to the Black Warrior and Cahaba River basin, eliminate sewer system overflows, achieve full compliance with its NPDES permits, and achieve full compliance with the Clean Water Act. The County is required to pay a penalty to the U.S. Treasury of $750,000. In addition, the decree calls for a $30,000,000 Supplemental Environmental Project (SEP). The SEP is a Greenway project involving segments of the Cahaba and Black Warrior Rivers and/or their tributary streams. The County will acquire and maintain protected areas along the streams; the primary environmental purpose will be to restore, protect and enhance the water quality of, and to reduce and/or prevent erosion and non-point source pollution loads from entering the designated rivers. The County will enact a three-phase approach to improve and correct the infiltration/inflow problems and will initiate a Sewer System Evaluation and enact improvements to their sewer system and wastewater treatment plants. The SEP and other remedies required by this decree will improve the water quality of the Cahaba and Black Warrior Rivers and reduce the overall potential adverse environmental impact. The secondary benefit shall be to protect, restore and enhance aquatic and stream corridor habitats of the Rivers.

Mobil Oil Corporation (Polk County, Florida): On September 13, 1996, the EPA and the Department of Justice (DOJ) reached settlement with Mobil Mining and Minerals Corporation (Mobil) in this matter. Following settlement negotiations regarding the alleged effluent and storm water discharge violations, Mobil agreed to pay a $200,000 penalty. There was no required injunctive relief. DOJ is drafting a Stipulated order and Motion for Dismissal of the matter. Mobil Oil Corporation d/b/a/ Mobil Mining and Minerals Company previously owned and operated several mining facilities in Polk County, Florida. Alleged NPDES effluent and unpermitted storm water discharge violations during 1991 - 1994 at three of the facilities were the basis of the action. EPA referred this matter to the DOJ on February 10, 1995 and, in compliance with the Civil Justice Reform Executive order, on February 27, 1996, DOJ issued a pre-filing notification letter in order to notify Mobil of the nature of the dispute and attempt to achieve settlement before filing a civil complaint. Mobil, EPA and DOJ met on September 13th in an attempt to resolve the remaining storm water violation issues. Following the meeting, Mobil made an acceptable offer (above EPA's bottom line) of settlement. DOJ is currently drafting a motion to finalize the settlement and close of the case.

U.S. v. Southdown, Inc., d/b/a Florida Mining and Materials Concrete Corporation: On September 5, 1996, the United States District Court for the Northern District of Florida, Tallahassee Division, entered a consent decree where Southdown agreed to spend at least $200,000 to develop and conduct a SEP for environmental compliance promotion in the ready-mix concrete industry. The SEP consists of at least 18 environmental compliance workshops to be conducted in Florida, California, and other states to instruct ready-mix concrete plant owners and operators regarding applicable environmental regulations and how to comply with them. In addition, Southdown agreed to pay a civil penalty in the amount of $350,000.

On September 13, 1994, the United States filed a complaint against Southdown for violations of Section 301 of the CWA and the conditions and limitations of an NPDES permit issued by EPA. The violations included failure to discharge effluent limits for PH and Total Suspended Solids of the NPDES permit. The facility, a ready-mix concrete producer located in Tallahassee, Florida, discharged from 5,000 to 10,000 of wastewater per day for a total of 409 days of violations. In June 1993, the facility ceased operations and sold the property.

Tennessee Department of Transportation (TDOT) (Spring City, Rhea County, Tennessee): respondent channelized approximately 700 feet of stream bed and impacted 2 acres of adjacent wetlands during construction of an interchange. respondent was required to pay a penalty of $10,000 and to perform stream restoration. In addition, respondent was required to develop and produce an in-house training course on wetland identification and Section 404 regulatory procedures to be approved by EPA. The course will utilize trainers from the Tennessee Department of Environment and Conservation, U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service, and EPA. TDOT was also required to develop, publish and distribute 500 copies of a wetland

brochure to the public. The brochure was developed through the joint review of the Tennessee Department of Environment and Conservation, the Tennessee Wildlife Resource Agency, and TDOT, and contained general wetland permitting information and permitting contacts in the State of Tennessee. TDOT has been guilty of several wetland violations and the training requirements of this penalty action were targeted at halting future infractions.

EPCRA

State Industries, Inc (Ashland City, Tennessee): On July 1, 1996, Region IV filed an Administrative complaint assessing penalties of $701,556 against State Industries, Inc., of Ashland City, Tennessee, for violations of the Emergency Planning and Community Right to Know Act (EPCRA). and the Comprehensive Environmental response, Compensation and Liability Act (CERCLA). Of the 64 Counts in the complaint, 58 are violations of EPCRA § 313's Toxic Release Inventory (TRI) requirements by State Industries. The case is part of the Headquarter's EPCRA 313 Initiative.

FIFRA

Acry-Tech Coatings, Inc.; Insecta Sales, Inc., and Council-Oxford, Inc.: Three additional complaints were filed in the region involving failure of the companies to have Worker Protection language on the labels. All three companies are now in compliance and agreed to pay penalties of $3,920, $5,900, and $4,900.

UCB: UCB failed to file with the EPA Office of Pesticides programs an amended label containing Worker Protection language on their product "Ziram Granuflo." Additional label misbranding counts in the complaint were for failure to have directions for use, failure to have storage and disposal statements, failure to have precautionary statements, and the use of an incorrect EPA Establishment Number on the label of the pesticide. A count for failure to file a report was also included in the complaint. A total of over 250,000 pounds of "Ziram Granuflo" was released in the channels of trade. UCB recalled the unlabeled material and placed the corrected labels on the containers. This "Danger" toxicity fungicide is primarily used on almonds in California. This action involved inspectors in California and EPA Region IV. A penalty of $304,725 was assessed.

RCRA

Crown Central Petroleum (Crown, Georgia): On September 30, 1996, a complaint and Compliance order was issued pursuant to Section 3008(a) of RCRA to the Crown Central Petroleum facility (Crown) in Columbus, Georgia. Crown, a bulk petroleum storage facility, was discovered discharging hazardous waste (D018) directly onto the ground at the facility. EPA alleges that Crown is in violation of failing to make a hazardous waste determination and disposing of hazardous waste without a permit. A penalty of $ 239,000 was assessed in the complaint.

DOE's Oak Ridge Facility (Tennessee): Region IV reached settlement with Lockheed Martin Energy Systems for failure to adequately inspect hazardous waste tank systems in one area at DOE's Oak Ridge Tennessee facility. The RCRA consent agreement and consent order imposes a $22,500.00 penalty for improper inspection procedures. The facility now properly performs the tank inspections. The facility originally noted the violation during a Martin Marietta internal audit conducted in June of 1994 and the DOE Inspector General's Office discovered it to still be a problem in January 1995.

Everwood Treatment Co., and Cary W. Thigpen: On September 30, 1996, the Environmental Appeals Board (EAB) reversed the Presiding Officer's determination that Everwood's disposal of hazardous waste without a permit or without complying with the Land Disposal Restrictions posed a minor potential for harm. In the original decision, the Presiding Officer concluded, in part, that due to the lack of established actual harm to the environment a minor potential for harm occurred, and assessed a penalty of $59,700. Region IV appealed on grounds that EPA's assessed penalty of $497,500, calculated using the 1990 RCRA Civil Penalty Policy, was based on a major potential for harm that includes both risk of exposure and harm to the regulatory program. In the Final order, the EAB agreed with EPA's violation classification, and assessed a penalty of $273,750, including a 25% upward adjustment for willful noncompliance that EPA included in the proposed penalty.

Flanders Filters site (Washington, North Carolina): On January 2, 1996, Region IV signed an administrative order on consent with Flanders Filters, Inc., which requires Flanders Filters to perform a Remedial Investigation/Feasibility Study at their facility in Washington, North Carolina. Flanders Filters, Inc. has been the only industrial operation on this property. Flanders Filters manufactures high efficiency, boro-silicate glass micro-filters and air filter framing systems. The *"Expanded site Inspection Report"* was prepared in August 1993. This report documented the presence of arsenic, chromium, copper, nickel, zinc, bis(2-ethylhexyl)phthalate, and pyrene in elevated

concentrations in surface soils around the drum storage area, the spray field, and along the drainage pathway to Mitchell Branch. This report also substantiated the presence of chromium, copper, and zinc above background levels in the surface water. No compounds of concern were identified in a nearby private well. In February 1995, Flanders Filters sampled the existing monitoring wells located around Spray Field #2. The test results found the following contaminants above background levels for groundwater or in exceedence of North Carolina's groundwater standards: 1,1-dichloroethane, 1,1-dichloroethene, methylene chloride, ammonia nitrogen, total organics carbon, aluminum, manganese, sodium, zinc, and sulfate. Therefore, the site was identified as a NPL-caliber site which encouraged Flanders Filters to enter into the administrative order on consent to conduct the Remedial Investigation/Feasibility Study.

Fort Campbell: On February 16, 1996, the Army's 101st Airborne Division (Fort Campbell) in Fort Campbell, Tennessee and Kentucky, entered into a CACO with EPA, agreeing to pay a $ 54,500 penalty for violations of RCRA. These violations included failure to make a hazardous waste determination and numerous hazardous waste storage violations. Several months later, on September 26, 1996, EPA issued another Compliant and Compliance order against Fort Campbell assessing a $ 48,700 penalty for violations of RCRA similar to those addressed in the February 1996 CACO. These recurring violations were discovered in an inspection conducted after the finalization of the CACO.

Memphis Depot Defense Logistics Agency's (Memphis, Tennessee): Region IV issued a Compliant and Compliance order assessing a $20,000 penalty against The Defense Logistics Agency's Memphis Depot in Memphis Tennessee for RCRA violations. The facility violated the conditions of its permit by improperly storing incompatible wastes, creating potentially dangerous conditions. Local citizens have raised Environmental Justice issues about this facility.

University of North Carolina - Chapel Hill: In September 1996, EPA issued a RCRA § 3008(a) Compliant and Compliance order to the University of North Carolina - Chapel Hill (UNC) for violations of its hazardous waste storage permit, and for hazardous waste storage violations at several other locations throughout the campus. In the complaint, EPA assessed a penalty of $ 80,724, including a 25% upward adjustment for UNC's history of noncompliance. This action arose from a concern of trends of noncompliance at colleges and universities across the nation.

Precision Fabricating and Cleaning Company (PFC): In September 1996, EPA issued a Unilateral administrative order to Precision Fabricating and Cleaning, Inc., of located in Cocoa, Florida. The UAO was issued under the authority of Section 7003 of RCRA and Section 1431 of the Safe Drinking Water Act. PFC posed an imminent and substantial endangerment to human health and the environment by allowing groundwater contaminated with trichloroethylene and its degradation products to affect private wells and migrate into the Indian River. The EPA combined RCRA/SDWA emergency order has provided to support the State's ongoing efforts to address the serious problems associated with these releases from the facility. The issuance of the emergency order is expected to achieve the following results: (1) completion of a well survey that would allow for proper notification to all residents affected by the groundwater contamination; (2) water quality sampling; and (3) requires groundwater remediation and an assessment of discharge of contaminated groundwater into the Indian River.

Safety Kleen Corporation (Smithfield, Kentucky): Safety-Kleen Corporation operates a hazardous waste storage and recycling facility located in Smithfield, Kentucky. On September 30, 1996, EPA issued a complaint and Compliance order, pursuant to Section 3008(a) of RCRA, requiring Safety-Kleen to pay a penalty of $73,748 for violations resulting from RCRA inspections conducted by EPA and the Commonwealth of Kentucky on June 27, 1995, and January 24, 1996. The violations included treatment of hazardous waste without a permit, failing to meet the requirements for hazardous waste container storage areas, and failing to conduct and document inspections of hazardous waste storage areas.

Stone Container Corporation: On September 4, 1996, EPA issued an administrative order pursuant to RCRA Section 3013 of RCRA to Stone Container Corporation in Panama City, Florida, requiring the facility to conduct sampling and analysis of potentially contaminated media at the site. Under the RCRA §3013 order, the company is directed to conduct site sampling and analysis at the facility, including dioxin analysis. If Stone does not comply with the order, EPA can conduct the sampling and dioxin analysis and later recover the cost of EPA's efforts from the facility.

Taylor Road Landfill site (Hillsborough County, Florida): As a result of Region IV's emphasis on *de minimis* settlements, the Region IV Settlement Team

put together a *de minimis* settlement that the Agency believes is fair to both major PRPs and de minimis PRPs. PRPs that contributed 1% or less of waste to the site were sent *de minimis* settlement offers. Consistent with the Agency's new *de micromis* policy, we removed parties from the PRP list that contributed .002% of waste or less at the site. Those PRPs that sent greater than 1% of the waste at the site were sent special notice letters to negotiate an RD/RA consent decree. We are currently wrapping up negotiations with these parties.

On July 22, 1996, the Agency sent *de minimis* offers to 71 de minimis PRPs. 32 of these parties accepted EPA's offer and signed the *de minimis* settlement. This settlement was signed by the Region on September 18, 1996, and concurred on by DOJ. It was published in the Federal Register for a 30 day public comment period on October 30, 1996. The public comment expires November 29, 1996. The total recovery from the *de minimis* settlement will be $287,340.44. These funds will be applied to offset EPA's past costs at the site which total $1,408,782.00. The remaining past costs, less an orphan share, will be paid by the major PRPs under the terms of a consent decree.

U.S. v. Waste Industries, Inc., et al.: On April 3, 1996, the U.S. District Court for the Eastern District of North Carolina entered the Final consent decree in Waste Industries. The Final consent decree requires defendants to perform an additional three years of groundwater monitoring at Flemington Landfill to ensure the decline in contamination continues, and requires the defendants to reimburse the United States for past costs associated with the Flemington Landfill. The United States filed its complaint in this matter on January 11, 1980, pursuant to Section 7003 of RCRA, seeking injunctive relief to abate an imminent and substantial endangerment resulting from the disposal of solid or hazardous waste at the Flemington Landfill site (the site). On August 5, 1987, a Partial consent decree was entered by the District Court, requiring the defendants to conduct a complete assessment of groundwater contamination in and around the site, and to make a recommendation to EPA regarding the necessity for groundwater remediation. The defendants completed their study on May 2, 1989, and EPA reviewed the results and issued a Final Decision Document, dated June 29, 1995, concurring with the defendants' recommendation that no further groundwater remediation is necessary. DOJ lodged the Final consent decree on January 19, 1996. No comments were received during the public comment period.

The Final consent decree requires the defendants to monitor groundwater at the site for a period of three years. The defendants will also reimburse the United States for past costs associated with groundwater sampling at the site in the amount of $175,000.

Worsley Companies, Inc.: The UST Section negotiated a final consent agreement as settlement of a consolidated administrative enforcement action against Worsley Companies, Inc., Worsley Oil Company of Wallace, Inc., and Worsley Oil Company of Elizabethtown, Inc. for violations of the Underground Storage Tank (UST) provisions of the Resource Conservation and Recovery Act (RCRA). The Administrative Compliance and complaint orders alleged a range of violations including the failure to notify proper authorities of the existence of USTs, failure to comply with tank and piping release detection requirements, and failure to comply with the requirements to investigate and confirm releases.

Under the terms of the consent agreement and consent order, the Companies have agreed to pay a civil penalty of $199,325 to the United States Treasury, correct the violations, implement a comprehensive environmental compliance policy, and perform three Supplemental Environmental Projects (SEPs). The civil penalty is the largest penalty settlement for EPA's UST program nationwide.

SDWA

Iris Court Apartments: The Drinking Water Program issued an administrative order to Iris Court Apartments, located in Hillsborough County, for failure to monitor and report for coliform bacteria, and for failure to notify persons served by the system of it failure to monitor. Iris Court was the only drinking water significant noncomplier in Region IV referred to EPA by a State in FY 96 for federal enforcement. The administrative order provided support to the State's efforts to achieve system compliance. Consequently, in addition to acting to comply with the Federal order, the water system entered into a consent agreement with FDEP which includes payment of an assessed penalty of $1,560.

TSCA

Gray PCB site (Hopkinsville, Kentucky): The City of Providence, Kentucky, and General Waste, Inc., entered into an AOC for past costs based on the Ability to Pay Determinations done by the Region. During settlement negotiations with the City of Providence, EPA probed the city's revenue resources and were convinced that the city had limited cash on hand,

restricted taxing abilities, and were heavily indebted. While, the General Waste provided financial documentation to the Region that displayed restricted funds available for payment of past costs. Both AOCs are settlements of $25,000 in two payments of $12,500. The time period for payment is one year for the city of Providence and for two years for General Waste, Inc. Total past costs at this Removal site are $550,000.00.

REGION V

CLEAN AIR ACT

Abitec Corporation (Columbus, Ohio): In September 1996, U.S. EPA and ABITEC Corporation of Columbus, Ohio executed an Administrative consent order (AO) and a consent agreement and consent order (CACO). The AO and the CACO resolve alleged 1993 violations of the Clean Air Act by ABITEC's coal-fired boilers. The AO requires ABITEC to periodically test the coal-fired boilers until replacement gas-fired units are installed and in use. As required by the CACO, ABITEC paid a penalty of $135,000. The ABITEC Corporation is a vegetable-oil processing facility in Columbus, Ohio. The facility has been using three coal-fired boilers that were installed before 1950, to generate the steam required in the oil-refining process.

In a stack test of ABITEC boilers 1, 2, and 3 in 1993, resulting particulate emissions were found to exceed the limit specified in the permit for these boilers. In addition, opacity readings obtained during stack testing, as well as COM readings during operation of the boilers, were found to exceed the permit limits. Consequently, U.S. EPA issued Notices of Violation to ABITEC in 1993 and in 1994.

ABITEC representatives and U.S. EPA agreed to execute orders requiring ABITEC a) to install within four years gas-fired units to replace the coal-fired boilers, b) to conduct periodic testing of its coal-fired boilers, in order to determine continued compliance with particulate emission limits, and c) to pay the government a penalty of $135,000. ABITEC may terminate the administrative order anytime by permanently terminating energy production at the facility, after providing due notice to U.S. EPA.

B.F. Goodrich Company (Henry, Illinois): This case involved violations of the vinyl chloride National Emission Standard for Hazardous Air Pollutants, 40 C.F.R. Part 61, Subpart F, at a polyvinyl chloride resin manufacturing plant located in Henry, Illinois. During the time period of the violations, the facility was owned and operated by the B.F. Goodrich Company (Goodrich) and is now owned by The Geon Company (Geon). Vinyl chloride is a Group A carcinogen that, when inhaled, has been linked to cancers of the liver, brain, lung, and digestive tract in humans.

U.S. EPA first began to uncover Goodrich's violations during a May 1992, Federal inspection. U.S. EPA later determined the full nature and extent of the violations after requesting and receiving information from Goodrich and Geon. U.S. EPA determined that Goodrich had: failed to properly test for and report to the regulatory agencies of vinyl chloride emissions from its "dispersion" resin process from January 1989, to August 20, 1991; discharged excess emissions of vinyl chloride to the air in amounts up to two times the allowable standard from the dispersion resin process on 135 days from January 1989, to August 20, 1991; discharged excess emissions of vinyl chloride to the air in amounts up to four times the allowable standard from the "suspension" resin process on 10 days during the Summer of 1992; and had preventable releases of vinyl chloride from equipment on July 26, 1989, and on June 29, 1990. To correct these violations, Goodrich implemented several equipment and process changes at the facility.

U.S. EPA and DOJ informed Goodrich and Geon of the alleged violations in the Spring of 1994, and provided Goodrich and Geon an opportunity to negotiate settlement prior to filing a civil complaint. After settlement was reached, a civil complaint and a consent decree were simultaneously filed on March 29, 1996. The final consent decree was entered on July 3, 1996, and on August 1, 1996, Goodrich paid the required penalty of $450,000.

Countrymark Cooperative (Mount Vernon, Indiana): On May 30, 1996, U.S. EPA and Countrymark Cooperative, Inc. (Countrymark), entered into a consent agreement and consent order settling an enforcement action against Countrymark's petroleum refinery located in Mount Vernon, Indiana. The Administrative complaint filed against Countrymark on January 28, 1994, alleged violations of Federal sulfur dioxide emission testing and monitoring requirements at a process heater in the refinery. The settlement requires Countrymark pay a $32,000 cash penalty and perform a supplemental environmental project (SEP) that will reduce volatile organic compound (VOC) emissions from the refinery by approximately 56 tons/year. It is estimated that the SEP will cost Countrymark $250,000. Countrymark is located in an ozone attainment area. The SEP Countrymark has agreed to undertake involves installing VOC emission controls required by Indiana's SIP for refineries in ozone non-attainment areas.

Fort Howard Corporation (Green Bay, Wisconsin): On July 15, 1992, U.S. EPA, Region V, issued a Finding of Violation to Fort Howard Corporation, Green Bay, Wisconsin. Fort Howard was cited for violating Federal sulfur dioxide limits found in the New Source Performance Standards (NSPS). Specifically, Fort Howard was found to be in violation of the NSPS for Fossil-Fuel-Fired Steam Generators for one of its power boilers. Fort Howard's boiler #8 was permitted to operate with a heat input rate of less than 250 MMBTU/hour. Information provided to WDNR on the sulfur and heat content of Fort Howard's coal indicated that emissions were more than four times the NSPS allowable level.

In August 1993, Region V referred the Fort Howard case to the Department of Justice (DOJ). On May 28, 1996, a consent decree was entered. Fort Howard agreed to permanently derate the boiler, accomplished by restricting the fuel feed rate and feed capacity, to operate at a heat input below 235 MMBTU/hour, in any hour of operation. The consent decree also requires Fort Howard to pay a penalty of $350,000.

Georgia-Pacific Corporation (Gaylord, Michigan): On May 10, 1996, as part of a significant national enforcement case against Georgia-Pacific Corporation (G-P), the State of Michigan entered into a settlement with G-P that addressed violations of the Clean Air Act at its Gaylord, Michigan plant. Specifically, Michigan cited violations of the federal Prevention of Significant Deterioration (PSD) rules and State permitting requirements for modifying its plant processes without first obtaining appropriate construction permits. As a result of this settlement, G-P paid to Michigan a civil penalty of $700,000. The State also secured a commitment from G-P to install air pollution controls on its wood chip dryers and hot press to reduce emissions of volatile organic compounds (VOCs). Emissions could be reduced as much as 500 tons per year. The final deadline for installing all controls is October 1, 1997. Although the Gaylord plant was cited in a national Notice of Violation issued by the Office of Enforcement And Compliance Assurance, Air Enforcement Division, on August 5, 1994, it was ultimately not included in the national settlement reached with G-P because of the State lead in resolving the violations in Gaylord. Even though the State was in the lead, U.S. EPA was a direct participant in the negotiations with G-P.

The settlement also addressed violations associated with particulate matter from the plant's pre-dryer, which Region V had cited in its Notice of Violation issued July 15, 1992, and referred to the Department of Justice on September 25, 1992. U.S. EPA deferred to the state settlement, which addressed federal concerns for both VOCs and particulate matter emissions, and complied with U.S. EPA's civil penalty policy. This case is an excellent example of what can be accomplished for the environment through effective state/federal partnership.

Heekin Can Inc. (Alsip, Illinois): This case involved violations of the volatile organic material (VOM) emission test requirements under the Federal revisions to the Illinois State Implementation Plan for ozone (Federal Implementation Plan or FIP). The violations occurred at a can coating/printing facility located at 12701 South Ridgeway Avenue, Alsip, Illinois, which is a non-attainment area for ozone and also an Environmental Justice area. During the time period of the violations, the facility was owned and operated by the Heekin Can Company, Inc. (Heekin) and is now owned and operated by the Ball Metal Food Container Corporation. U.S. EPA initiated this case by issuing a Notice of Violation against Heekin on September 27, 1991, for failure to submit a certification of or exemption from compliance with the coating emission limitations set forth in the FIP. Heekin later submitted a certification of compliance which consisted of results of destruction efficiency testing performed on the coating lines' VOM control devices (incinerators).

On September 4, 1992, U.S. EPA filed an Administrative complaint against Heekin for failure to submit a timely certification. In the meantime, U.S. EPA determined that Heekin had failed to perform the destruction efficiency testing on Heekin's coating lines' incinerators in accordance with the required test methods and procedures in the FIP. U.S. EPA issued a second NOV to Heekin on December 31, 1992, alleging that the destruction efficiency tests, on which Heekin's late certification was based, failed to conform to the required test methods and procedures.

In March 1993, U.S. EPA discovered that the requirement to certify under the FIP, which constitutes an information collection request under the Paperwork Reduction Act (PRA), failed to display the Office of Management and Budget control number in the Federal Register and in the Code of Federal Regulations, as required by the PRA. U.S. EPA therefore determined not to seek penalties for the late certification violation but proposed to amend the complaint to address Heekin's failure to test in accordance with the test methods set forth in the FIP. The pled penalty increased from $26,000 to $55,000.

On October 29, 1993, U.S. EPA filed a motion to amend the original administrative complaint. Heekin finally completed proper testing required by July 1,

1991, in March of 1994. In March of 1995, Administrative Law Judge Head granted U.S. EPA's motion. This ruling was significant because it upheld U.S. EPA's position that penalties can be sought for violation of a substantive requirement, and the testing requirements of the FIP are substantive. The amended complaint was filed April 18, 1995.

On May 24, 1996, U.S. EPA and Heekin entered into a consent agreement and consent order in settlement of the complaint. Heekin has since paid the required penalty of $37,500.

Rockwood Stone, Inc.(Newport, Michigan): Rockwood Stone, Inc. operates a Dolomite/Limestone Processing and Crushing Plant. The company installed and operated a seven foot crusher, two five foot crushers, several screens and many conveyors without first obtaining the necessary permit to install, in violation of the applicable rules of the Michigan State Implementation Plan. The Company also emitted fugitive dust (particulate matter) from its facilities in excess of the allowable limit of Federal Prevention of Significant Deterioration requirements. According to a study performed by the company, the Total Suspended Particulate emissions for the quarry and processing plant were calculated to be 660 tons per year. The total PM10 emissions for the quarry and processing plant were calculated to be 403 tons per year. The State and the company negotiated a compliance plan which addressed these violations and included a Fugitive Dust Control Plan. A consent order was proposed by the Michigan Department of Environmental Quality which included a schedule for implementation of the plan. However, although the Company did negotiate the terms of the order, it refuged to consent to the final order.

On July 21, 1995 the U.S. EPA issued a request for information under section 114 of the Clean Air Act in order to collect the necessary information to support a Federal action for the proper resolution of the case. This Federal presence made the company to resume negotiations with the state of Michigan so that the issues would be resolved with no intervention of the U.S. EPA. The order was finalized and placed for public comment. However, after the public notice, the Company delayed signing the Final order until the U.S. EPA intervened once again and prepared a Notice of violation. Under this new Federal presence the company signed the Final order and hand delivered it to the Michigan Department of Environmental Quality (MDEQ). On February 26, 1996 the MDEQ issued the Final order consent agreement to Rockwood. The Company has obtained the required permit to install and has committed to a Fugitive dust control plan, which will eliminate the emissions of fugitive dust. The Company also agreed to pay a penalty of $70,000 to the state of Michigan.

USX (Indiana): In April 1996, IDEM announced an administrative agreement with USX requiring $190 million in environmental improvements targeted to reduce air emissions from its Gary Works facility by 14,800 tons per year by September 1997, and also requiring USX to pay a $6 million fine. The agreed order settles air pollution violations at the blast furnace, coke battery, and other Gary Works operations. Specific projects that will be implemented include: An emissions control project at the sinter plant to reduce particulates by 70%, and sulfur dioxide by 80% (estimated value $30 million); an emissions control project at the sinter plant to reduce particulates by 70%, and sulfur dioxide by 80% (estimated value $30 million); and a new coke plant waste water treatment plant, to eliminate the use of contaminated wastewater for coke quenching (cooling) (estimated value $37 million).

These projects will allow Lake County to continue to meet air quality standards for particulate matter, and reduce the amounts of ozone producing emissions from the Gary Works.

CERCLA

Conservation Chemical Company of Illinois, Inc. site (Gary, IN): The EPA's site assessment documented several imminent and substantial threats to the environment at the CCCI site. EPA identified twelve non-empty deteriorating tanks containing acids and solvents; a number of corroded empty tanks with acid and caustic residue; a number of drums containing acids and caustic liquids; a number of empty drums with acid and caustic residue; soil contaminated with hazardous substances; lagoons/sludge pits containing hazardous substances; 5000 cubic yards of PCB-contaminated soil; five uncontrolled packs containing laboratory chemicals; 20 cubic yards of asbestos-containing materials; contaminated waste oils; and contaminated groundwater. Analytical testing of waste samples taken during that site investigation revealed the presence of hazardous substances and hazardous wastes on-site.

EPA issued a General Notice of Potential Liability for the CCCI site to over two hundred Potentially Responsible Parties (PRPs), including the owner/operator of the site and a number of generators. On August 30, 1996, EPA entered into a final *de minimis* settlement with 153 *de minimis* PRPs at the CCCI site. Under the administrative order on consent

for that *de minimis* settlement, the settling parties agreed to make settlement payments that included each settling party's fair share of the past and estimated future response costs at the site, plus a premium assessed against estimated future response costs to account for potential cost overruns, the potential for failure of the selected response action to clean up the site, and other risks.

Sanitary Landfill Company Superfund site (Moraine, OH): The Sanitary Landfill Company (IWD) Superfund site is a 53-acre property that was proposed for inclusion on the National Priorities List ("NPL") on October 15, 1984. U.S. EPA placed the site on the NPL on June 10, 1986.

U.S. EPA, the Ohio EPA, and a group of potentially responsible parties (PRPs) entered into a three-party administrative order by consent (AOC) for performance of the RI/FS, effective December 16, 1987. The PRPs formed a group called the Cardington Road Coalition (CRC).

During 1989 and 1990, the CRC conducted the RI. A final RI was approved by the Agencies on January 10, 1992, and the FS was completed on November 12, 1992. The Regional Administrator issued a Record of Decision ("ROD") on September 27, 1993, which selected the appropriate remedial action for the site.

The Agencies entered into a three-party AOC for Remedial Design of the remedy with a group of PRPs on June 6, 1994. This group consisted of the CRC plus TRW, Inc. and Waste Management of Ohio. This group performed the remedial design activities and the SSI in accordance with the AOC. On January 25, 1996, EPA issued an Explanation of Significant Difference in which the Agency concluded that phase II of the SSI was unnecessary and that no further analysis of the SSI was necessary.

The ROD estimated that the cost of the remedy was $8 million. The cost of U.S. EPA oversight U.S. EPA initiated negotiations for the Remedial Action ("RA") on August 16, 1995, upon issuance of "special notice" to potentially responsible parties pursuant to CERCLA § 122(e).

Negotiations ensued, leading to a FY 96 consent decree. Thirty-one municipalities *[The municipalities are all members of the Montgomery County Solid Waste District ("MCSWD"). The MCSWD operated an incinerator, which sent excess municipal waste to the landfill. Some of that waste contained commercial or industrial waste containing hazardous substances.]* The defendants will pay $60,000 of the Agency's oversight costs within 30 days of entry of the decree and they will pay 50% of the remaining oversight costs. The PRPs who have decided to participate in this settlement fall into one of two categories. The "Settling Defendants" have agreed to perform the work and to pay the oversight costs as discussed above. The "Premium Settling Defendants" are those generator PRPs who had a total waste contribution of less than .5% of the total waste at the site and who elected to pay a premium to the Settling Defendants and receive a *de minimis* settlement.

CLEAN WATER ACT

Hammond Industries (Hammond, Indiana): On September 17, 1996, U.S. EPA and IDEM jointly announced a Clean Water Act settlement between the governments and a number of industries in the Hammond, Indiana area. This case was brought as part of the continuing effort to address the contamination of the Grand Calumet River, and to curtail existing sources of pollution. The settling defendants include: American Maize Products Company (now known as Cerestar USA, Inc.), Lever Brothers Company, and Ferro Corporation (Keil Chemical Division). The consent decree will require remedial and restoration work in the Grand Calumet River through a trust fund that will be established with payments of $4.7 million ($4.1 million in direct payments made as injunctive relief, and $600,000 in penalties paid to the State that the State will place into the Fund).

Leggett and Platt (Grafton, Wisconsin): On Monday, April 1, 1996, a consent decree was entered in the Milwaukee Federal court with Leggett & Platt, concerning their Grafton, WI, facilities(2). A penalty of $450,000 was stipulated in the decree based on four years of reporting failures and exceeding the Federal Pretreatment standards for the Metal Molding and Casting industry. Also, the company agreed in the consent decree not to discharge process wastes to the Grafton POTW. As a result of this stipulation the company started a water recycle system in April, 1995, with several levels of plant water cleanliness. After several months of experimentation the company observed that the recycle system had a two-year payout due to the reduction of the use of plant lubricants. The yearly savings were in excess of $50,000/year. Therefore, there was no economic benefit available for recovery.

LTV Steel (East Chicago, Indiana): Outside of some minor additional sediment cleanup work being done around the perimeter of the LTV Steel No.2 Intake Flume, this sediment project was completed September

6, 1996. The preliminary estimate on the total amount of sediment removed is 112,000 cubic yards at a cost of approximately $12 million.

The significance of this project is that it is the first sediment removal project in the Indiana Harbor Canal/Grand Calumet River system to be completed that has removed a significant amount of ancient (pre 1975 deposited) contaminated sediment from the river system within recent years. The LTV Steel No.2 Intake Flume was identified by the U.S. Coast Guard in recent litigation as a vehicle and source for oil pollution reaching some of the beaches along the southern shore of Lake Michigan. The removal of all of the contaminated oily sediment in the LTV Steel No. 2 Intake Flume, as a result of the sediment clean up program in the flume, should help reduce the total amount of oily pollutants entering southern Lake Michigan and help meet some of the objectives of the International Joint Commission.

U.S. v. Sanitary District of Hammond et al.: The United States' and the State of Indiana's settled Clean Water Act pretreatment claims against Defendants American Maize Products Company (now known as Cerestar USA, Inc.), Lever Brothers Company and Ferro Corporation (Keil Chemical Division) in the case of *United States v. Sanitary District of Hammond et al.* This case was brought as part of a continuing effort to address the profound contamination in the Grand Calumet, tributary to Lake Michigan and Northwest Indiana. The Grand Calumet River flows through this highly industrialized and economically depressed area and is one of the most polluted waterways in the country. Hammond is located on the West Branch of the river, where sewage sediments have accumulated in depths of up to 16 feet.

The settling defendants are indirect dischargers that send their waste water to the Hammond Sanitary District, which in turn discharges directly to the West Branch of the Grand Calumet River. The complaint alleged that the industries violated a variety of federal and local pretreatment standards that govern their discharges to the District and that are federally enforceable under Section 307(a) of the Clean Water Act, and that these violations have resulted in sediment contamination in the severely polluted West Branch of the Grand Calumet River. The United States sought three types of relief against the industries: (1) penalties pursuant to Section 309(b) of the Clean Water Act; (2) prospective injunctive relief consisting of plant improvements and future compliance with the Clean Water Act; and (3) cleanup of the contaminated sediments in the West Branch of the Grand Calumet River under the authority of Section 309(d) of the Clean Water Act and Sections 10 and 13 of the Rivers and Harbors Act. The use of these statutory authorities to compel sediment cleanup is unprecedented.

The vehicle used in the consent decree for performing remedial and restoration work in the river is the Grand Calumet River Restoration Fund ("Fund"), a trust that will be established with payments of $4.7 million under the consent decree ($4.1 million in direct payments made as injunctive relief, and $600,000 in penalties paid to the State that the State has agreed to place into the Fund).

Southern Ohio Coal Company: On March 22, 1996 a complaint and consent decree which settles the United States' case against Southern Ohio Coal Company (SOCCO) were filed in Federal court. The consent decree requires full restoration of the streams affected by SOCCO's discharge of a billion gallons of acid mine drainage, extensive biological and chemical monitoring and reporting by SOCCO during and following the restoration efforts, the payment of a $300,000 penalty, $240,200 in payments to U.S. EPA and DOI to cover the costs of monitoring, field and laboratory work incurred by the government, $1,900,000 into the Leading Creek improvement fund which was created by the decree to finance projects to enhance leading Creek over and above the restoration efforts, and $100,000 to the State of West Virginia for projects to benefit the Ohio River. SOCCO will also spend an estimated $500,000 to develop a plan for implementing the Leading Creek improvement fund, and is expected to spend an additional $1,000,000 on its monitoring efforts.

U.S. Steel: In June, 1996, U.S. EPA held a public meeting announcing that USX and U.S. EPA had worked out in principal, via a draft consent decree, the terms of a Grand Calumet River (GCR) sediment remediation project plus an upgrade of water pollution abatement equipment at the USX Gary Indiana plant. The sediment remediation portion of the draft consent decree calls for the removal of all of the contaminated GCR sediment, identified as non-native soils, in the upper five (5) mile stretch of the GCR. Approximately 700,000 cubic yards of contaminated sediment costing about $50 million will be removed; USX will pay for all work. Companion consent decrees are under negotiation with the RCRA program and with the Natural Resource Trustees for associated issues.

EPCRA

USX Corporation: On September 27, 1996, U.S. EPA Region V simultaneously issued and settled an enforcement action against USX Corporation's Gary

Works for violations of Section 313 of the Emergency Planning and Community Right-to-Know Act in 1991, 1992, and 1993. This case was the result of a combined effort between NEIC and the Region. USX has now submitted 12 delinquent Form Rs to both the EPCRA Reporting Center and to the State of Indiana, and will pay the largest penalty ever collected by Region V for EPCRA Section 313 violations--$178,500. The case officer for WPTD was Bob Allen, the ORC attorney was Tom Martin, and the NEIC inspector was Martha Bennett

FIFRA

Chempace Corporation: On September 26, 1996, Region V PTES filed a civil administrative complaint against Chempace Corporation of Toledo, Ohio alleging 99 counts for the distribution or sale of unregistered and misbranded pesticides, and pesticide production in unregistered establishments. the total proposed penalty in the complaint is $200,000. The case is significant in that Chempace had, previous to the complaint, canceled all of the company's pesticide product registrations pursuant to Section 4 of FIFRA, as well as their establishment registration pursuant to Section 7. However, the company continued to produce and sell those canceled pesticides in a facility that was not registered.

Northrup King Co.: On September 30, 1996, as a result of a FIFRA inspection conducted by Region V on March 27-28, 1996, Region V issued a FIFRA civil complaint to Northrup King Co. of Golden Valley, Minnesota. The pesticide involved in the case is a genetically engineered corn seed that protects against the corn borer. Because this case is the first FIFRA complaint involving a genetically engineered pesticide, the case is nationally significant. The complaint alleged 21 counts of sale and distribution of an unregistered pesticide, 21 counts for failure to file a Notice of Arrival for pesticide imports, and 8 counts of pesticide production in unregistered establishments, for a total proposed penalty of $ 206,500. A consent agreement and consent order was filed simultaneously with, and in resolution of the complaint. The respondent agreed to pay $165,200, which is the largest penalty collected by Region V under FIFRA.

RCRA

Gary Development Company (Gary, Indiana): On April 4, 1996, a Decision and order was issued by Administrative Law Judge Greene in the matter of Gary Development Company (GDC), which was the subject of a two-part hearing that concluded in December 1990. In a May 1986 complaint, Region V alleged that GDC had operated a hazardous waste landfill without complying with applicable requirements, including ground-water monitoring and financial responsibility. While GDC had asserted that it is a "sanitary landfill for disposal of municipal and commercial waste", the Decision holds GDC to have received hazardous wastes for storage, treatment, or disposal, and is therefore subject to hazardous waste regulation under RCRA and the Indiana Administrative Code. GDC has been ordered to pay a penalty of $86,000 for failure to comply with ground-water monitoring, financial assurance, and preparedness/prevention requirements for hazardous waste treatment, storage, and disposal facilities. Also, the order grants all the injunctive relief requested by U.S. EPA, including implementation of closure, post-closure, and a ground-water quality assessment program.

Ross Incineration Services, Inc. (Grafton, Ohio): On May 30, Under the imminent hazard authority of Section 7003 of RCRA, an administrative order on consent was signed with Ross Incineration Services, Inc. The order addresses concerns arising from an explosion which caused extensive damage to the incinerator on December 5, 1995, as well as nine other incidents which occurred over the previous two years. In addition to placing strict limits on the operation of the incinerator, the order requires Ross to hire a consultant to conduct a Hazard and Operability (HAZOP) Study, which is a rigorous analysis of the facility's operations, processes and procedures. Ross will be required to make improvements following U.S. EPA's review of the study. The order also requires Ross to conduct emissions testing after the improvements have been made. After addressing public comments, the order was finalized on September 30.

TSCA

Amoco Corporation (TSCA-V-C-10-93): On June 1, 1996, the Pesticides and Toxics Enforcement Section and Amoco Corporation signed a consent agreement and consent order in settlement of a TSCA civil complaint. EPA alleged that Amoco failed to provide recipients of a chemical subject to a Section 5(e) order with the required health effects warning labels and material safety data sheets with prescribed language. EPA proposed a penalty of $2,106,000, which was reduced 50% for voluntary disclosure to $1,080,000. As part of settlement, Amoco completed a SEP to install water treatment feed tanks at a plant in Joliet, Illinois, to replace two wastewater feed ponds. The feed ponds collected wastewater containing a number of toxic chemicals, allowing those chemicals to evaporate or settle into the sediments. The project

reduced air emissions by 200 tons per year and eliminated the risk of sediment and groundwater contamination. The project cost Amoco about $13 million. EPA reduced the penalty to $216,000 in consideration for completion of the SEP.

Itochu International Corporation (5-TSCA-96-005): On February 7, 1996, the Pesticides and Toxics Enforcement Section issued a civil complaint to Itochu International Corporation, Bannockburn, Illinois 1996, alleging that Itochu shipped quantities of a chemical subject to a TSCA Section 5(e) order to four customers without either labeling the chemical as to its health hazards and precautionary measures or notifying the recipients in writing that the substance was to be used for research and development purpose only. EPA proposed a penalty of $40,000.

Safety Kleen Corporation (5-TSCA-96-014): On August 5, 1996, the Pesticides and Toxics Enforcement Section issued a civil complaint to Safety Kleen Corporation, East Chicago, Indiana alleging that Safety Kleen imported for a commercial TSCA purpose dozens of batches of a chemical not on the TSCA Inventory and falsely certified to U.S. Customs at the time of each import that the chemical was in compliance with TSCA. EPA proposed a penalty of $1,800,000.

REGION VI

CLEAN AIR ACT

United States v. Amoco Oil (Texas City, Texas): NEIC conducted Phase I and Phase II of a multi-media inspection of Amoco Oil's Texas City, Texas refinery in January and March 1996. The company was found to be in violation of the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) of the Clean Air Act (CAA). The case was referred to the U.S. Department of Justice (DOJ) on September 30, 1996. The requested relief is a civil penalty and injunctive relief requiring the facility to correct the violations.

United States v. Basis Petroleum, Inc. (Texas City, Texas): In July 1993, the Texas Natural Resource Conservation Commission (TNRCC) conducted an air inspection of Basis' refinery in Texas City, Texas. Several violations of the Clean Air Act discovered by the TNRCC during this inspection were referred to EPA Region VI in June 1995. In March 1994, EPA Region VI conducted its own air inspection of the same facility, during which additional violations were noted. The case containing some of the state violations as well as those found by EPA was referred to DOJ on September 30, 1996. There are five counts for violations of NSPS and NESHAP. Region VI also listed several areas of concern that warrant further investigation and inquiry. The Region VI litigation team has drafted a request to obtain additional information. If additional violations are found, the referral will be supplemented.

United States v. Elf Atochem North America, Inc. (Beaumont, Texas): EPA Region VI conducted a multi-media inspection of Elf Atochem's Beaumont, Texas facility on April 13, 1995. Violations of the CAA and the Texas State Implementation Plan (SIP) were found. The case was referred to DOJ on September 24, 1996, with five counts for violations of NSPS and NESHAP. This case is a part of a nationwide case being developed by the National Enforcement Screening System team. The requested relief is a civil penalty and injunctive relief requiring the facility to correct the violations.

GNB Industrial Battery Company (Arkansas): GNB failed to conduct initial performance test on several "affected facilities" as required under 40 C.F.R. Part 60, Subpart KK New Source Performance Standards for Lead-Acid Battery Manufacturing Plants at its Fort Smith, Arkansas battery manufacturing plant. After notification from Region VI, the company conducted the required performance tests. To settle the penalty matter, GNB agreed to pay a civil penalty of $63,177 and to conduct a Supplemental Environmental Project. The SEP consists of the following: Installation of fence-line ambient air monitors at the plant site to detect lead and other emissions; installation of a high-efficiency dust collection system to capture lead emissions from 18 lead pots and their associated crossing stations, and from 4 curing ovens; and construction of a containment building for the plant's lead oxide unloading facility. The SEP will reduce lead emissions into the atmosphere. The SEP has been valued at $384,669. Region VI has agreed to give GNB a 3-for-1 credit for the SEP which was agreed to under the 1991 SEP Policy.

Los Alamos National Laboratory (Los Alamos, New Mexico): On June 13, 1996 the Region VI Administrator signed a compliance agreement between EPA and the Department of Energy (DOE) regarding noncompliance of the Los Alamos National Laboratory (LANL) with National Emissions Standards for Hazardous Air Pollutants (NESHAP), Subpart H, Emissions of Radionuclides from DOE Facilities. The agreement satisfied the noncompliance issues related to exceedance of the emission standard and deficiencies in stack monitoring designs and operations methods cited in two Notices of Noncompliance issued by EPA in 1991 and 1992.

The agreement marked the end of a long negotiations process that included the taking of public comments and public meetings to explain the terms of the agreement. Negotiations were delayed while EPA processed DOE's application for approval to utilize an advanced and innovative single-point sampling device, called the "shrouded probe" for collecting representative samples of stack emissions. EPA approved the shrouded probe for use at all DOE facilities, as an alternative to multi-point sampling by isokinetic probes, which are specified in the NESHAP. Use of the shrouded probe allowed certain stacks at the LANL facility to be brought into full compliance with EPA requirements more quickly and with less expenditure of resources.

United States v. Lyondell Petrochemical Company (Houston, Texas): On September 26, 1996, Region VI requested that DOJ initiate a civil enforcement action against Lyondell Petrochemical Company for violating Section 112 of the CAA. The referred NESHAP violations were identified during a September 1992 EPA inspection of Lyondell's petroleum refinery in Houston, Texas. The referral proposes a civil penalty of $158,515, which Lyondell has agreed to pay.

United States v. Sun Refinery (Tulsa, Oklahoma): EPA Region VI has signed and submitted to the Department of Justice a civil referral against Sun refinery, Tulsa, Oklahoma. The referral is for violations of the Clean Air Act and the Oklahoma SIP. Specifically, the violations include five violations of the NSPS and three violations of the federally enforceable Oklahoma Air Pollution Control Regulations. EPA has received several citizen complaints and congressional inquiries regarding Sun. Two citizens' lawsuits have been filed against Sun and a third is pending. Additionally, the Oklahoma Department of Environmental Quality has been working with EPA on an investigation of Sun.

CERCLA

Bayou Bonfouca (Slidell, Louisiana): A consent decree with Kerf-McGee providing for recovery of $20,000,000.00 was lodged on June 13, 1996. This is particularly important because, until two years ago the region had not expected to be able to recover any of the costs. In addition, suit has been filed against seven other parties and it is expected that additional cost will be recovered.

Bio Ecology (Grand Prairie, Texas): On March 29, 1996, the Court granted the United States summary judgment against CTU Corporation, finding them liable for costs related to the remediation of the Bio Ecology site. Subsequently, the Region entered into an agreement in principle with the remaining PRP resulting in potential recovery of $2,600,000 and final resolution of the case.

Chino Mines (Grant County, New Mexico): The Region and Chino Mines entered into an administrative order on consent for PRP reimbursement of costs incurred assisting the State of New Mexico to oversee remedial activities on June 11, 1996. The site is a State-lead voluntary cleanup pilot. Under the original agreement with the State, Chino had agreed to reimburse the Region for providing assistance to the State.

Hi-Yield (Commerce, Texas): On September 30, 1996, the Region entered into an administrative order on consent with the Southern Pacific Transportations Company and St. Louis Southwestern Railway Company (both now merged with Union Pacific) for conduct of a removal to address contamination on railroad property adjacent to the Hi-Yield site. This action will complete response activities in the community and assures that the Region has agreements to reimburse all site-related costs.

Highway 71/72 Refinery (Bossier City, Louisiana): On July 31, 1996, the Region issued a unilateral administrative order to CanadianOxy requiring the company to perform a removal action to address lead contaminated areas of a residential development. The company is complying with the order.

Lincoln Creosoting (Bossier City, Louisiana): On November 21, 1995, the Region and Joslyn entered into an administrative order on consent for a non-time critical removal action to address contamination in residential areas affected by the Lincoln Creosoting site. The cleanup was finished during the fiscal year.

Marco of Iota (Iota, Louisiana): The Region entered into an administrative order on consent with *de minimis, de micromis* and other parties for reimbursement of costs incurred on June 5, 1996. The total amount of the settlement was in excess of $1,000,000.00. A unique aspect of this settlement was the use of limited alternative dispute resolution to confirm allocation amounts.

Odessa Drum (Odessa, Texas): On May 23, 1996, the Region entered into two administrative orders on consent resolving the liability of the PRPs. An additional order was signed by the Region on August 21, 1996. This settlements have a present value of $4,419,281.10, and monies received will be placed in a special account to fund the site remediation.

Pesses (Fort Worth, Texas): This removal action was concluded with the entry of a consent decree for recovery of $2,600,000.0 on July 12, 1996.

Rab Valley (Panama, Oklahoma): The Region and Joslyn Corporation entered into an administrative order on consent for a non-time critical removal action on March 8, 1996. Under the AOC, Joslyn will perform a response action to address contamination from a wood treating facility.

Sheridan (Hempsted, Texas): A *de minimis* consent decree for recovery of $32,160 from five parties was entered by the Court on April 10, 1996.

South Eighth Street Landfill (West Memphis, Arkansas): The Region and a group of generator PRPs entered into an administrative order on consent for the development of a remedial design on march 1, 1996. The remedial design will address contamination from an oil re-refining business which was disposed of in an unlicensed landfill on the bank of the Mississippi River. This site is also an allocation pilot.

Tex Tin (Texas City, Texas): In response to a claim filed by Tex Tin Corporation against the United States on may 10, 1996, the Region filed a counterclaim for costs related to site investigation, ranking and other response activities against Tex Tin. As previously noted, the site was also proposed for listing on the National Priorities List.

Texas Voluntary Cleanup Program agreement: A voluntary cleanup program agreement was negotiated with the State of Texas and assistance has been given to the other states in the Region for the development of legislation and regulations for their voluntary cleanup programs.

CLEAN WATER ACT

United States v. Roger J. Gautreau (Louisiana, Maryland): On January 9, 1996, the United States District Court entered a civil consent decree in which Mr. Gautreau agreed to perform onsite wetland restoration activities and to pay $4,500 in civil penalties to resolve a civil action brought under the Clean Water Act. These actions arose out of Mr. Gautreau's unauthorized discharge of fill material into wetlands in St. Amant, Louisiana. Mr. Gautreau payed the penalty and performed the required restoration. In June of 1996, the District Court accepted a motion of termination and the matter was concluded.

United States v. New Orleans Sewerage & Water Board (New Orleans, Louisiana): In 1993 the United States filed a civil complaint alleging violations of the Clean Water Act and Clean Air Act against the Board. The sanitary sewer and collection system of New Orleans are in very poor condition and have caused hundreds of unpermitted discharges of contaminated water to the waters of the United States. Trial was set for October 7, 1996. Over the summer months preceding trial, the team consisting of EPA and DOJ legal and technical staff participated in extensive settlement negotiations with the Board. Minor issues were resolved, but significant aspects of the case including necessary injunctive relief measures and scheduling were not settled. The court removed the case from the trial docket on the eve of trial and ordered the parties to participate in non-binding mediation. Mediation proved unsuccessful, in large part due to the inability of the parties to agree on an appropriate assessment of penalty and other major issues related to long-term injunctive relief. The court has set the new trial date for March 2, 1998. This case is significant for many reasons including issues related to litigating against a small governmental entity, environmental justice claims, legal issues associated with Sanitary Sewer Overflows, and the use of alternative dispute resolution for technical disputes.

United States v. Yaffe Iron and Metal Co., Inc.: In March of 1996, Yaffe Iron and Metal Co., Inc. (Yaffe), a metals recycling facility located in Muskogee, Oklahoma, agreed to pay a penalty of $150,000 in settlement of a civil complaint filed against it pursuant to Section 309(b) of the Clean Water Act ("the Act" or "CWA"), 33 U.S.C. § 1319(b). In addition to the penalty, Yaffe agreed to perform a Supplemental Environmental Project ("SEP") in the form of a multi-media environmental audit of the company's Muskogee facility. The SEP is valued at approximately $40,000. The complaint, which was filed in June of 1995 with the United States District Court for the Eastern District of Oklahoma, alleged that Yaffe violated the CWA by discharging pollutants to waters of the United States without a National Pollutant Discharge Elimination System ("NPDES") permit in violation of Section 301 of the Act, 33 U.S.C. § 1311.

FIFRA

United States v. Harry James Saul and Ronnie Snead (Eastern District of Arkansas): Harry Saul, part owner and operator of Harry Saul Minnow Farm, Inc., Prairie County, Arkansas, and a company employee, Ronnie Snead, were sentenced on June 19, 1996, by Federal Magistrate Henry L. Jones for a misdemeanor violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The defendants had mixed furadan, a restricted use pesticide, with minnows and spread the treated minnows on a levee on the minnow farm to control nuisance birds. Mr. Saul and Mr. Snead stipulated to the facts of the case after a one count Bill of Information was filed in May, 1995, but argued that to the ordinary person, "inconsistent with the label" would mean conduct that the label specifically prohibits. The government argued that the label lists the specific uses for Furadan, and that the statute lists specific exceptions to prohibited conduct, none of which were applicable to the defendant. Saul was ordered to pay a $5,000 fine and Snead a $1,000 fine for use inconsistent with the label. The defendant's attorney notified Judge Jones that his clients have decided to

appeal the Court's judgement. Case law resulting from the appeal may affect other prosecutions.

Skarda Flying Service, Inc.: In May and June 1989, Skarda Flying Service, Inc. (SFS), a small aerial pesticide applicator in Hazen, Arkansas applied the registered pesticide, 2,4-dichlorophenoxy butyric acid (2,4-DB) to rice crops in 38 separate applications. 2,4-DB is labeled only for soybeans and peanuts, and not for rice. An inspection by an Arkansas State Plant Board inspector in early 1990 revealed the 2,4-DB applications. In June 1990, the Arkansas State Plant Board found that SFS had applied 2,4-DB to rice and put SFS on probation, but did not impose a civil penalty. Region VI decided to take its own enforcement action in light of the inadequate enforcement response by the Plant Board, and on September 27, 1991, filed a FIFRA complaint against SFS alleging 38 violations of FIFRA for the company's application of 2,4-DB in a manner inconsistent with its labeling ($500 per violation). SFS answered admitting the violations and requesting a hearing.

On October 17, 1996, Judge Andrew S. Pearlstein issued an Initial Decision reducing the $19,000 administrative penalty to $5,000. The decision holds that the FIFRA Enforcement Response Policy (ERP) is inconsistent with FIFRA Sections 14(a)(2) and 14(a)(4) as well as 40 CFR Section 22.27 in that it does not allow for any reduction from the maximum statutory penalty amount for first offenses by "for hire" applicators. With regard to the "ability to pay" factor, the Judge ruled that it was not necessary to examine in detail evidence on respondent's finances." While the SFS could pay the whole penalty amount, to do so would leave the company no reserves to meet "unanticipated expenses".

RCRA

American Airlines, Inc. (Tulsa, Oklahoma): A CACO was filed against American Airlines, Inc. (respondent) on July 31, 1996. The complaint alleged respondent had discharged degreasing solvents (hazardous waste) into the on-site injection wells, in violation of the RCRA land disposal restrictions. In the CACO, American agreed to pay a cash penalty of $20,000, to take affirmative actions to prevent further injection of restricted wastes, and to fund a SEP in the amount of $385, 235. The SEP provides for 98% or 6969 pounds/year reductions in chrome waste through a chrome recovery system and the elimination of 26 million gallons of waste water into injection wells annually.

BJ Services Company, U.S.A. (Hobbs, New Mexico): On July 1, 1996, a complaint and a consent agreement and consent order (CACO) were simultaneously filed, settling an administrative case against BJ Services Company, U.S.A. (respondent). The complaint alleged RCRA violations stemming from respondent's failure to obtain a permit to store hazardous waste and failure to make hazardous waste determinations. The proposed penalty in the complaint was $85,774.00. Pursuant to the terms of the CACO, respondent agreed to pay a penalty of $3,452.00 and agreed to fund a Supplemental Environmental Project (SEP) in the amount of $81,548.00. The SEP involves the establishment of a hazardous waste collection program aimed at collecting household hazardous waste and hazardous waste from conditionally exempt small quantity generators in the Hobbs, New Mexico area.

Camp Stanley Storage Activity (Boerne, Texas): A Final consent agreement and consent order (CACO) was filed on August 17, 1996, settling an administrative case against the respondent. Pursuant to the terms of the CACO, respondent agree to pay a penalty of $45,000 in cash and agreed to fund a SEP in the amount of $555,000. The SEP includes auditing and investigation of the extent of contamination at the Base which occurred prior to RCRA (1980). Additionally, Camp Stanley has eliminated the operations of disposing of waste munitions in their land based open burning/open detonation unit. Another Department of Defense (DOD) facility, which is permitted, will dispose of waste munitions for Camp Stanley. The SEPs conducted by Camp Stanley are expected to reduce releases by approximately 20 tons per year of nitrosamines and nitro-aromatic compounds to soils at the facility.

Cooper Cameron (Richmond, Texas): This enforcement action arose out of the Region VI Foundry Initiative. EPA conducted an inspection of the Cooper Industries, Inc., Oil Tool Division in Richmond, Texas on September 21 - 23, 1994. At that facility, the Cooper Oil Tool Division manufactured a variety of low and high carbon steel and stainless steel oil tool castings for valves and other equipment. During the inspection, EPA discovered a waste pile which contained Electric Arc Furnace (EAF) baghouse dust. This material was sampled using the TCLP method and was found to contain chromium (D007) above the 5.0 mg/L regulatory level. Therefore, the EAF baghouse dust is a hazardous waste. Cooper Oil Tool Division was acquired by Cooper Cameron Corporation which was spun off from Cooper Industries, Inc. in 1995. As the corporate successor to the Oil Tool Division, Cooper Cameron became responsible for the cited violations. Region VI simultaneously filed the CACO

on September 30, 1996, assessing a civil penalty of $45,000 plus injunctive relief. Additionally, Cooper Cameron has agreed to remediate, under the TNRCC Voluntary Cleanup Program, approximately 30 acres of waste materials stored in piles on their site. It is estimated that this action will reduce the risk of releasing more than 100 tons of chromium contaminated soil. The agreement to remediate the waste pile is a result of the company's concern over environmental justice issues. The surrounding community is approximately 51% minority while Texas' average is 39%.

Enviro-Chem, Inc. (Hobbs, New Mexico): On June 25, 1996, a complaint and a consent agreement and consent order (CACO) were simultaneously filed, settling an administrative case against Enviro-Chem, Inc.,(respondent). The complaint alleged RCRA violations stemming from respondent's failure to obtain a permit to store hazardous waste and failure to make hazardous waste determinations. The proposed penalty in the complaint was $10,911.00. Pursuant to the terms of the CACO, respondent agreed to pay a penalty of $911 and agreed to fund a Supplemental Environmental Project (SEP) in the amount of $10,000. The SEP involves the promotion and presentation of a two day Environmental Compliance Promotion and Compliance Assistance Seminar (RCRA/EPCRTKA) to the business and industry of the Hobbs\ Permian Basin community.

Ethyl Corporation (Magnolia, Arkansas): On August 30, 1996, a CACO was filed against Albemarle Corporation, A.K.A. Ethyl Corporation, (respondent) for RCRA violations involving storage of hazardous wastes and the use of an unpermitted underground injection well at the facility. (The company was injecting about 50 tons per year of hazardous waste into this well.) The violations were discovered by a Region VI EPA compliance evaluation inspection. Pursuant to the terms of the CACO, the respondent agreed to remedy the violations, agreed to pay a civil penalty of $40,000, and to fund a SEP valued at $150,000 (after-tax, net present value). The SEP is designed to protect diminishing ground water resources in the area by recycling process water and/or converting to surface water use. The facility is a major user of ground water in the area, currently consuming 850 gallons per minute. Injunctive relief is estimated to cost the respondent approximately $113,500.

Fina Oil & Chemical Co. (Deer Park, Texas): A CACO was filed on September 30, 1996, which settled an administrative case against Fina Oil (respondent). This enforcement action was conducted under Region VI's BIF initiative. The complaint alleged RCRA violations stemming from respondent's operation of a boiler burning hazardous waste with an incomplete or an inaccurate certification of compliance; exceedance of limits established in the certification of pre-compliance and compliance test notification during compliance testing; failure to continuously monitor, and record emissions of carbon monoxide (CO) and oxygen; failure to conduct tests of the automatic waste feed cutoff system for a boiler burning hazardous waste; failure to develop and/or update facility waste analysis plan, inspection plan and schedule, personnel training plan, and contingency plan; and operation of an incinerator burning hazardous waste without a permit or interim status. Pursuant to the terms of the CACO, Fina agreed to pay a penalty of $178,000 in cash to satisfy the approximately $460,000 in civil penalties assessed by Region VI. respondent also agreed to fund six SEPs in the amount of $2 million. Fina will submit a draft SEP implementation plan to EPA for review and comment. The six SEPs include (1) a pollution prevention engineering assessment, (2) upgrading the waste heat boiler controls, (3) installation of improved flash tank line heaters, (4) installation of flash tank powder seals, (5) improvement of sludge dewatering, and (6) installation/operation of piping to extend the use of an alkyl flare. These SEPs are expected to reduce volatile emissions from Fina's plant by 800 tons per year.

Fina Oil and Chemical Company (La Porte, Texas): On September 30, 1996, a complaint and a consent agreement and consent order (CACO) were simultaneously filed, settling an administrative case against FINA Oil and Chemical Company (respondent). The complaint alleged RCRA violations stemming from respondent's operation of a boiler burning hazardous waste with an incomplete or an inaccurate certification of compliance; exceedance of limits established in the certification of precompliance and compliance test notification during compliance testing; failure to continuously monitor, and record emissions of carbon monoxide (CO) and oxygen; failure to conduct tests of the automatic waste feed cutoff system (AWFCS) for a boiler burning hazardous waste; failure to create and maintain an adequate operating record for a boiler burning hazardous waste; failure to develop and/or update facility waste analysis plan, inspection plan and schedule, personnel training plan, and contingency plan; and operation of an incinerator burning hazardous waste without a permit or interim status. Pursuant to the terms of the CACO, respondent agreed to pay a penalty of $178,000.00 and agreed to fund a Supplemental Environmental Projects (SEPs) in the amount of $2,000,000.00. The SEPs involve a pollution prevention engineering assessment at respondent's facility, upgrading of the waste heat boiler

controls, installation of an improved flash tank line heaters, installation of flash tank powder seals, improvement of sludge dewatering, and installation and operation of piping to extend the use of alkyl flare.

Fort Hood Army Post (Killeen, Texas): The Region filed a CACO on September 30, 1996, against Fort Hood Army Post (FHAP), (respondent). The complaint issued against respondent alleged RCRA violations stemming from respondent's failure to obtain a permit to store hazardous waste, failure to obtain permits for a hazardous waste treatment units, and failure to amend the closure plan. FHAP submitted a settlement proposal in mid-August 1996. Pursuant to the terms of the CACO, FHAP agreed to pay a penalty of $100,000 in cash and agreed to fund a SEP in the amount of $1.86 million. The SEP involves the implementation of an environmental audit of the hazardous waste activities and includes implementation of approximately 88 oil/solvent recovery units. The Fire Training Unit, which was determined to have been inappropriately employed to manage and dispose of hazardous wastes, will be closed upon TNRCC's approval of the final closure plans for this unit. The respondent will provide a SEP implementation plan to Region VI to review for adequacy prior to performance of the SEPs.

Go/Dan Industries (Laredo, Texas): The facility, an importer of hazardous waste from Mexico, is located in a predominantly Hispanic area. A CACO was filed on June 12, 1996, against Go/Dan Industries (respondent) for failure to notify of hazardous waste activities and failure to complete manifests for imported hazardous waste. Pursuant to the terms of the CACO respondent agreed to pay a penalty of $20,024.

HICA Steel Foundry and Upgrade Co. (Shreveport, Louisiana): On November 7, 1995, EPA issued HICA Steel Foundry and Upgrade Company an administrative order (complaint). The order proposed a $472,000 fine and required closure of several unauthorized hazardous waste management units. This action required the removal and proper disposal of 2600 gallons on corrosive and ignitable hazardous waste and 255 tons of lead and chromium contaminated waste from the facility.

Lafitte Industries, Inc. (Lafitte, Louisiana): On September 24, 1996, EPA filed a complaint and CACO against Lafitte Industries (respondent) for RCRA violations. The facility is located in Lafitte, Louisiana, a predominantly low income minority area. Pursuant to the terms of the CACO respondent agreed to address the RCRA storage violations and to pay a penalty of $9,500. This action addressed 10 tons of improperly stored hazardous waste.

Merichem Company (Houston, Texas): A CACO was filed on December 18, 1995, against Merichem (respondent), a chemical manufacturing facility. The CACO required the facility to return to compliance in response to alleged violations of the BIF regulations, and to pay a civil penalty of $100,000. RCRA violations included failure to test the Automatic Waste Feed Cutoff System; exceeding Arsenic and Ash feed rate limits; lack of control of fugitive emissions; failure to amend a closure plan; and failure to operate within submitted Certification of Compliance parameters. In addition, respondent agreed to perform a pollution abatement SEP with an agreed cost of $690,000 for engineering, major new equipment, and labor to install the new equipment. The SEP is designed to capture all process emissions and eliminate odors normally associated with a production facility of this type. The SEP will result in an estimated 776 lbs/yr reduction in waste gases containing cresols, phenols, and dimethyl phenols.

Micro Chemical (Winnsboro, Louisiana): Micro Chemical is a pesticide formulating, mixing, and packaging facility 3000 feet up gradient of the Winnsboro's groundwater well complex. In March 1990 a release from the facility was reported by a citizen. Investigations revealed that the company had attempted to dump 100 cubic yards of pesticide contaminated soil offsite. People living near the dump site became ill from the fumes and the state ordered the soil to be returned to Micro Chemical. Ultimately a criminal case was initiated for the midnight dumping. Other storage violations detected were the subject of an administrative complaint issued in September 1992. A RCRA 3008(h) order on consent was entered into on September 1994 to remediate the site. In resolving the September 1992 complaint, a final order was issued on March 28, 1996. Micro Chemical agreed to pay a penalty of $25,000 and agreed to fund a SEP valued at $25,000. The SEP established collection events for household waste and waste pesticides in the Franklin Parish area. During FY96, the SEP enabled about 100 tons of waste to be collected and properly disposed.

Mosby Enterprises, Inc.(Belle Chasse, Louisiana): On September 24, 1996, EPA simultaneously filed an complaint and CACO against Mosby for hazardous waste violations. The facility is located in Belle Chase, Louisiana, a predominantly low income minority area. Pursuant to the terms of the CACO Mosby agreed to address the RCRA violations including open burning of hazardous waste and agreed to a penalty of $33,000. The action resulted in the removal of 27 tons of waste

from the community (burn pile remediation and proper disposal of illegally stored waste).

National Research Laboratories, Inc. (Albuquerque, New Mexico): On August 30, 1996, a complaint and a consent agreement and consent order (CACO) were simultaneously filed, settling an administrative case against National Research Laboratories, Inc., (respondent). The complaint alleged RCRA violations stemming from respondent's failure to obtain a permit to store hazardous waste, failure to adequately characterize waste as hazardous waste, and failure to specify accumulation dates on drums containing hazardous waste. The proposed penalty in the complaint was $30,000.00. Pursuant to the terms of the CACO, respondent agreed to pay a penalty of $7,500.00 and agreed to fund a Supplemental Environmental Project (SEP) in the amount of $22,500.00. The SEP involves the establishment of an outreach educational program directed at households and conditionally exempt small quantity generators in the Albuquerque area. The purpose of the SEP program is to educate the target groups regarding the proper ways of handling and disposing of hazardous waste.

NIBCO, Inc.: A Final consent agreement/consent order was signed by both Region VI and NIBCO on September 30, 1996. NIBCO agreed to pay $750,000 in cash to satisfy the approximately $2.5 million in civil penalties assessed by Region VI in this Foundry Initiative enforcement action. The enforcement action against NIBCO originated because the facility was treating sand used in the casting of metal valves (casting sand) with metallic iron dust, without a permit, and disposing of the material in the Nacogdoches municipal landfill. The casting sand absorbs lead during the casting process, making it a hazardous waste. In order to offset the civil penalty, NIBCO agreed to work with TNRCC and the City of Nacogdoches to characterize the foundry sand waste disposed of in the Nacogdoches municipal landfill, and ensure closure and post-closure measures are performed in accordance with all applicable requirements and schedules established by TNRCC.

Solv-X Corporation (Albuquerque, New Mexico): On September 13, 1996, a complaint and a consent agreement and consent order (CACO) were simultaneously filed, settling an administrative case against Solv-Ex Corporation, (respondent). The complaint alleged RCRA violations stemming from respondent's failure to obtain a permit to store hazardous waste and failure to adequately characterize waste as hazardous waste. The proposed penalty in the complaint was $60,237.00. Pursuant to the terms of the CACO, respondent agreed to pay a penalty of $15,059.00 and agreed to fund a Supplemental Environmental Project (SEP) in the amount of $45,178.00. The SEP involves the establishment of a hazardous waste collection program aimed at collecting hazardous waste from conditionally exempt small quantity generators in the Albuquerque, New Mexico area.

Sparton Technology, Inc. (Albuquerque, New Mexico): On September 16, 1996, EPA Region VI filed a Unilateral administrative order under Section 3008(h) of RCRA against Sparton Technology, Inc. (Sparton) of Albuquerque, New Mexico. This action will require Sparton to implement the selected remedy to address ground water and soil contamination. Sparton manufactured electronic components from 1961 until 1994, when operations were discontinued. Past waste management practices produced a contaminant plume in the ground water containing waste solvents at levels several times the maximum contaminant levels established under the Safe Drinking Water Act. This environmental problem is compounded due to the fact that ground water is the sole source of drinking water for the City of Albuquerque and a water supply well is located approximately two miles down-gradient from the leading edge of the ground water contaminant plume.

Under a RCRA Section 3008(h) administrative order on consent signed with EPA in 1988, Sparton performed the following: 1) Installed and operated an on-site ground water recovery and treatment system; 2) investigated ground water contamination; and 3) evaluated various cleanup alternatives. This administrative order on consent was terminated on June 24, 1996, when a final remedy was selected by EPA. EPA Region VI initially attempted to negotiate the implementation of the remedy; however, negotiations were terminated on August 7, 1996, when Sparton filed a complaint in U.S. District Court seeking to force EPA to select Sparton's preferred remedy.

Why Wastewater (El Paso, Texas): EPA and the Department of Justice reached agreement with Why Wastewater, Inc., of El Paso, Texas in September 1995, resolving allegations against the company for storing maquiladora hazardous waste shipments without a permit. EPA and the Department of Justice (DOJ) filed a consent decree in which the facility agreed to pay a civil penalty of $103,000. The mismanagement of hazardous waste between predominantly minority and low income communities remains a major concern along the border. This action, addressing more than 17,000 gallons of illegally stored

hazardous waste, underscores the Region's resolve to provide greater protection to such communities.

SDWA

United States vs. Tenneco Sac and Fox Tribe: In December, 1994 the Department of Justice and the Office of Enforcement and Compliance Assurance notified the Region that DOJ wanted to bring a civil case against some oil production companies in Oklahoma on the Sac and Fox tribal land. The oil companies had contaminated groundwater, both shallow and deep, and had caused some surface damage. The Region and OECA agreed that the best environmental case could be brought under the Safe Drinking Water Act (SDWA) emergency powers provisions. Under the SDWA, the Administrator of EPA can take whatever action is necessary to abate an imminent and substantial endangerment to a public water system or an underground source of drinking water.

On January 23, 1995 the Region referred the case to DOJ under the SDWA alleging several oil companies contaminated the underground source of drinking water under the Sac and Fox tribal land. DOJ filed a complaint against Tenneco on January 31, 1996. The complaint asked the court to require Tenneco clean up the aquifer and pay damages to the tribe.

On August 8, 1996 the parties reached a settlement in principle based on Tenneco providing the Sac and Fox tribe the following: (a) a potable water supply from wells to be constructed on 3-40 acre tracts of land off tribal land. The land is to be conveyed in Trust to the tribe, (b) irrigation water from the Deep Fork River on the Reservation, (c) surface and shallow groundwater remediation, along with trash removal and a cash payment of $300,000 in lieu of other clean-up, (d) reforestation of a pecan grove damaged by the oil field activity, (e) cash damages in the amount of $750,000, (f) government agreement not to hold Tenneco responsible for any other environmental damage caused by their activities in the area.

TSCA

Abilene Radio and Television Company: KRBC-TV, Abilene, Texas: In a settlement with Abilene Radio and Television Company for violations of PCB regulations promulgated under TSCA, the company agreed to perform a SEP involving the removal and disposal of 67 capacitors containing over 500 ppm PCBs. These PCB capacitors were located at the company's Abilene, Texas facility and were replaced with non-PCB capacitors. This SEP project removes PCB oil from service which could otherwise have been released into the environment; elimination of these capacitors also removes this facility from regulated TSCA PCB status. The SEP cost is estimated at $10,371 and a $7,500 penalty was also assessed.

El Paso Electric Company: EPA discovered TSCA PCB violations during inspections of several EPEC electrical substations. EPA issued an enforcement action on September 27, 1995 and filed the consent agreement on October 3, 1995. No civil penalty was assessed based on the bankrupt status of the company and the agreement to conduct a SEP. EPEC conducted a SEP involving the permanent removal and disposal of approximately 560 PCB Capacitors (capacitors containing 500 ppm PCBs or greater) from electrical substations in the EPEC service area. EPEC replaced each of the removed PCB Capacitors with non-PCB capacitors. EPEC spent approximately $290,000 on the SEP.

City of Hearne, Texas: In a settlement with the City of Hearne, Texas for violations of PCB regulations promulgated under TSCA, the City of Hearne agreed to conduct a SEP which will identify all existing oil-filled electrical equipment within the City of Hearne Electrical System. The SEP will also involve the removal and disposal of all PCBs and PCB Equipment that contain PCBs at 50 ppm or greater within 2 years. The SEP cost for this project is estimated to be $99,000.

University of Texas at Austin Balcones Research Center: In a settlement with The University of Texas at Austin, Balcones Research Center ("the University") for violations of PCB regulations promulgated under TSCA, the University agreed to perform a SEP involving the removal and disposal of one PCB-Contaminated transformer, three PCB Capacitors, and approximately 19,700 PCB fluorescent light ballasts (approximately 72,000 lbs). The SEP removes from service a substantial quantity of PCB Items which eliminates the risk of any PCBs being released into the environment in the event of leakage or other failure. The SEP cost is estimated to be in excess of $598,000.

MULTIMEDIA

Koch Refining Company L.P. (Corpus Christi, Texas): An Amended complaint, and a fully executed consent agreement/consent order (CACO) were signed and filed on February 16, 1996. These documents fully resolved the alleged violations stemming from a RCRA and Toxic Substance Control Act (TSCA) multimedia on-site inspection at the facility. Conditions of the CACO required Koch to timely and satisfactorily

address 23 alleged RCRA violations and seven alleged TSCA violations in order to return to compliance with State and Federal regulations, and to submit a civil penalty of $575,000 for alleged violations of both the TSCA and RCRA programs. As a result of this action, approximately 10,560 gallons of waste per year will be properly managed. These wastes contained spent caustics, refinery waste waters, volatile organics, and PCBs.

Mobil Chemical Co.: A Final consent agreement/consent order (CACO) was signed by both Region VI and Mobil on November 22, 1995. The CACO resolved a multimedia compliant filed against Mobil for alleged violations of the Resource Conservation and Recovery Act, the Clean Air Act, and the Clean Water Act. The settlement entailed a payment of $250,000 in cash and $3.5 million for three SEP's. The three SEP's included (1) an expanded leak detection and repair system, (2) pump retro-fitting and replacement, and (3) toluene tank emissions control. Additionally, Mobil removed and disposed of a waste pile containing 92 tons of lead contaminated soil.

Phibro/Basis (Houston, Texas): Basis Petroleum and EPA Region VI entered into a Final consent agreement/consent order (CACO) on September 17, 1996. This enforcement action stemmed from a Multi-media Inspection conducted at Basis by Region VI. Violations of RCRA, the CWA, and TSCA were alleged by Region VI. The alleged RCRA violations included failure by Basis to keep containers of hazardous waste closed when not in use but containing volatile hazardous waste, improper labeling of containers of hazardous waste, and inadequate landban records. Settlement negotiations resulted in Basis paying $34,500 in cash and development of a standard operating procedure for facility personnel to follow in the future to ensure compliance with the aforementioned regulatory programs.

Shell Oil Company (Norco, Louisiana): On January 26, 1996, the U.S. District Court entered a civil consent decree in which Shell agreed to pay $1 million in penalties and fund a SEP worth $9 million. This was a multimedia action which included the CWA, CAA, Safe Drinking Water Act (SDWA), and RCRA. The RCRA counts arose from Shell's improper disposal of a listed hazardous waste (F005) into a nonhazardous landfill. The SEP includes implementation of an enhanced leak detection and repair program, air toxics reduction, enhanced environmental management, treatment of caustic olefins, and a regeneration/reuse project. The SEP calls for an overall emissions reduction of 991 tons.

Vulcan Chemicals Company (Geismar, Louisiana): On March 21, 1996, the U.S. District Court entered an Administrative Penalty order in which Vulcan agreed to pay $81,375 in penalties. This was a multimedia action which included TSCA and RCRA. The enforcement action arose from Vulcan's failure to properly analyze PCB waste streams and failure to properly store PCB's and PCB items. The action addressed 108,000 gallons of waste and resulted in the implementation of an enhanced leak detection and repair program, and an enhanced environmental management program.

REGION VII

CLEAN AIR ACT

U.S. v. Elliott Drywall & Asbestos, Inc. (Kansas City, Kansas): A consent decree was entered April 19, 1996, in the United States District Court for the District of Kansas against Elliott Drywall & Asbestos settling violations by Elliott of the National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements for asbestos. The violations occurred during work performed by Elliott at the University of Kansas Medical Center in Kansas City, Kansas. The consent decree requires that Elliott pay a civil penalty of $50,000 for the violations. In negotiating a settlement of these violations, Elliott asserted a claim that it was financially unable to pay any penalty. Region VII performed an analysis of Elliott's financial records, and determined that the company was financially able to pay a penalty of $50,000, which Elliott ultimately agreed to do.

U.S. v. Lone Star Industries, Inc. (Cape Girardeau, Missouri): Lone Star Industries, a non-metallic mineral processor, is subject to the CAA New Source Performance Standards for such facilities set forth at 40 C.F.R. Part 60, Subpart OOO. In violation of those requirements, Lone Star failed to notify the Agency of equipment located at its plant subject to the requirements of Subpart OOO, and had not conducted performance tests of that equipment to ensure that particulate emissions from the equipment did not exceed the emission limits set forth in the regulations.

As a result of negotiations between the government and Lone Star, a consent decree has been entered in U.S. District Court for the Eastern District of Missouri resolving these notification and testing violations. The consent decree imposes a civil penalty of $40,000 on Lone Star. The required emission testing was also completed by Lone Star during the course of settlement negotiations.

Lone Star was one of several hundred companies in the State of Missouri that had been notified of a Region VII's Subpart OOO Voluntary Compliance Program. Lone Star did not participate in the voluntary compliance program, and this action was taken as part of phase 2 of that initiative, enforcing against facilities subject to the Subpart OOO requirements but who chose not to voluntarily disclose their violations.

Stupp Brothers Bridge & Iron Company (St. Louis, Missouri): Region VII provided assistance and support to the State of Missouri resulting in a consent agreement between Stupp Bros., Inc.,and the Missouri Department of Natural Resources (MDNR) addressing Stupp Brothers' violations of the federally approved Missouri State Implementation Plan (SIP).

Stupp Brothers, a fabricator of large custom engineered steel structures for use in bridges and major industrial and high-rise buildings, is subject to the emission limits for VOCs set forth in Missouri's SIP. Stupp Brothers' violations of those emissions limits spanned back to 1992. In the fall of 1995, MDNR asked Region VII for assistance as negotiations between Stupp Bros. and the State had broken down.

After meeting with Region VII and MDNR, Stupp Bros. agreed to enter into a consent agreement with the state. The consent agreement requires reduction of VOC emissions in accordance with a compliance schedule and sets forth stipulated penalties in event of an exceedance.

Western Resources, Inc. (Topeka, Kansas): Western Resources, Inc., an electric utility located in Topeka, Kansas, failed to perform required sulfur dioxide emission certification tests. Emissions of sulfur dioxide, an acid rain precursor, are regulated under the CAA Acid Rain regulations. The regulations require that facilities certify the quality of their sulfur dioxide emissions data by January 1. 1995, which Western Resources did not do. On October 2, 1995, Region VII issued an administrative compliance order to Western Resources, requiring the facility to install, certify, maintain, and operate a natural gas metering system that meets the required design and installation specifications; to perform a visual inspection of each orifice palate to ensure compliance; to complete a calibration of all auxiliary measurement equipment necessary to calculate natural gas flow; and to submit a revised certification application for each unit affected by the order.

CERCLA

Carter Carburetor site (St. Louis, Missouri): On July 23, 1996, EPA, Region VII issued a CERCLA Section 106(a) Unilateral administrative order for Removal Response Activities ("order") to ACF Industries, Inc.,

requiring ACF to conduct a time-critical removal action at the Carter Carburetor site. The Carter Carburetor site includes a facility that occupies one and one half square blocks in St. Louis, Missouri. The facility consists of several multistory, connected, manufacturing and warehouse buildings in a mixed, urban commercial/residential area. Widespread PCB contamination exists throughout the abandoned facility, portions of which are exposed to the outside environment due to broken windows and collapsed roof areas. PCB contamination also exists in a parking lot outside the abandoned portion of the facility, probably as a result of releases from PCB transformers. The removal action addresses a portion of the facility that has been abandoned for several years, and is currently owned by the St. Louis Land Reutilization Authority (LRA).

The estimated cost of the removal action is $1,906,116. The removal action will involve the removal and disposal of all PCB articles, drums, machinery and equipment left in the abandoned portion of the facility, including PCB contaminated furnaces, ventilation and air ducts, exhaust systems and piping. The abandoned portion of the facility will then be dismantled and disposed of. Underground lines, tanks and/or sumps will be removed and disposed of. The concrete floor will be decontaminated and an interim cover will be installed pending further response actions to address remaining portions of the facility. Once the removal action is complete, there is potential for redevelopment.

U.S. v. Connor Investment (Jasper County, Kansas): On September 27, 1996, Connor signed a consent decree which allows the creation of a soil repository for the Jasper County site clean-up of residential yards. The company also signed a temporary access agreement to begin design work prior to entry of the consent decree. By the implementation of this consent decree, a facility is available to implement the remedial action at the site.

Dutton-Lainson Company (Hastings, Nebraska): Dutton-Lainson Company has agreed in an administrative order on consent issued pursuant to Section 106 of CERCLA to perform a removal action on its property located at the Well #3 Subsite in Hastings and to reimburse EPA for its oversight costs. This removal action requires Dutton-Lainson to perform soil vapor extraction in order to prevent further migration of trichloroethane (TA) and trichloroethylene (THE) contamination into the groundwater. EPA has acted to control the source of carbon tetrachloride contamination at this subsite. Dutton-Lainson will implement source control addressing the remaining contamination.

U.S. v. Eveready Battery (Red Oak, Iowa): EPA has signed a consent decree with seven companies, two individual landowners and the city of Red Oak, Iowa, in a global settlement for the Red Oak Landfill Superfund site. The settlement in the decree divides various responsibilities "severally" among the settling parties. Under the settlement, Eveready and its parent, Ralston Purina Co., will carry out remedial design and implement the remedy, primarily the capping of the landfill. A manufacturing company with a plant located in Red Oak, the Douglas & Lomason Co. will, along with the City, provide long-term operations and maintenance and monitoring after the cap is completed. Several other settling parties, including Uniroyal, Inc. and Uniroyal Holding, Inc., joined the foregoing parties in paying for EPA's past costs at the site, and these parties will also pay in advance for EPA's RD/RA oversight costs, providing EPA with a premium in exchange for cashing out these future costs. The consent decree was lodged with the court on September 27, 1996. The settlement contained a waiver of claims against *de minimis* parties.

U.S. v. Gold Fields Mining Corporation (Galena, Kansas): On March 29, 1996, the U.S. filed a complaint in Federal District Court for the District of Kansas. The named defendants are Gold Fields Mining Corporation and Viacom International, Inc, seeking past costs incurred by the United States for response actions at the Cherokee County site, Galena Subsite. Settlement negotiations were conducted with the two defendants prior to filing this complaint; however, after several months of negotiations, agreement was not reached. In order to facilitate settlement, the defendants have been granted additional time to answer complaint. The past costs relate to costs incurred by the U.S. for the Remedial Investigative, Feasibility Study and the installation of an alternate water supply and the groundwater/surface water cleanup. The Cherokee County site and the Jasper County sites are adjacent to each other in Southwest Missouri and Southeast Kansas, in an area which was one of the largest lead and zinc mining areas in the world from 1850 through 1970. (Tri-State Mining area - Northeastern Oklahoma in Region VI is included in the Tri-State Mining area.) The Jasper and Cherokee sites cover about 400 square miles. The sites contain millions of tons of surface mine wastes. Thousands of residences use private shallow groundwater wells for domestic water supplies, and many residents live adjacent to or on mine waste.

U.S. v. Missouri Electric Works (Cape Girardeau, Missouri): On August 14, 1996, the U.S. District Court for the Eastern District of Missouri re-entered the remedial design/remedial action consent decree for

this site. This consent decree had originally been entered on August 24, 1994, however a group of non-settling potentially responsible parties who had attempted to intervene in District Court appealed their denial of intervention to the Eighth Circuit Court of Appeals. These PRPs had claimed that the cost allocation formula which was part of the consent decree placed excessive liability on non-settlers. On August 30, 1995, the Eighth Circuit ruled in favor of the intervenors on the issue of intervention, finding that these non-settling parties should be allowed to intervene as a matter of right as the contribution protection accorded to the settlers would cut off the ability of the non-settling PRPs to recoup any excessive allocation of liability, if it was found by the District Court that the cost allocation formula was unfair. On remand, the District Court found the consent decree, including the cost allocation formula, to be fair, reasonable and consistent with CERCLA, and the consent decree was re-entered. (On October 4, 1996, the intervenors appealed the District Court's decision to re-enter the consent decree to the Eighth Circuit.)

Missouri Electric Works, Inc. was the former owner/operator of this site where it operated a transformer repair and disposal facility for approximately 40 years. Site soils and groundwater are heavily contaminated with PCBs. Approximately 175 parties signed the consent decree as Settling Defendants, Soil *De Minimis* Settling Defendants, Soil and Groundwater *De Minimis* Settling Defendants, or Settling Federal Agencies. The consent decree also provided preauthorization mixed funding to the settling parties.

National Mine Tailings site, (Park Hills, Missouri): A CERCLA prospective purchaser agreement for property that is part of the National Mine Tailings site in Park Hills, Missouri has been signed. Under this agreement, Airtech Inc., the prospective purchaser, will purchase three acres of this forty acre Mine Tailings site, and perform certain clean-up work on the property it purchases in exchange for a covenant not to sue and contribution protection. Airtech plans to build a light manufacturing facility on the property that will create 30-45 new jobs in the community making productive use of this site once again. The Agency is receiving the substantial direct benefit of the work, and the community is receiving benefit through creation of new jobs and returning this idle property to productive use.

The site is in an inactive lead and zinc mining area known as the "Old Lead Belt", which for many years was one of the major lead and zinc producing areas in the world.

North Landfill Subsite Pilot Allocation: In 1996 Region VII invited PRPs at the North Landfill Subsite of the Hastings Ground Water Contamination to participate in a Pilot Allocation, to test the allocation procedure outlined in the proposed Superfund Reform Act of 1994. In June 1996, all PRPs had agreed to participate and had signed confidentiality and tolling agreements and the parties had jointly selected an allocator. On July 9, the parties completed negotiations of a Protocol agreement which set forth the procedures and time line to be followed and a document repository was set up in two locations. The parties submitted to the Allocator a preliminary statement which described the parties' connection with the subsite.

The PRPs nominated other Allocation Parties but only the five original PRPs agreed to participate in the allocation process; they are referred to as the Cooperating Parties (CPs). The CPs and EPA are proceeding with the Allocation Pilot following the guidance issued by the Agency for this initiative.

Osage Metals site (Kansas City, Kansas): On September 26, 1996 a consent decree was entered in the District Court of Kansas which enables formerly contaminated industrial property to return to productive use. The decree requires the property owner of this Superfund site to transfer ownership of the site to a third party. Incorporated into this consent decree is an administrative order which requires the third party identified in the consent decree to pay EPA $80,000 in reimbursement for costs incurred in performing a removal action at the site. The new owner will redevelop the property into a productive business that will generate tax revenue for the city of Kansas City.

The site was formerly a scrap yard that ceased operating in 1993 after a flood destroyed part of the warehouse. The property was filled with scrap and debris until EPA performed the removal action to clean up the PCB and lead contamination in the soils. Since 1993, no commercial activity has been occurring at the site. The City of Kansas City had an interest in restoring the property to a productive state and had taken steps to condemn it in order to include the site in a tax incremental financing district ("TIF"). A developer, W.W. Land Company, had an interest in buying the property and developing it. Wyandotte County had a $14,467.17 tax lien on the property and was taking steps to foreclose.

Discussions between Region VII EPA, DOJ, the City, the County, the owner and operator, and the developer were held. The owner agreed to sell the property to the developer for $90,000; Wyandotte County agreed to abate the taxes by 50%; the City of Kansas City agreed

not to condemn the property; the developer agreed to pay the owner $3000, pay $7000 to the county in back taxes and to reimburse EPA in the amount of $80,000. EPA agreed to dissolve the lien and grant contribution protection and a covenant not to sue the owner and operator through a consent decree and to the developer through an administrative order.

Peerless Industrial Paint Coatings (St. Louis, Missouri): A Superfund allocations pilot project was initiated at this site for the allocation of past response costs of approximately $1,100,000 and a future removal action of approximately $300,000. Four generator potentially responsible parties (PRPs) agreed to participate in the allocation pilot project. The owner and the operator are not participating in the process, but agreed to sign the necessary tolling agreements. The next step is selection of the allocator and negotiation of the allocations process document and the nomination of additional PRPs.

Peerless Industrial Paint Coatings located near downtown St. Louis, Missouri was a facility that manufactured clear plastic coatings and paints. The operator would accept large quantities of recycled and off-specification paint wastes. These drums were stored in the six story facility. EPA performed a removal action in 1993 removing approximately 4000 drums that demonstrated the characteristic of ignitability. The drums posed a risk of fire and explosion from malfunctioning electrical wiring.

Rockwell International Corporation-Ralston site (Cedar Rapids, Iowa): Effective March 4, 1996, Rockwell International Corporation, the responsible party for the Ralston site in Cedar Rapids, Iowa, agreed to pre-fund the payment of EPA's future costs by making quarterly payments into a special account. The first phase of the removal work began in July 1994 and included installation of a clay cap over the former landfill and stabilization of the creek bank to protect against erosion. A Dual Vapor Extraction ("DVE") system is being used in the second phase of the removal.

From at least 1956 to 1958 Rockwell International Corporation ("Rockwell") operated an industrial landfill at 228 Blains Ferry Road in Northeastern Cedar Rapids. Rockwell burned and/or disposed of solvents, paint sludge, refuse and drums containing concrete encapsulated cyanide salts. The site is located adjacent to a creek and is approximately 2 acres in size.

U.S. v. Russell Bliss, et al., Missouri Dioxin Litigation (St. Louis, Missouri): In accordance with a consent decree between the U.S., the State, and the Syntex Defendants (Syntex Corporation, Syntex Agribusiness, Syntex USA, and Syntex Laboratories), the remediation of the dioxin contamination in eastern Missouri through incineration at the Times Beach site is now underway or completed at most of the sites. The County of St. Louis filed a Motion to Intervene in this litigation pursuant to Rule 24(a) of the Federal Rules of Civil Procedure (FRCP) on June 21, 1995, in an attempt to change the emission standard in the permit. On November 8, 1995, the Judge ruled on St. Louis County's Motion for Stay Pending Appeal. The Court noted that the County had merely reiterated the points raised in its previous submissions and noted that the County had not come forward with any evidence to show that the standards imposed under the consent decree were harmful to public health. In addition, the court ruled that local standards were not ARARs.

Citizens Against Dioxin Incineration (C.A.D.I.) and Gateway Green Alliance v. U.S. EPA, Carol Browner, and I.T. Corporation, U.S. District Court (Eastern District of Missouri): On March 21, 1996, C.A.D.I. and Gateway Greens, represented by Greenlaw, Inc., filed suit alleging violations of CERCLA, RCRA, TSCA, NEPA, and state nuisance statutes, in the implementation of the eastern Missouri dioxin sites clean-up. The 1988 Record of Decision was construction of a temporary incinerator to be located and excavation and transportation of dioxin.

The C.A.D.I./Gateway Greens lawsuit was another attempt to stop implementation of the incineration remedy. (At least three other suits have been filed since 1990.) We expect further action by Greenlaw, as well as intense pressure from C.A.D.I. and the Gateway Greens. While no one wants an incinerator in their area, the vast majority of eastern Missouri citizens, as well as members of Congress, want the project to go forward to completion and the 27 sites returned to beneficial use.

U.S. v. Sherwood Medical Company (Norfolk, Nebraska): A consent decree resolving the liability of Sherwood Medical Company (SMC), the only PRP at this site, was lodged and complaint was filed pursuant to Sections 106 & 107 of CERCLA on August 29, 1996. The consent decree provides for an extremely favorable settlement of the CERCLA claims at the Sherwood Medical Company site located in Norfolk, Nebraska. By the terms of the decree, SMC will implement the remedial design and remedial action consistent with the Record of Decision for the site, and will pay the government's future costs. SMC has previously paid the past costs attributable to the site, carried out a removal action, and performed the RI and FS.

The Nebraska Department of Environmental Quality (NDEQ) has participated in the negotiations of the terms of the consent decree, and EPA has coordinated extensively with NDEQ throughout this project. The State is not a party to this decree; however, the State has no "Superfund" law and has not incurred any of its own costs.

Thompson Chemical (St. Louis, Missouri): EPA and four PRP's have signed an administrative order on consent requiring the PRPs to undertake an engineering evaluation/cost analysis (EE/CA) at the Thompson Chemicals site in St. Louis, Missouri. Current owners Superior Oil Company, Inc. (Superior), and Missouri Pacific Railroad Company (Missouri Pacific), and previous site operators Monsanto Company and Allied Signal, Inc., have agreed to undertake the EE/CA activities within the next six months.

The site is located in an industrial area along the Mississippi River in St. Louis, Missouri. Superior currently operates the site as a bulk terminal facility for solvent products. Significant sampling at the site has documented the presence of polynuclear aromatic hydrocarbons, volatile organic compounds and dioxin in the soils at the site, above levels of concern to EPA Region VII.

U.S. v. TIC Investment and Stratton Georgoulis (Charles City, Iowa): Stratton Georgoulis has filed a petition for writ of certiorari with the Supreme Court, asking the Court to review an October 16, 1995 ruling by the 8th Circuit holding him personally liable under Section 107(a)(3) of CERCLA for response costs at the White Farm Equipment (WFE) Dump site. Georgoulis was CEO of White Farm Equipment Company and sole shareholder of WFE's parent company. In this case, there was no evidence that Mr. Georgoulis directly controlled or had knowledge of the WFE's arrangement for disposal. The court found that "Georgoulis' actions inexorably led to the continuation of WFE disposal of wastes at the dumpsite", and that "lack of evidence showing his involvement in or knowledge of details of the disposal arrangement does not bar liability." The 8th Circuit held that the proper standard to be applied in such cases is whether the officer or director had the authority to control and did in fact exercise actual or substantial control, directly or indirectly, over his/her company's arrangement for disposal.

This litigation arose out of CERCLA clean-up activities at the White Farm Equipment Dumpsite in Charles City, Iowa. The remedial action was recently completed by Allied Products Corporation under terms of an RD/RA consent decree. Three PRPs refused to join in the RD/RA settlement, so EPA carved out past costs and filed a Section 107 cost recovery action to recover our past costs from the non-settlors, including Mr. Georgoulis.

U.S. v. Waste Disposal, Inc., et al. (Kansas City, Kansas): The Doepke-Holliday site is on property overlooking the Kansas River in Johnson County, Kansas. It was used for disposal of industrial and commercial wastes in the 1960s and early 1970s. On May 20, 1996, the United States District Court for the District of Kansas entered the consent decree previously lodged in this matter. This consent decree fully resolves the United States' claims for implementation and long-term operation and maintenance of the remedial action for the Doepke Holliday site and provides for recovery of EPA's past and future response costs in full. The principal component of the site clean-up is installation of an impermeable cap over the former disposal area.

EPA Region VII issued a unilateral order to all viable *non-de minimis* PRPs in February 1995, directing the remedial action to go forward while we completed consent decree negotiations. The work was promptly started and is on schedule. Altogether, with two settling federal agencies, sixty-six parties are resolving their liability to EPA in this consent decree.

CLEAN WATER ACT

U.S. v. ASARCO, Inc. (Omaha, Nebraska): On January 5, 1996, a consent decree between the U.S. and ASARCO, Inc., was entered in U.S. District Court for Nebraska, resolving claims for injunctive relief and civil penalties for ASARCO's violations of the CWA at its Omaha lead refinery. ASARCO failed to obtain an NPDES permit under the CWA for its discharges of pollutants to the Missouri River, had constructed no wastewater treatment facilities, and had conducted no regular monitoring of its discharges. The settlement provides for a civil penalty payment of $3,250,000, a compliance schedule for construction of a wastewater treatment system, and Supplemental Environmental Projects (SEPs) totaling $1,000,000. The consent decree also contains interim effluent limitations, subject to stipulated penalties, to be met during construction of the wastewater treatment facility.

The SEPs include a requirement that ASARCO spend $650,000 to acquire property within the Missouri River Corridor in Nebraska for the purpose of creating new or enhanced wetlands and restoring and improving wildlife habitat. In addition, ASARCO is required to provide $350,000 to fund sampling studies in the Omaha area.

ASARCO, Inc. (Reynolds County, Missouri): ASARCO Lead Company has agreed to pay $1.7 million to the State of Missouri - the largest penalty ever assessed by Missouri in an environmental enforcement action - for discharging excessive amounts of lead into a tributary of the Black River in southeastern Missouri. In addition to the penalty, ASARCO is also required to build a new wastewater treatment plant for its mine located on the West Fork of the Black River, at a cost of approximately $500,000.

FIFRA

Battle Creek Farmers Cooperative Non-Stock (Pierce, Nebraska): In this case, the Region discovered that Battle Creek was allowing pesticide wastes from a rinsate lagoon to drain from the Co-op's property onto neighboring land, in violation of FIFRA. In addition to assessing an administrative penalty for the violation, Region VII referred the case to the Nebraska Department of Agriculture for potential violations of the state's secondary containment regulations.

Upon completion of an inspection of the co-op, the state documented violations of the state regulations and issued a Letter of Warning (LOW) to Battle Creek. In response to the state's LOW, the Co-op has submitted plans to upgrade its secondary containment to bring it into compliance with the state regulations.

Big Sky Flying Service (Waterloo, Iowa): On June 14, 1995, an complaint was issued to Big Sky Flying Service for pesticide use violations under FIFRA. The pesticide, Buctril + Atrazine Herbicide, had been aerially applied by Big Sky to a corn field near Waterloo, Iowa. Due to wind conditions and application methods, the pesticide was allowed to drift onto nearby property, damaging vegetation on that property. In addition to payment of a penalty for the violations, Big Sky purchased and has agreed to use aerial application equipment designed to reduce leaks and over spray, thereby reducing the possibility of pesticide drift in the future.

MFA, Inc.: Region VII negotiated a consolidated settlement resolving four administrative civil complaints which named MFA, Inc. as a co-respondent. The complaints addressed cross-contamination of repackaged pesticides and product under-formulation at MFA facilities in Ste. Genevieve, Fairfax, and Shelbina, Missouri, in violation of FIFRA. In addition to payment of a civil penalty, MFA has installed and implemented secondary containment that far exceeds the state's requirements, at a cost of over $285,000.

RCRA

Ash Grove Cement Co. (Louisville, Nebraska): Ash Grove Cement Company entered into a RCRA 3008(a) CA/CO assessing a civil penalty of $140,000. In September, 1993, EPA Region VII issued an administrative action against Ash Grove for violations of the RCRA BIF regulations at its Louisville, Nebraska, facility.

On January 29, 1996, representatives of Ash Grove Cement Company met with the Regional Administrator, the Director of the Air, RCRA and Toxics Division and ORC to announce its decision to drop its hazardous waste-derived fuel program at its Louisville, Nebraska facility. Ash Grove cited economic reasons for its decision. Ash Grove stated it intends to pursue the use of scrap tires and other non-hazardous waste fuels at this facility. EPA and NDEQ will work closely together to assure that proper oversight of Ash Grove's closure of its hazardous waste fuel program in Louisville is properly undertaken. Ash Grove will pay a civil penalty of $140,000 for its RCRA violations.

Craig Foster Ford (Tripoli, Iowa): Region VII filed its first used oil penalty case , alleging that Craig Foster Ford, an auto dealership in Tripoli, Iowa, violated the RCRA used oil regulations. The facility stored used oil outdoors in a variety of about 200 unmarked and leaking drums and containers, continuing to do so even after the issuance of a Notice of Violation after an inspection of the facility. The administrative complaint proposes a penalty of $19,400 for the violations.

Harmon Electronics, Inc. (Grain Valley, Missouri): Oral arguments on an appeal filed by Harmon Electronics, Inc., a manufacturer of electronic rail switching equipment in Grain Valley, Missouri, were heard by the EAB on Wednesday, May 1, 1996. Harmon had appealed from a judgment in which the Administrative Law Judge (ALJ) assessed a civil penalty of $586,716 against Harmon for various RCRA violations associated with operation of a hazardous waste landfill without a permit. From the beginning of operations in the 1970s until the end of 1987, Harmon disposed of approximately 30 gallons of spent solvent per month by pouring them on the ground behind its facility. On appeal, Harmon claimed that because Harmon had self-reported the violations, no penalties should be assessed. Harmon also raised the issue of the potential applicability of the statute of limitations at 28 U.S.C. § 2462 to these violations and argued that the EPA's actions were barred by the doctrines of res judicata and collateral estoppel because Harmon had entered into an agreement with the State of Missouri

after EPA filed its complaint, although the agreement did not assess penalties. The EAB has not yet issued a decision in this matter.

MEMC Electronic Materials, Inc. (St. Charles, Missouri): MEMC executed a RCRA Section 3008(h) order on consent for Corrective Measure Implementation (CMI) on July 19, 1996, for its manufacturing facility located in St. Peters, Missouri. The order essentially requires MEMC to maintain operation of the groundwater pump and treat remedy it previously instituted as an interim measure, and to implement institutional controls to limit access to areas of the facility where there is some low level soil contamination. This is the first corrective action implementation order ever issued in Region VII. The order implements the corrective measure selected by EPA in the statement of basis issued December 3, 1994 and the final decision document issued April 21, 1995. Technical oversight of implementation will be provided jointly by Region VII and the Missouri Department of Natural Resources.

U.S v. Mikkel and Janet Mandt d/b/a FiberdYNE/FluidYNE (Cedar Falls and New Hartford, Iowa): On May 10, 1996, search warrants were issued by the U.S. District Court for the Northern District of Iowa to allow EPA to conduct RCRA inspections at the Fiberdyne/Fluidyne facilities in Cedar Falls and New Hartford, Iowa. EPA had to obtain the warrants because prior attempts at access were unsuccessful, with the facilities' owner denying access.

Based on information received by EPA as a result of the inspections conducted with the assistance of the search warrant process, EPA determined that conditions at the facilities posed an imminent and substantial endangerment to human health and the environment. The facilities had waste handling practices that included burning ignitable hazardous waste on site, improper hazardous waste storage and disposal, leaking hazardous waste containers, and improper burial of drummed waste. RCRA Section 7003 Unilateral administrative orders were issued to each of the Fiberdyne/Fluidyne facilities. The facilities are complying with the requirements of those orders.

Modern Muzzleloading, Inc. (Centerville, Iowa): On April 15, 1996, the U.S. District Court for the Southern District of Iowa, Central Division, issued an Administrative Search Warrant providing EPA with authority to enter and inspect Modern Muzzleloading's manufacturing facility located in Centerville, Iowa. In May of 1991, Modern Muzzleloading notified EPA that it generated between 220-2,200 pounds per month of ignitable hazardous wastes at the facility. During a June 1994 EPA inspection of the facility, EPA's inspector observed approximately 20 containers of hazardous waste, ranging in capacity from 5 to 55 gallons, in storage at the facility. The inspector also observed five barrels containing an unknown liquid outside the facility's backdoor. Following this inspection, EPA sent a letter to the Modern Muzzleloading informing it that violations of RCRA (failure to properly manage hazardous waste containers) were discovered during the inspection. EPA again attempted to conduct a RCRA inspection of this facility in July 1995, but were denied access. The April 15, 1996, inspection of the facility revealed numerous violations of RCRA, including failure to make hazardous waste determinations, improper labeling of waste oil, and open containers of hazardous waste.

The RCRA violations have been corrected by the facility. Based upon the inspection, it also appeared that the facility was operating a wastewater treatment lagoon without an NPDES permit. Following the inspection, Region VII referred this information to the state for follow-up action.

Wayne Manufacturing (Cedar Rapids, Iowa): After negotiations which had been on-going since June, 1994, settlement of this case was achieved in one day through the use of Alternative Dispute Resolution (ADR). The Region filed an administrative complaint for penalties against Wayne in 1994 for illegal treatment and storage of hazardous waste, in violation of RCRA. Wayne, a manufacturer of circuit breakers and hammerheads, generated cyanide wastewater sludge in its manufacturing process. In addition to payment of a civil penalty, through ADR Wayne agreed to ship drums of hazardous wastes off-site to a RCRA-permitted facility, perform closure of its own facility, and to provide financial assurance that closure could be completed. This was the first administrative case in which the Region used ADR as a settlement tool.

TSCA

Everlast Fitness MFG. Corp. (Moberly, Missouri): In settlement of an action for violations of Section 313 of EPCRA, Everlast Fitness has agreed to reduce its use of toluene to less than 10,000 pounds per year, a reduction of approximately 90% of its current toluene usage. Everlast has also agreed to pay a civil penalty of $7,800 for its violations, in which it failed to submit to EPA and the state a Toxic Release Inventory (TRI) regarding its toluene for calendar year 1993.

Farmland Industries, Inc. (Sergeant Bluff, Iowa): Farmland Industries violated EPCRA Section 304 and

CERCLA Section 103 by failing to immediately report to the National Response Center and to the State Emergency Planning Commission a release of ammonia from its facility located in Sergeant Bluff, Iowa.

In addition to payment of a penalty, Farmland Industries agreed to the performance of a supplemental environmental project in settlement of these accidental release notification violations. Specifically, Farmland agreed to purchase an air compressor for the Woodbury County (Iowa) Disaster & Emergency Services Agency, the local emergency planning committee (LEPC) for the area where the Farmland facility is located. This particular LEPC has provided emergency response for several environmental releases, including a fatal explosion at a fertilizer manufacturing plant. The LEPC indicated a need for an air compressor to assist in its emergency response duties.

GEC Precision Corporation (Wellington, Kansas): After a hearing on the issue of penalty, Administrative Law Judge Carl Charneski assessed a penalty of $51,750 against GEC, a subsidiary of General Electric Corporation, for its violations of Section 313 of EPCRA. Prior to the hearing, GEC stipulated that it violated Section 313 by failing to file Toxic Release Inventory (TRI) reports for its use of methyl ethyl ketone for calendar years 1991, 1992, and 1993, and its use of 1,1,1 trichloroethane for calendar year 1992. GEC claimed, however that the penalty proposed by the Agency ($68,000) was wholly unreasonable in that GEC was not aware of the reporting requirements and that therefore the violations were unintentional.

The ALJ rejected respondent's arguments, holding that GEC was charged with knowledge of the law. In presentation of its case, Region VII supported the calculation of its proposed penalty through witness testimony and based upon the provisions of the statute. The ALJ adopted the Agency's approach, reducing the proposed penalty for one count of the four count complaint for "other factors as justice may require" and by $3000 for all counts based on GEC's good faith and cooperation.

MULTIMEDIA

Arlington Plating (St. Louis, Missouri): Arlington Plating is an electroplating company located at St. Louis, Missouri, engaged in the plating of metals using nickel, chrome, various acids, copper and barium. The investigation revealed that Arlington Plating was discharging electroplating wastes without pretreatment. On January 9, 1996, as part of a plea agreement, Arlington Plating was charged with violating the Clean Water Act, 33 USC 1319 (c)(2)(A). On January 12, 1996, Arlington Plating entered a plea of guilty to the above charge. On June 27, 1996, Arlington Plating was sentenced to a fine of $23,000 ($18,000 was suspended pending completion of remediation and compliance requirements of the plea agreement), and to make restitution of $51,119.36 to the Metropolitan Sewer District for damages to the sewer.

Cole Enterprises (Jefferson County, Missouri): Timothy B. Cole, Owner, Cole Enterprises provided sampling and analysis for industrial and wastewater treatment facility clients in the Jefferson County, Missouri area. Approximately 15 of these clients were National Pollutant Discharge Elimination System (NPDES) permit holders. From approximately June or July 1993, Cole falsified the test results for Biological Oxygen Demand (BOD) and TSS (Total Suspended Solids) analyses which were not performed because Cole did not have the necessary laboratory equipment needed to perform such tests. Cole eventually admitted to the Special Agent conducting the investigation that he had falsified every DMR he had prepared and signed since June or July 1993. These DMR's were prepared for submission to the State of Missouri and to the EPA pursuant to the facilities' NPDES permits.

On October 10, 1995, Timothy B. Cole, Owner, Cole Enterprises plead guilty to 10 counts of knowingly making false statements on quarterly Discharge Monitoring Reports (DMR's) in violation of the Clean Water Act. Cole was sentenced on January 5, 1996 to a fine of $2,500 and 2 years supervised probation.

U.S. v. Commercial Equipment Company, Inc. and Curtis Hough (Carol, Iowa): A consent decree has been entered in this multimedia litigation addressing violations of the CWA, RCRA, and the SDWA. The consent decree requires the defendants to close and remove the facility's septic system, which has been deemed an illegal underground injection well; conduct a RCRA Section 3010 investigation of the property, which includes extensive soil and groundwater sampling; and pay a civil penalty of $150,000. The IDNR had previously revoked the facility's National Pollutant Discharge Emissions System (NPDES) permit.

Although the total environmental benefit of this action will not be fully known until the sampling and site characterization required pursuant to the terms of the consent decree have been completed, the facility's practice of releasing solvents into a sanitary septic and lateral field system, which eventually discharged to the groundwater and to a nearby river, has been eliminated.

Farmland Industries, Inc. (Coffeyville, Kansas): The Region reached agreements to settle three actions pending against Farmland Industries, Inc. for violations of RCRA, the CAA, EPCRA, and CERCLA occurring at Farmland's petroleum refinery located in Coffeyville, Kansas. Under the terms of the agreements, Farmland has agreed to pay civil penalties totaling $1.45 million, and to implement specific supplemental environmental projects designed to improve the air quality in Coffeyville and surrounding areas, as well as to improve Farmland's ability to respond to chemical emergencies at the facility. The estimated cost of the projects is $4.2 million.

RCRA violations at the facility included repeated disposal of hazardous wastes on the ground; failure to notify EPA about RCRA-regulated units and failing to comply with RCRA in operating those units; failure to file a Part A permit, closure and post-closure plans and financial assurances; and failure to install and operate a proper groundwater monitoring system at the regulated units. The EPCRA/CERCLA violations resulted from Farmland's failure to immediately report seven different accidental releases of hydrogen sulfide from the facility. Farmland's violations of the CAA resulted from its failure to install proper air pollution control equipment or, in instances where such equipment had been installed, Farmland's failure to operate it effectively.

Genesis Industries (Kansas): Between January 1991 and September 1992, Richard Hub dba Genesis Industries, Bio-Clean Industries, and Oil Recovery Technology, operated a tank farm located on property owned by the Oklahoma-Kansas Oil Treatment Company (OK Oil) in Coffeyville, Kansas. Hub was indicted on October 4, 1994, in the District of Kansas, for violations of the Underground Injection Control Program of the Safe Drinking Water Act. He was indicted specifically for injecting liquids containing hazardous constituents into an underground well without a permit in violations of 42 U.S.C. Section 300h-2 (b)(2), and injecting liquid waste other than salt water and gas plant waste into a well not classified to receive such waste in violation of 42 U.S.C. Section 300-h (b)(2). On July 3, 1996, Hub was sentenced to three years in federal prison without parole, one year supervised probation, and was ordered to pay $50,000 in restitution to the Oklahoma-Kansas Oil Treatment Company for his guilty plea on March 19, 1996, to count one of the indictment.

City of Independence, Missouri: A consent agreement and consent order (CA/CO) resolving this multi-media administrative case was entered on June 12, 1996. In addition to payment of a civil penalty, under the CA/CO the City is required to perform a pollution reduction SEP to make available a household hazardous waste program to city residents. The household hazardous waste program will potentially prevent thousands of gallons of oil, automotive fluids, and poisons from being dumped into city sewers and drains.

This agreement settles a three year old CWA/RCRA administrative action for violations of special terms of the City's NPDES permit, which allowed the City to accept for treatment trucked-in hazardous and other wastes at its publicly-owned treatment works (POTW) plant. RCRA violations included violations of the permit-by-rule provisions and storage of drums of hazardous wastes without a permit, and failure to have interim status for the POTW.

J.Z. Disposal Services (Warren County, Missouri): James R. Zykan, President, and J.Z. Disposal Services, Inc. operated a landfill in Warren County, Missouri, the J.Z. Demolition Landfill. In late August 1993, the Missouri Department of Natural Resources (MDNR) ordered Zykan and J.Z. Disposal Services to cease any and all discharges of leachate, treated or otherwise, from the J.Z. Demolition Landfill to the Indian Camp Creek, including any discharges from the leachate treatment lagoon. From September 1993 onward, JZ Disposal and Zykan did not have the required permit to discharge leachate from its J.Z. Demolition facility. On April 27, 1995, Zykan, J. Z. Disposal Service and James Boyle, an employee, were charged with six felony violations of the Clean Water Act.

On March 8, 1996, Zykan was sentenced to 12 months of supervised probation to include 6 months of home confinement. Zykan had previously deposited $250,000 into a trust fund account to address remediation of the leachate problems at the J.Z. Demolition Landfill.

Midwest Alloys Foundry: Midwest Alloys Foundry (Midwest) is a high alloy foundry which manufactures products that have ultimately been used by the Tennessee Valley Authority. Following a joint investigation special agents from EPA-CID, the Immigration and Naturalization Service, and the Tennessee Valley Authority, Midwest was charged with ordering employees to dump hazardous waste on company property, during which an employee was injured; the unpermitted discharge of cooling water into Buleau creek in 1995; the false reporting of alloys used in the composition of rocker washers produced for the TVA; knowingly engaging in the hiring of unauthorized aliens; and knowingly providing false statements in reference to the hiring of unauthorized aliens. Vernon

Kneib, the Plant Manager at Midwest, was charged with illegally dumping hazardous waste, and knowingly providing false information with regard to the hiring of unauthorized aliens in a document required by immigration law.

Midwest Alloys was sentenced for its guilty plea to the above violations on October 4, 1996, to two years probation, ordered to pay fines and restitution in the amount of $150,000 of which $100,000 would go to the Missouri Department of Natural Resources (MDNR); $25,000 to the Tennessee Valley Authority; $9,000 to the U.S. Immigration and Naturalization Service; and the remainder to the U.S. Treasury. Further, Midwest has replaced parts provided to the TVA at a initial estimated cost of $20,000. Midwest is still in the process of replacing additional parts produced. Additionally, Midwest must complete a site remediation to the satisfaction of MDNR and/or U.S. EPA Region VII. Vernon Kneib was sentenced to two years non-supervised probation and ordered to pay a special assessment.

National Manufacturing AKA Valentec-Olivette (Olivette, Missouri): Valentec International Corporation owned and operated a munitions plant located at Olivette, Missouri (Valentec-Olivette). Valentec-Olivette was the subcontractor to Alliant Technologies of Brooklyn Park, Minnesota, which was the prime contractor to the Army Research, Development and Engineering Center, Picatinny Arsenal, New Jersey, for the production of M829 120mm tank ammunition. Valentec's production process contaminated a number of waste streams with cyanide, chromium, zinc phosphate and phosphoric acid wastes. The investigation revealed that Valentec was discharging toxic metal zinc in excess of pretreatment requirements to the Metropolitan Sewer District.

On February 1, 1996 Valentec was charged and plead guilty to a violation of 18 USC 1001, and to the negligent discharge of pollutants in violation of pretreatment standards, 33 USC 1319 (c)(1). On March 21, 1996, Valentec was sentenced to pay a fine of $35,000, to make restitution to the Metropolitan Sewer District in the amount of $152,432 and an additional $75,985 for the repair of damaged sewer lines. An additional $37,500 was to be paid in restitution to the National Enforcement Investigations Center, EPA.

Newt Marine Services (Dubuque, Iowa): Dubuque Barge and Fleet dba Newt Marine Service at Dubuque, Iowa, was engaged in the cleaning of barges transporting various goods in interstate commerce on the Mississippi River. As part of its routine barge cleaning procedures, the barges, which had contained various materials such as coal, fertilizer, salt and grain, would be towed to another location after being unloaded. If the barges needed to be washed, water from the Mississippi River would allegedly be pumped onto the barge and used to rinse the barge, and the rinse water would then allegedly be discharged directly to the Mississippi River. Any refuse remaining on the barge would be gathered into various sized containers and was allegedly dumped overboard into the Mississippi River.

On May 17, 1996, and subsequently on June 13, 1996, Dubuque Barge and Fleet dba Newt Marine, its President Gary Newt, and five other former or present managers/supervisors in the company were charged with Clean Water Act or Rivers and Harbors Act violations for their part in the alleged illegal activities stemming from Newt's barge cleaning operations which resulted in pollutants allegedly being discharged to the Mississippi River. Four of the defendants have plead guilty: The remaining defendants, Newt Marine, Gary Newt and Robert Meana, Operations/Sales Manager, stand trial in January 1997.

Terra Industries, Inc. (Sioux City, Iowa): At the request of the Chemical Emergency Prevention and Preparedness Office (CEPPO), and in accordance with Section 112(r) of the CAA, EPA released the results of its investigation into the cause of an explosion of the ammonium nitrate plant at this nitrogen fertilizer manufacturing facility. The report released in January 1996 identifies numerous unsafe operating procedures at the plant as contributing factors to the explosion, and recommends certain standard operating procedures which would help prevent similar occurrences at ammonium nitrate production facilities.

The Terra explosion occurred on December 13, 1994, killing four individuals and injuring 18 others. It also resulted in the release of approximately 5,700 tons of anhydrous ammonia to the air and approximately 25,000 gallons of nitric acid to the ground and required evacuation over a two-state area of over 2,500 persons from their homes.

In a subsequent action, an administrative civil complaint alleging violations of EPCRA Sections 312 and 313, and Section 8(a) of TSCA, was filed citing that Terra International failed to submit Toxic Release Inventory (TRI) information to EPA in a timely manner, and data submitted to EPA by Terra failed to include releases of more than 17 million pounds of toxic chemicals to the environment on-site.

REGION VIII

CLEAN AIR ACT

Colorado Refining Company (Commerce City, Colorado): Colorado Refining Company (CRC) agreed in October 1995 to pay a $320,000 penalty and will spend about $1.7 million upgrading equipment to reduce air pollution from its oil refinery in Commerce City. As part of a settlement with EPA, CRC -- a subsidiary of Total Petroleum -- will modify equipment to prevent excessive amounts of sulfur dioxide (SO_2) from escaping into the air when the oil refinery is operating. To achieve this, CRC will upgrade its "Claus Plant" or sulfur recovery unit to boost its sulfur removal capability. The Agency's complaint alleged two CAA permit violations. One claimed the refinery degraded air quality when its SO_2 emissions surpassed allowable levels several times between 1989 and 1994. At one point the refinery registered emissions of 16,000 parts per million (ppm).

CRC also allegedly violated CAA emissions monitoring rules. These rules require companies to continuously monitor their emissions with devices that record varying contaminates and levels. If a company fails to constantly monitor its emissions, or if its emissions are above permitted limits, it faces State or federal penalties. EPA claimed CRC's monitoring equipment had significant down times which prevented accurate and uninterrupted readings. This is the third action against CRC in the past five years. Previous fines totaled about $182,000. CRC experienced a similar emissions monitoring violation in 1992; the company settled that complaint for $92,000. Without admitting to the federal allegations, CRC agreed to pay the penalty, modify pollution control equipment and comply with all applicable laws in the future.

U.S. v. Plum Creek Manufacturing (Kalispell, Montana): Plum Creek Manufacturing, L.P. agreed in October 1995 to pay $106,000 for releasing harmful pollutants into the air at its Kalispell plywood plant. The settlement, lodged October 2, in U.S. District Court in Missoula, resolves government claims that emissions of visible air contaminants from Plum Creek's veneer dryers violated the nation's Clean Air Act (CAA) from at September 1989 through April 1992. Veneer dryer emissions contain a complex mixture of fine particles and gases that have serious health implications. In the past, the State has taken several enforcement actions at both the Kalispell and Columbia Falls Plum Creek facilities for air pollution violations. The State previously took an enforcement action for the Kalispell veneer dryer violations, and Plum Creek agreed to pay a $7,000 penalty and install an air pollution control device on the dryers. Because of Plum Creek's noncompliance history, EPA launched its own enforcement action. EPA's goals were to support the State's enforcement program and assess a higher penalty to remove the economic benefit that Plum Creek enjoyed by violating the CAA requirements. Without admitting to the federal allegations, Plum Creek agreed to pay the penalty and comply with all applicable laws in the future.

Public Service Company (Hayden, Colorado): Public Service Company (PSC) and its partners agreed to spend some $145 million on air pollution controls, fines and environmental projects to settle claims involving the Hayden power station in the Yampa Valley, west of Steamboat Springs. The agreement, in the form of a "consent decree," was filed on EPA's behalf by the U.S. Department of Justice in U.S. District Court in Denver. The "global" accord will resolve Sierra Club and EPA claims that the plant violated air pollution limits, obscured visibility and increased acid levels in snow at the wilderness area, situated 19 miles downwind. A citizen lawsuit filed, in 1993, by the Sierra Club under the Clean Air Act (CAA), coupled with EPA's enforcement action, compelled all parties to reach an acceptable accord within six months of face-to-face negotiations. The settlement requires new air pollution control devices at the plant to reduce particulate, sulfur dioxide (SO2) and nitrogen oxides (NOx) emissions. The utilities also agreed to install the equipment, estimated to cost about $140 million, by the end of 1999. Once installed, the pollution controls will cut Hayden's SO2 emissions about 85 percent, or 14 thousand tons per year, and NOx emissions nearly 50 percent, or 7 thousand tons per year. The utilities agreed to pay a $2 million cash penalty and undertake projects that benefit the local environment. The penalty is the largest CAA civil penalty in the history of EPA's six-State Region. It is not tax deductible, nor can it be passed on to consumers through a rate hike. PSC and its partners also agreed to spend $2,250,000 on beneficial environmental projects in the Yampa Valley.

Public Service Company is one of three owners of the coal-fired power plant and also manages its operations.

The other owners, also named in the consent decree, are Salt River Project of Arizona and Pacificorp of Oregon. Hayden is one of the most profitable power plants in the country, largely because it currently has few pollution controls that are now standard for the industry. The facility has no emissions control equipment to contain SO2 or NOx and ineffective controls for small particulate pollution. Yearly emissions from the plant include about 16 thousand tons of SO2 and 14 thousand tons of NOx. Meanwhile, high SO2 and NOx emissions have led to the highest snow-pack acid levels ever recorded in the west. The acid snow can cause severe environmental damage to the fragile Mount Zirkel ecosystem. In 1993, the Sierra Club sued the utilities claiming 19,727 opacity violations at the Hayden plant from 1988 to 1993. A U.S. District Court ruled in the Sierra Club's favor on July 21, 1995. Earlier this year, EPA issued a violation notice to the utilities to include an additional 10,234 violations that occurred after the Sierra Club's lawsuit. Without admitting to the federal allegations, the utilities agreed to pay the penalty and comply with applicable laws in the future.

Stone Container Corporation (Missoula, Montana): The U.S. Department of Justice (DOJ) sought a court order in January 1996 directing Stone Container Corporation to meet air pollution requirements at its Missoula mill and pay penalties for past and ongoing violations. In 1994, the U.S. Environmental Protection Agency notified Stone that its Missoula mill violated Clean Air Act (CAA) opacity levels and ordered the company to abide by national limits. Stone's mill produces liner board and other paper products by converting wood chips and cardboard into pulp and then into paper. According to EPA officials, the mill failed to correct all problems and continued to impact air quality in the surrounding area. Therefore, EPA referred the matter to DOJ, which filed a complaint on the Agency's behalf.

CERCLA

Bingham Creek ARCO (West Jordan, Utah): EPA filed suit for the recovery of response costs relating the Bingham Creek Phase I action in Salt Lake County, Utah. EPA, DOJ and ARCO agreed to enter into non-binding Alternative Dispute Resolution in an attempt to resolve the litigation. A "mini-trial" (Alternate Dispute Resolution) proceeding was conducted in April 1996. This first of its kind proceeding in the Region, demonstrates the Region's willingness to use ADR in CERCLA cost recovery actions.

Chemical Handling Corporation (Broomfield, Colorado): In March, administrative orders on consent (AOCs) were issued to 758 *de minimis* PRPs for recovery of $1,097,244.34 in past response costs. This amount represents approximately 41% of the $2.5 M in response costs EPA presently projects to spend for this site, which is consistent with the fact that the settling parties manifested approximately 40% of the 1,260,589.79 gallons of hazardous substances manifested to the site by all generators, both federal and private, *de minimis* and *non-de minimis*. An AOC for payment of a portion of the remaining outstanding response costs is in the final stages of preparation for sending out to the *non-de minimis* PRPs. Their settlement amount, on a per gallon basis, will not be significantly higher than the amount paid by the *de minimis* PRPs, including the premium. In addition, EPA is pursuing a settlement with the current property owner. The fairness of this settlement has been praised by many of the PRPs, resulting in a better than 90% participation rate among the eligible *de minimis* parties. EPA anticipates recovery of 100% of its response costs, less that amount apportioned to the owner/operator of the site.

Colorado School of Mines Research Center (Golden, Colorado): An administrative order on consent was used to settle out de minimis parties at this site. This reduced the amount of litigation potential this case presented as these parties were protected from contribution lawsuits. One lesson learned in this settlement was to consider adjusting the premium charged to *de minimis* parties when site costs are not very high and the removal action results in a "No Further Action" determination. Those PRPs not eligible for the *de minimis* settlement are using a private Superfund allocator to determine how to split and pay 100% of EPA's outstanding costs.

Hansen Container (Grand Junction, Colorado): Three administrative orders on consent was used to settle out *de minimis* parties at this site. This was a highly successful settlement which used appropriate premiums and worked with the PRPs that were not eligible for the settlement to achieve settlement protocols that worked for the Agency and PRPs that might want to adopt the Agency's allocation of waste for this site once all of the *de minimis* parties were settled out. EPA's goal for this site is to achieve 100% cost recovery while having reduced litigation and addressed fairness and equity issues with PRPs.

Kennecott Utah Copper - North Facility Soils/Wastewater Treatment Plant (Magna, Utah): EPA used CERCLA removal settlement authorities to enter into an administrative order on consent to conduct a non-time-critical response action at the Kennecott North Facility Soils/Wastewater Treatment Plant

facility. Use of this tool allowed for an accelerated settlement so that cleanup could begin on this project with an estimated cost of over $70 million dollars.

McLaren Tailings (Cooke City, Montana): The PRP for this site filed a section 106(b) claim for reimbursement from the Fund. Prior to a ruling by the Environmental Appeals Board, EPA and the PRP have entered into a settlement agreement in principle, in the form of a consent decree. The CD was signed by the PRPs in December of 1996.

North Clear Creek Tails Superfund site (Central City, Colorado): The Clear Creek/Central City Superfund site has used EPA's administrative removal settlement authorities to enter into settlements with PRPs to conduct removal actions at this site. Through the use of removal authorities, the Region has accelerated the pace of cleanups at this site and met the needs of commercial real estate developers seeking to redevelop site property for beneficial reuse. In Fiscal Year 1996, the Region entered into an administrative order on consent for Removal Action at the North Clear Creek Tails facility. While this is only one small facility within the site, the use of EPA's administrative settlement tools demonstrates that the Region is using the right tool for the right problem.

Ogden Union Railway and Depot (Ogden, Utah): In the late Fall/early Winter of 1995, the PRPs conducted a PRP-lead removal of a historic sludge pond area which resulted from railroad activities conducted over a period of the past 100 years. This removal action meets the MOA commitment of "Worst sites First," as removal of the sludge pond is the first of several remedial actions that are anticipated for this area. This removal action commenced with the issuance of an AOC to the Union Pacific and Southern Pacific railroads for a PRP-lead response action designed to remove, and thus mitigate, the threat of release of hazardous substances from a large sludge pond located on the railroad property. The sludge pond, located within a hundred yards of the Weber River, was saturated with water for all but a short time span during the year, due to the shallow water table in the area. EPA negotiated an AOC with the owners of the site and the PRP-lead removal action was successfully completed during the late Fall/Winter of 1995, during the dry season of the year.

Rocky Flats Cleanup agreement (Colorado): EPA, DOE, and the State of Colorado, signed the new Rocky Flats Cleanup agreement (RFCA) in Denver, Colorado on July 19, 1996, after nearly three years of negotiations. The signatories to the RFCA were EPA's Deputy Administrator Fred Hansen and Acting Region VIII Administrator Jack McGraw, Under Secretary of Energy Tom Grumbly and site manager Jesse Roberson, and Lieutenant Governor Gail Schoettler and Tom Looby, Director of Colorado's Office of the Environment. The RFCA contains many innovative provisions designed to speed up cleanup activities at the Rocky Flats site. The RFCA streamlines the regulatory process by dividing the site into two areas - the industrial area, where the State is the lead regulator, and the environmental buffer zone, where EPA is the lead regulator.

Summitville Mine (Summitville, Colorado): The Region reached a de minimis settlement under 122(g)(4) with the Cleveland-Cliffs Iron Company, Union Pacific Resources Company, and Union Pacific Resources Group, Inc. to settle their liabilities for $700,000. The settlement amount was based on the parties' contribution to surface water contamination at the site, the amount of waste materials they left at the site, and the area of ground they disturbed that must be reclaimed. Finalization of this settlement is pending EPA's response to public comments.

Union Pacific Railroad Company (Huron, South Dakota): On August 21, 1996, EPA signed an AOC with Union Pacific Railroad Company (successor in interest to Chicago and North Western Transportation Company who was the former owner/operator of the site) and Dakota, Minnesota, and Eastern Railroad Corporation (the current owner/operator of the site). Use of this tool allowed for an accelerated settlement so that cleanup could begin on this project with an estimated cost of $4,000,000. Through the use of administrative settlement activities, the Region has maintained a very good working relationship with the PRPs while allowing them to perform the removal action and having them agree to reimburse EPA for all past and AOC-associated response costs at the site.

CLEAN WATER ACT

Altenberg Slough (Flathead County, Montana): A Texas landowner and a Montana businessman face a civil penalty of $125,000 for alleged environmental damage to a wetland in Flathead County, Montana, according to a penalty complaint issued by the U.S. Environmental Protection Agency in February 1996. C.P. Medore of Llano, Texas, and property managers Terence N. and Greta Carsten of Kalispell hired an earthmoving contractor to dredge the bottom of the Altenberg Slough, one half mile north of Highway 82, and to haul away the material. Instead, some of the excavated material was placed on the ground along the slough's perimeter and other material was mounded in the middle of the slough, forming several islands.

Unauthorized construction activities in wetlands violate the nation's Clean Water Act. In addition to facing penalties of up to $125,000 for the illegal work, Medore and Carsten could face as much as $25,000 per day in civil penalties for failing to comply with a previous compliance order filed in July 1994. Medore and Carsten have been directed to pay the penalty and immediately stop all discharges to the Altenberg Slough; remove the "dredged and fill" material from the slough; restore the area within 60 days of the receipt of the order; and allow access to the land by any authorized representative of the Corps, EPA or the U.S. Fish and Wildlife Service to oversee restoration work. Neighbors have complained that the work has even caused water levels in the slough to drop, thereby damaging their access to the water they need. This wetland area provided habitat for migratory waterfowl and other birds, mammals, reptiles, amphibians and fish. It can be restored to its prior condition through known engineering and scientific practices.

Amoco Oil Company (Casper, Wyoming): Amoco Oil Company will pay a $404,000 penalty to settle several alleged environmental violations at its now closed refinery in Casper, WY. The most serious offense occurred when Amoco allegedly violated the nation's Clean Water Act during its refining operations. EPA charged that between July 1990 and December 1992, the company mixed ground water with wastewater and sent the mixture to Casper's sewage treatment facility. The combination of materials posed a hazard to local water resources and threatened sewage treatment operations. The agreement also covers additional charges concerning national hazardous waste laws. Without admitting to the allegations, Amoco agreed to pay the fine and comply with all applicable laws in the future.

City of Blackhawk (Blackhawk, Colorado): In September the City of Black Hawk agreed to settle wetland problems created by the illegal construction of a water supply pump station on Clear Creek and will pay a penalty of $61,515, according to an agreement signed by the City and EPA. Problems stemmed from the City's construction of a pump station without a U.S. Army Corps of Engineers Clean Water Act permit in March 1993. The alleged violations included excavation and back filling of about 1,800 square feet of river bed on the north fork of Clear Creek. The result was temporary loss of wetlands and destruction of aquatic life in the creek. However, water quality sampling demonstrated that none of the contamination entered the City's treated water supply. The City of Black Hawk has limited its use of the pump station and is currently awaiting approval of an after-the-fact Clean Water Act permit from the Corps of Engineers that addresses the impacts of using the pump station.

Clark Equipment Company (Gwinner, North Dakota): Clark Equipment Company agreed, in March, to settle wastewater problems at its facility in Gwinner, North Dakota and pay a total of $250,000 in penalties as part of a settlement with the EPA and the U.S. Department of Justice. Melroe Company, a unit of the Clark Equipment Company, is a metal-finishing operation that manufactures small construction equipment. Melroe's discharges exceeded the industrial limits for copper, lead and zinc.

Clark's failure to sample and analyze wastewater discharges and submit timely reports that EPA needs to monitor industry compliance is a violation of the nation's Clean Water Act. The settlement does not relieve Clark Equipment of its responsibility to achieve and maintain complete compliance at the Gwinner facility.

Emulsified Asphalt (Casper, Wyoming): In April 1996 concern about environmental damage to Deer Creek's water quality and channel stability has brought a Federal compliance order against a Casper-based highway construction and paving company. Emulsified Asphalt, Inc. allegedly directed subcontractors to build a dike in Deer Creek and mine a 300-foot long segment of creek channel for its gravel mining operation in 1991 without authorization from the U.S. Army Corps of Engineers (Corps). The operation disturbed the adjacent area and the floodplain of the Creek which supports diverse plant and animal life. From April 1993 to February 1996 the Wyoming Department of Environmental Quality and EPA tried to resolve these Clean Water Act violations through informal negotiations and a review and comment on various reclamation plans submitted on behalf of Emulsified. On February 9, 1996, EPA approved a plan which stated that Emulsified needed to address a number of specific issues and obtain written approval from the Corps before starting any reclamation work at the site. On February 21, EPA learned from Emulsified's engineering consultant that Emulsified had started work in Deer Creek without the required authorization from the Corps. During a March 1996 inspection, the Corps of Engineers discovered that not only did the work completed need a permit from the Corps, but the work did not conform to EPA's conditionally approved reclamation plan. EPA ordered Emulsified to immediately stop all discharges of "dredged and fill material; develop and submit to EPA, within 20 days of receiving the order, a plan to bring the reclamation work at the Deer Creek site into conformity with the reclamation plan that EPA had agreed to conditionally;

consult with the Corps of Engineers to see if the restoration work will require a permit and if so, get a permit before the plan is implemented; complete reclamation and stream channel restoration of Deer Creek by the end of August 1996; and re-vegetate the site by the end of March 1997.

Pegasus Gold Corporation (Phillips County, Montana): The U.S. Department of Justice and EPA announced in July 1996 the lodging of a consent decree in a Federal lawsuit filed by the United States and the State of Montana against Pegasus Gold Corporation and Zortman Mining, Inc. for the illegal discharge of mine waste waters from two mines in Phillips County, Montana, into waters draining into the Missouri and Milk Rivers. According to the settlement, Nevada-based Pegasus Gold Corporation and Zortman Mining, Inc. will pay $2 million in penalties to the government and the State of Montana for discharging mine wastewaters from the Zortman and Landusky mines located near the Ft. Belknap Indian Reservation without a National Pollutant Discharge Elimination System (NPDES) permit. Pegasus Gold Corporation and Zortman Mining, Inc. will also be required to provide $32.3 million in financial assurance to cover the compliance requirements of an extensive compliance plan. The settlement also resolves a citizen suit filed by the Gros Ventre Tribe, the Assiniboine Tribe, the Ft. Belknap Community Council, and Island Mountain Protectors Association, which alleged that their environmental, cultural, and spiritual interests were impaired by the water quality impacts caused by the two mines. The Tribes will also receive $1 million under this agreement for partial settlement of their aboriginal water rights claim. Additionally, Pegasus Gold Corporation and Zortman Mining, Inc. have agreed to perform the following supplemental environmental projects (at an estimated cost of $1,790,000) a Community Health Evaluation to investigate the pathways and possible impacts of environmental contaminants on residents of the Ft. Belknap Reservation, particularly children; an Aquatic Study to evaluate the general health of the aquatic resources on the Ft. Belknap Reservation; and a number of Improvement Projects to the water supply systems for the communities of White Cow/Hays/Mission Housing and the Lodgepole communities of the Ft. Belknap Reservation to improve the availability, consistency and quality of drinking water. In addition, a fund of $300,000 will be established to be used for maintenance and operation of the improved water systems.

Persona Incorporated (Watertown, South Dakota): In July 1996 a commercial sign manufacturer in Watertown, South Dakota, agreed to pay a $57,000 penalty for violating wastewater pretreatment requirements of the Clean Water Act according to a consent order filed in Denver. Persona, Incorporated is a facility using metal-finishing processes. Wastewater from the business is treated at the Watertown treatment plant and is then discharged into Willow Creek which is less than a mile away from the Big Sioux River. Persona also failed to submit the necessary monitoring reports EPA needs to monitor industry compliance. Pretreatment rules are aimed at protecting community sewage treatment plants by limiting the amounts of pollutants that industrial users (like Persona) may discharge into a sewage treatment plant. Industrial dischargers must "pretreat" their wastes to prevent interference with the operation of community sewage treatment plants.

EPCRA

Pillow Kingdom (Denver, Colorado): As part of a settlement, the company agreed to pay a $26,960 penalty and to spend at least $255,400 to prevent or reduce air pollution at its facilities. EPA investigated after receiving reports that the company placed rags soaked with a combustible lacquer-based finish in a dumpster. The Agency's investigation concluded the furniture maker allegedly violated the national Emergency Planning Community Right-to-Know Act (EPCRA) by failing to properly report the use and storage of toxic chemicals including xylene, methyl-ethyl-ketone, toluene, trichloroethane and others; and neglecting to submit information on chemicals used or on-hand to State and local emergency preparedness officials.

The company is now adhering to EPCRA rules, and, as part of the settlement, agreed to implement a pollution prevention pilot project. The project includes changing from solvent-based to water-based or alternative finishing materials; converting most of its spray equipment to high-volume, low- pressure technology; and experimenting with environmentally friendly wood finishing processes.

RCRA

Amoco Oil Company (Casper, Wyoming): In April, EPA ordered Amoco Oil Company to begin the formal studies that will shape environmental cleanup at the company's shut-down refinery on West Yellowstone Highway at Casper, WY. The order completes an administrative process that began when EPA issued an initial order in November 1994. Amoco requested a hearing on that order and a hearing was held in May 1995. This final order reflects changes which were

found to be appropriate as a result of the hearing and documents filed during the administrative process.

The order requires that Amoco's efforts concentrate on refinery property that lies south of the North Platte River, on Soda Lake, and the Soda Lake caustic pit northeast of the "operations" portion of the refinery. Amoco will have to provide information on past releases, the extent and depth of contamination of various kinds, and on any migration of wastes off the site. Preliminary investigations over the past several years have found high levels of lead and floating hydrocarbons on the refinery grounds. At Soda Lake, oil and grease, benzene, carbon tetrachloride, chloroform, tetrachloroethylene and dichloroethylene have been found in inlet water and sludges. Water samples from Soda Lake showed low levels of chloroform and methyl-ethyl ketone.

REGION IX

CLEAN AIR ACT

U.S. v. Chevron, Mobil, Ultramar, and UNOCAL (California): In the fall of 1996 the Northern and Central District Courts of California entered consent decrees in cases involving five oil companies - Chevron U.S.A. Inc., Chevron Pipe Line Company, Mobil Oil Corporation, the Union Oil Company of California, and Ultramar, Inc. - for violations of the Clean Air Act's New Source Performance Standards ("NSPS"). These cases concern the companies' use of certain equipment known as "slotted guidepoles" on petroleum liquid storage vessels. In order to minimize the release of volatile organic compounds ("VOCs") into the atmosphere, Subparts Ka and Kb of the NSPS require that openings in the roofs of certain storage vessels "be equipped with a cover, seal, or lid" maintained in a closed position except when in use.

The consent decrees required the five companies to install pollution control equipment on slotted guidepoles in use at storage vessels subject to EPA's NSPS requirements. As further injunctive relief, the consent decrees required the companies to install pollution controls on slotted guidepoles at a total of 36 additional non-NSPS tanks. These additional controls significantly reduce VOC emissions beyond the minimum required by law. EPA estimates that the controls obtained by these settlements will result in VOC emission reductions of at least 140 tons per year. Three of the five companies are located in an extreme ozone nonattainment area.

Kelco Division of Merck & Co., Inc. (San Diego, California): EPA entered into a consent decree under the Clean Air Act with the Kelco Division of Merck & Co., Inc. ("Kelco"), a kelp processing and biogum production facility located in San Diego, California. The facility manufactures various algin products by processing sea kelp and produces several biogums by a process of biopolymerization. Volatile organic compounds ("VOCs") are emitted to the atmosphere during the manufacturing processes. The San Diego area is a serious nonattainment area for ozone. The Kelco facility is the largest stationary source of VOC emissions in San Diego County, accounting for approximately 36% of San Diego's total emissions from stationary sources according to the 1991 emissions inventory.

Between 1982 and 1991, Kelco modified the facility numerous times without obtaining any authority to construct ("ATC") or installing equipment that complied with lowest achievable emission rate as required by the Clean Air Act's New Source Review ("NSR") program. As a result of EPA's enforcement action, Kelco negotiated with the San Diego Air Pollution Control District for a revision of District Rule 67.10, which is applicable to Kelco's facility only, and agreed to install additional controls to satisfy NSR requirements and to implement supplemental environmental projects. Total VOC reductions from the facility will amount to 1,706 tons per year, a significant decrease from Kelco's pre-enforcement releases.

CERCLA

Arizona Copper Mines Initiative: In 1996, EPA and the State of Arizona concluded several enforcement actions as part of the Arizona Copper Mines Initiative. The multi-year initiative was undertaken to assess the impact of active, inactive and abandoned copper mines on surface water and groundwater, to develop an inventory of Arizona copper mines, and to ensure the cleanup and remediation of contaminated mine sites. A federal/state task force was formed to implement the initiative. The U.S. Bureau of Mines, U.S. Forest Service, Arizona State Mine Inspector's Office, Arizona Department of Environmental Quality and EPA Region IX inventoried over 7,000 mines sites, and a list of approximately 700 high potential problem mines was developed. The initiative's objectives include the completion of demonstration projects and voluntary cleanup of inactive and abandoned mines through outreach and cooperative agreements with the mining industry. EPA and the State have, in addition, taken enforcement action to secure compliance with federal and State water pollution laws.

In September 1996, the U.S. District Court entered a consent decree requiring Cyprus Bagdad Copper Corp. to pay $475,000 to the United States, and $285,000 to Arizona, to settle violations of the federal Clean Water Act and the Arizona Environmental Quality Act at the company's Yavapai County copper mine. In May 1996, the District Court entered another consent decree requiring Cyprus Miami Mining Corp. to pay penalties totaling $295,000 to the United States and Arizona for past violations at its Gila County mine. The decree with Cyprus Miami further requires that the company

undertake a "supplemental environmental project" to stabilize and reclaim inactive tailings impoundments resulting from historic copper ore milling operations at the site. The project is scheduled for completion in 1997 and will cost at least $650,000. If the latter project proves to be infeasible, the decree provides that Cyprus Miami shall pay additional penalties to the United States and Arizona. Finally, in March 1996, the Court entered a consent decree requiring that Cyprus Sierrita Corp. pay penalties totaling $88,000 to the United States and Arizona for past violations at that company's Pima County mine.

EPA Region IX also completed an administrative penalty action against the operators of a copper mine in Pima County. In November 1995, Region IX filed a consent order finding Oracle Ridge Mining Partners liable for Clean Water Act violations, and requiring the partners to pay a $25,000 penalty.

Burbank Operable Unit (OU) (San Fernando Valley, California): The Burbank OU interim remedy requires extraction of 12,000 gpm, blending to reduce nitrate concentrations, and delivery of the treated water to the City of Burbank water supply system for twenty years. Under a 1992 consent decree, Lockheed Martin Corporation ("Lockheed"), the City of Burbank, and Weber Aircraft Corporation agreed to construct and/or to fund the capital portions of the remedy, and Lockheed agreed to operate the remedy for two of the twenty years of required operation, to pay certain of EPA's past costs, and to pay oversight costs for the consent decree activities. EPA issued a unilateral administrative order ("UAO") to six other PRPs to require the construction of a nitrate blending facility.

The first phase (6000 gpm extraction capacity) of the Burbank OU interim remedy began operating in February 1996. Throughout 1996, EPA engaged in negotiations with Lockheed, the City of Burbank and PRPs associated with approximately thirty-five other Burbank facilities for a second consent decree. The second decree will require the operation of the last eighteen years of the remedy, the payment of EPA's past basin-wide costs not recovered under the first decree, and payment of EPA's future oversight costs.

Casmalia Resources Hazardous Waste Management Facility (Santa Barbara, California): On September 17, 1996, the United States lodged a consent decree with a group of approximately 50 hazardous waste generators to help clean up the Casmalia Resources Hazardous Waste Management Facility in Santa Barbara, California. During its sixteen years of operation from 1973 to 1989, the Casmalia hazardous waste facility accepted over 4 billion pounds of waste. After the enactment of RCRA, Casmalia operated in interim status, but never obtained a final RCRA operating permit because of continuing deficiencies in the site's operations. In August, 1992, Region IX initiated a time-critical CERCLA removal action in response to deteriorating site conditions. The removal action kept the site under control and abated the most imminent threats while negotiations with site generators proceeded. During this period, the Region expended over $13 million in removal response monies.

The agreement represents an innovative approach to addressing large multi-party sites that are being cleaned up outside the traditional CERCLA framework. It defines the parties responsible for performance of site work for the next ten to fifteen years and the source of funds to pay for site work in the future. Under the terms of the settlement, the settling generators, who represent about 47% of the waste at the Casmalia facility, agree to pay for and implement certain cleanup actions and pay certain costs associated with cleanup of this large hazardous waste disposal facility. Quantifiable obligations under the consent decree exceed $30 million. In addition to the work required of the Settling Defendants, the consent decree contemplates offering cashout settlement opportunities to the remaining 10,000 to 15,000 PRPs. It is anticipated that these cashouts will help raise sufficient funds to pay for work not financed by the Settling Defendants.

U.S. v. Chapman (Palomino Valley, Nevada): On December 8, 1996, a judge of the Northern District of California granted summary judgment in favor of the United States for all past response costs in the amount of $235, 000 in the U.S. v. Chapman suit. EPA had previously settled penalty claims for $50,000. The case arose as a result of EPA's removal activities at the H.B. Chapman facility in Palomino Valley, Nevada in 1990. The 5-acre site, primarily used for the manufacture of machined metal and acrylic products, was found to have quantities of uncontained and poorly stored hazardous substances. EPA began the removal action when the owner, Mr. Chapman, refused to comply with the CERCLA Section 106 administrative order. Faced with Mr. Chapman's blatant recalcitrance, including noncompliance with a subsequent information request, the United States filed the action even though EPA costs were relatively low. EPA past costs for the removal at the Palomino Valley Superfund site amounted to less than $50,000, but the court awarded the United States the enforcement costs incurred by EPA and the Department of Justice. The DOJ costs exceeded the EPA costs because of the

defendant's protracted recalcitrance and continued unwillingness to settle the case.

Glendale North and South Operable Units (OU) (San Fernando Valley, California): The RODs for the Glendale OUs, issued in 1993, require the extraction of 5000 gpm from separate Glendale North and South extraction well fields, treatment and nitrate reduction blending at a combined treatment and blending facility; and delivery of the treated water to the City of Glendale water supply system for twelve years. Under a 1994 administrative order on consent ("AOC") with EPA, twenty-five parties performed the design for the interim remedies. The AOC parties submitted the final design to EPA on September 30, 1996. Throughout 1996, EPA pursued negotiations with these and other PRPs to construct, operate and maintain the interim remedies once EPA approves the design.

Hendler v. U.S. (California): On October 9, 1996, the Court of Federal Claims rejected a regulatory takings claim against EPA in Hendler v. U.S. The plaintiffs, owners of property adjacent to the Stringfellow Acid Pits NPL site, had sought an award of at least $18 million against the United States for installing groundwater monitoring wells on their property located next to a major Superfund site. The court's decision, rejecting the plaintiffs' regulatory takings on all four grounds raised by the United States, provides an important precedent in support of EPA's ability to conduct Superfund investigations. The plaintiffs, owners of approximately 100 acres of undeveloped land adjacent to the Stringfellow Acid Pits, had alleged that the installation of the monitoring wells on their property constituted a regulatory and physical taking of their property under the Fifth Amendment. In 1983, EPA had issued an administrative access order pursuant to CERCLA, and working with the State of California subsequently installed a total of 20 monitoring wells on plaintiffs' property. The wells helped establish that the groundwater plume containing Stringfellow Superfund site ran directly through plaintiffs' property.

A 1991 ruling of the Federal Court had previously held that the installation of the wells constituted a physical taking, but had not ruled on the regulatory taking issue. The trial court initially stated that it believed the value of the physical taking was only $14,500. On plaintiff's motion for reconsideration, the court agreed to a damages phase of the trial. This was held on March 17 and 18, 1997. The United States argued that the value of the benefit provided to the plaintiffs exceeded the value of the well easements. The court's decision is expected this summer.

Lorentz Barrel & Drum and Stringfellow: Region IX took action to resolve the liability of small parties at two major Superfund sites by concluding an administrative *de minimis* settlement with 60 parties at the Lorentz Barrel and Drum site and signing an agreement with over 100 parties at the Stringfellow site. Together the two settlements obligate the *de minimis* parties to pay over $6.6 million in response costs to EPA. The *de minimis* settlement for the Stringfellow site was lodged as a consent decree on May 9, 1996 in U.S. v. Stringfellow, et al. (Civ. No. 83-2501)(C.D.Cal.). The *de minimis* decree, when entered, will be the fourth consent decree in the case. The decree would settle the liability of over 100 entities who will pay a total of $4.8 million to be used for costs incurred in the operation of the Stringfellow pretreatment plant beginning January 1, 1996. The waste attributable to all of the settling entities combined is less than 1% of the total waste deposited at the site. The Stringfellow NPL site is a former hazardous waste disposal facility, with total cleanup costs projected to be between $250 and $475 million.

The *de minimis* settlement for the Lorentz Barrel and Drum Superfund site became effective on September 25, 1996. This administrative settlement with 60 *de minimis* parties obligates the settlers to pay a total of $1,838,224.30 to EPA and $865,046.72 to the State of California. Lorentz Barrel and Drum NPL site is a former barrel and drum recycling facility located in San Jose, California. During the forty years of operation, over 3,000 private and public entities in California and Nevada sent barrels and drums, many of which contained residues of hazardous substances, to the site. The *de minimis* settlement represents the fourth agreement for the site, including two agreements for response action and a 1995 *de minimis* agreement with 88 parties.

North Hollywood Operable Unit (OU) (San Fernando Valley, California): The North Hollywood Record of Decision ("ROD"), issued in 1987, requires extraction of 2000 gallons per minute ("gpm"), treatment to remove VOCs from groundwater, and delivery of the treated water to the City of Los Angeles' water supply system for fifteen years. EPA fund-financed the construction, operation and maintenance of this interim remedy, which is operated by the Los Angeles Department of Water and Power. On August 8, 1996, the first partial consent decree resolving approximately half of the potentially responsible parties' ("PRPs") liability was entered by the Central District of California federal court. This settlement recovered $ 4.75 million, consisting of past and estimated future costs related to this OU and a percentage of EPA's past basin-wide costs. EPA

settled the litigation against the remaining PRPs in June 1996, recovering an additional $ 4.8 million.

U.S. v. Omega Chemical Corporation (California): On September 6, 1996, the United States District Court for the Central District of California granted the United States' motion for summary judgment in a penalty action brought pursuant to section 104(e)(5) of CERCLA. The United States filed this penalty action after the owner/operator, Omega Chemical Corporation, refused to grant the U.S. EPA unconditional access to their property to conduct necessary removal activities. EPA initially requested access to the Omega Chemical Corporation site ("site") around April 10, 1995. OCC declined to provide access unless the U.S. agreed not to use any evidence found against it in subsequent proceedings. EPA deemed this to be a denial of access and, on June 26, 1995, sought and received a 60-Day Warrant for Access from the Court. EPA subsequently received an order in Aid of Access from the Court for the duration of the removal activities.

EPA sought penalties for OCC's refusal to grant access for the 78 day period from April 10, 1995, to June 26, 1995. On August 6, 1996, the Court ruled from the bench in favor of EPA and imposed a penalty of $2,500 per day for the entire 78-day period, for a total penalty of $195,000. Judgment was entered on September 6, 1996. Both the per day amount and the total amount represent the largest denial of access penalties ever issued under CERCLA. The case thus sends an important message to parties who refuse to cooperate with cleanup operations.

U.S. v. Operating Industries, Inc. (OII) (California): On July 10, 1996, the U.S. District Court for the Central District of California entered the Fifth Partial consent decree for the Operating Industries, Inc. (OII) Superfund site. This cash-out settlement between EPA, the State of California, and 30 companies will provide $18.7 million for ongoing operable unit cleanup actions and other response costs at this 190-acre landfill near Los Angeles. The decree provides for reduced settlement payments and/or installments for a number of parties with documented financial difficulties. Some settling parties were required to pay premiums for their failure to participate in prior settlements. Two of the settlors also paid penalties for their failure to adequately comply with a Unilateral administrative order.

U.S. v. United Heckathorn (Richmond, California): In July of 1996, U.S. District Court Judge Claudia Wilkin entered four consent decrees worth approximately $10,000,000 between EPA and all financially viable PRPs at the United Heckathorn NPL site in Richmond, California. The decrees provide for implementation of all remedial actions at the site by PRPs and substantial recovery of EPA's past costs. As the result of the settlements, the marine remedial action at the site (dredging and offsite disposal of 100,000 tons of contaminated sediment) was commenced in August and is expected to be completed by the end of 1996. Expediting initiation and completion of the marine remedial action is particularly significant given the current direct exposure of low income minority subsistence fishermen to DDT and dieldrin through the consumption of contaminated fish. In addition, expediting the marine remedial action will allow the Port of Richmond to begin its Port deepening project next spring; the project is the cornerstone of the City of Richmond's economic redevelopment plan.

The settlements are also significant because they provided the basis for a contemporaneous comprehensive settlement among the PRPs that ended a ten year old private cost recovery court case in which the PRPs had spent more in litigation costs than the expected costs of the remedial actions at the site. The settlements were also the first settlements to implement the EPA Orphan Share policy resulting in EPA forgoing $1.5 million in past costs in recognition of the orphan share that resulted when the former site operator was determined to be a disolved and defunct corporation.

REGION X

CLEAN AIR ACT

United States v. Kaiser Aluminum and Chemical Corporation (Spokane, WA): A consent decree with Kaiser Aluminum and Chemical Corporation was entered January 16, 1996, in the U.S. District Court for the Eastern District of Washington to resolve alleged opacity violations at the company's Trentwood Works Facility in Spokane, Washington. Kaiser agreed to pay a civil penalty of $500,000 and to complete a program of plant improvements and operational changes to achieve and maintain compliance with the opacity standards contained in the Washington State Implementation Plan. These projects include installation of an emission control system and continuous opacity monitors on the furnace stacks. The initial capital costs for these projects will exceed $10 million.

United States v. Tesoro Alaska Petroleum Company (Kenai, AK): A consent decree with Tesoro Alaska Petroleum Company was entered June 4, 1996, to resolve numerous alleged violations of the NSPS regulations at Tesoro's petroleum refinery in Kenai, Alaska. Tesoro agreed to pay a civil penalty of $1.3 million and to implement a supplemental environmental project. The SEP will reduce VOC emissions from the facility by about 139 tons per year.

CERCLA

Hanford (Hanford, Washington): The State of Washington, EPA and the Department of Energy--the three parties to the Hanford Federal Facility agreement and consent order--agreed to establish a single regulator for each cleanup activity and milestone. This apparently is the first order modified to incorporate the concept of a "single regulator at federal facility sites," the Superfund reform announced by Administrator Browner in October 1995.

King Salmon Airport (Alaska): USAF King Salmon 3 Party agreement -- EPA Region X has negotiated an agreement with the Alaska Department of Environmental Quality (ADEC) and the USAF to establish a framework for carrying out the selected interim remedial action at the site according to CERCLA. EPA's role is to provide technical assistance and consultation to the USAF and ADEC in carrying out the agreement. EPA does not have a direct enforcement role in this agreement. King Salmon Airport was a barrel, metal and wood disposal area. Contamination of soil, groundwater, surface water and sediments with PCB, TCE, Arsenic, Cadmium, Lead and Mercury are present. Remedial action requires that a cap be designed and installed, along with groundwater monitoring. This agreement is unique in that the facility would be cleaned up using CERCLA protocol as the Governor of Alaska would not agree to putting this facility on the NPL. The Regional Administrator is set to sign this agreement on November 13, 1996.

Port Hadlock Detachment (Hadlock, Washington): On July 16, 1996 an interagency agreement between EPA Region X, the U.S. Navy and the State of Washington was reached in addressing remedial actions to be conducted at the Naval Ordnance Center Pacific Division, Port Hadlock Detachment, Hadlock, Washington. This agreement is significant since it provides the lead for regulatory oversight to the State of Washington. The agreement also has unique CERCLA 109 penalty provision and dispute resolution.

Tulalip Landfill (Marysville, Washington): 186 PRPs signed a *de minimis* administrative order on consent to settle as minor contributors at the Tulalip Landfill Superfund site. These *de minimis* settlors agreed to pay $8 million towards total estimated response costs of $40 million, including paying a 100% premium on future costs. Region X also filed its initial brief on behalf of the United States in the Tulalip Landfill SRA Allocation Project. The brief is the first filed by EPA in the SRA Allocation Pilot and was closely coordinated with DOJ, EPA Headquarters and the Tulalip Tribes.

United States v. Western Processing (Kent, Washington): We received a favorable ruling in the Western Processing Superfund litigation on the issue of the recoverability of oversight costs. The court rejected defendants' request to follow the reasoning of the Third Circuit in Rohm and Haas. This is the first case in the Western District of Washington to address this issue.

CLEAN WATER ACT

Cook Inlet Oil and Gas Platforms (Cook Inlet, Alaska): Marathon, Shell and Unocal agreed to pay a combined penalty of $212,500 for allegedly discharging pollutants in excess of the limits of their

NPDES permits for 18 offshore oil and gas platforms in Cook Inlet, Alaska.

Esplin Dairy (Nehalem Bay Oregon): Esplin Dairy allegedly discharged approximately 900,000 pounds per year of animal waste to a slough discharging to Nehalem Bay, Oregon. In response to an EPA order, the dairy set up a system to keep manure from contaminating clean water and installed a 10,000 gallon tank to collect wastewater before pumping it to larger containment facilities. The wastewater is high in fecal coliform bacteria, BOD, TSS and nutrients.

Four Brothers Dairy (Shoshone, Idaho): For the alleged unpermitted discharge of an estimated 561,000 gallons of wastewater from its Shoshone, Idaho, dairy to a canal draining to the Snake River, the Four Brothers Dairy paid a penalty of $7,350. EPA measured fecal coliform levels as high as 180,000 colonies/100 ml in the wastewater in the canal.

Glenger Farms, Inc. (Tillamook Bay, Oregon): Glenger Farms allegedly discharged approximately 1.3 million gallons of manure laden wastewater to drainage ditches flowing into Tillamook Bay, Oregon, without a permit. In response to an EPA administrative complaint, the farm paid a $20,000 penalty and modified its operations to separate clean water from contaminated material, thereby extending the holding capacity of its wastewater storage lagoon from two to 57 days. In addition, the facility began monitoring and managing its land application practices, thus preventing the discharge of wastewater containing about 6,435 pounds of BOD and TSS to waters of the U.S.

Ketchikan Pulp Company (Ketchikan, Alaska): We received a favorable ruling from the administrative law judge on the permit-as-a-shield defense in this Clean Water Act administrative enforcement proceeding. The Region had alleged that a large cooking acid spill and a multimillion gallon flocculent release were unpermitted discharges. Ketchikan Pulp Company (KPC) argued that these discharges were lawful so long as the mill's total discharge complied with the permit's end-of-pipe effluent limits. The judge held that the discharges were illegal because KPC's permit did not specifically authorize them and because KPC's permit application did not disclose the types of discharges that occurred.

Misty Meadow Dairy (Tillamook, Oregon): For the alleged unpermitted discharge of about 685,000 pounds of manure per year to navigable waters flowing into Tillamook Bay, Oregon, Misty Meadow Dairy agreed to pay a $6,000 fine. The dairy is expected to sell half its herd in order to allow more flexibility in managing waste accumulations.

Port Townsend Paper Corporation (Port Townsend,Washington): Port Townsend Paper Corporation, a Washington pulp and paper company, paid an administrative penalty of $5,000 for allegedly violating EPA's Facility Response Plan (FRP) regulations, This the first case in the nation assessing a penalty for FRP violations. The new regulations, authorized by the Oil Pollution Act of 1990, require oil facilities that pose a greater significant risk to the environment, based on their storage capacity and proximity to sensitive ecosystems, to prepare FRPs and to submit them to EPA for approval.

Veerman Dairy (St. Paul, Oregon): Veeman Dairy paid a $1,000 penalty for allegedly discharging 52 to 78 million gallons of wastewater to navigable waters flowing into the Willamette River, Oregon. In response to a separate compliance order, the dairy will repair and maintain its wastewater storage ponds to eliminate future discharges.

EPCRA

American Cabinet Concepts, Inc. (Longview, Washington): American Cabinet Concepts, Inc., of Longview, Washington, agreed to pay a penalty of $6,577 and to install a Dowmar Solvent Still, valued at $5,214, to reduce its use of xylene.

Bullseye Glass Company (Portland, Oregon): Bullseye Glass Company of Portland, Oregon, agreed to pay a penalty of $5,060 and to investigate and implement ways to reduce the amount of lead used in its manufacturing process. The project value was $21,124.

James River Corporation (Camas, Washington): James River Corporation of Camas, Washington, agreed to pay a $12,750 penalty and to spend $47,650 to install two hot water parts washers to replace existing solvent-based washers, thus eliminating its annual use of about 34,840 pounds of solvent.

Tillamook County Creamery (Tillamook, Oregon): Tillamook County Creamery, Oregon, agreed to pay a $21,683 penalty and to spend $97,332 for fencing to keep livestock away from waterways discharging to Tillamook Bay .

RCRA

Cook Inlet Pipeline (Drift River, Alaska): Cook Inlet Pipeline Company in Alaska signed a RCRA

administrative order on consent agreeing to pay a civil penalty of $344,000 for the unpermitted storage of benzene waste in six surface impoundments. As part of the settlement, the facility agreed to investigate other releases of contamination at their facility.

Shemya Air Force Base (Shemya, Alaska): For alleged RCRA violations involving the illegal storage of hazardous waste, Shemya Air Force Base (now Eareckson Air Force Base) in Alaska agreed to a penalty of $270,000. Up to $150,000 will be offset by the costs of construction of a hazardous waste transfer facility.

TSCA

Roseburg Forest Products (Riddle, Oregon): Roseburg Forest Products, Riddle, Oregon, agreed to pay a $2,287 penalty and to spend at least $24,000 to remove and dispose of two large PCB transformers and to encapsulate PCBs at its facility.

Tanana Power Company (Tanana, Alaska): Tanana Power Company in Alaska agreed to pay $5,500 and to spend $36,000 for the early removal and disposal of PCB electrical equipment.

U.S. Oil & Refining (Tacoma, Washington): U.S. Oil & Refining, Tacoma, Washington, agreed to pay a $18,360 penalty and to spend $200,000 to install a crude unit gas recovery compressor to reduce the volume of emissions from the burning of natural gas.

City of Wrangell (Wrangell, Alaska): The City of Wrangell, Alaska, agreed to pay a penalty of $1,359 and to spend $2,258 to remove and properly dispose of three large high voltage capacitors containing 257 pounds of PCBs.

MULTIMEDIA

V-1 Oil (Reston, Idaho): Region X issued a unilateral administrative order to V-1 Oil Company in Preston, Idaho, under the combined authority of CWA §§ 311© and (e) and RCRA § 7003, requiring cleanup of oil discharged to groundwater from underground storage tanks. This was the Region's first cleanup order issued under the oil spill cleanup authorities of the Clean Water Act. This authority has been exercised in only a few instances in other regions. The order was prompted by recent reports of explosive levels of petroleum vapors accumulating in residences near the facility.

OFFICE OF REGULATORY ENFORCEMENT

Clean Air Act

U.S v. Georgia-Pacific: The largest Clean Air Act enforcement action that EPA has undertaken to date was against the Georgia-Pacific Corporation, which will spend more than $35 million in injunctive relief, penalties and supplemental projects to settle allegations that it illegally poured tons of volatile organic compounds (VOCs) annually into the air at its wood product factories in eight southeastern states. The federal government alleged that the company failed to obtain permits before modifying 18 of its wood processing facilities, failed to accurately report the amount of VOCs that it emitted into the air, and neglected to install pollution control technology at 11 of its facilities. VOCs produce ozone, a component in ground-level smog, which can cause breathing problems, reduced resistance to colds and other infections, and speed up aging of lung tissue, especially for the young, the elderly, and people with respiratory problems. It also causes damage to plant life by reducing crop yields and impeding plant growth.

The settlement affects more facilities than any other case ever brought under the Clean Air Act, which is designed to ensure that air quality does not deteriorate in areas of the country that have been deemed to have clean air. Georgia-Pacific will spend $25 million installing "state of the art" pollution control technology at the 11 facilities, pay a $6 million civil fine to the U.S. Treasury, spend another $4.25 million on beneficial environmental projects in the southeast, and conduct comprehensive clean air audits at all its wood product plants. The settlement will reduce ozone-forming emissions from these plants by at least 90 percent, which translates into 10 million pounds of harmful air pollution per year.

U.S. v. General Motors: The General Motors Corporation will spend more than $45 million to settle government charges that it put illegal devices to defeat pollution controls inside nearly 500,000 Cadillacs since 1991 that resulted in carbon monoxide emissions of up to three times the legal limit -- a total of approximately 100,000 tons of excess carbon monoxide pollution. Carbon monoxide can cause cardio-pulmonary problems, headache, and impaired vision. The case is the largest ever brought under the Clean Air Act for cars and truck emissions, and the first judicial auto recall to curb damage to the environment.

The settlement resolved federal allegations that GM sold vehicles that did not meet the requirements of the Clean Air Act, tampered with certain 1991-2 model year Cadillacs, and failed to describe the use of emission control devices to EPA. GM will pay an $11 million fine, spend more than $25 million to recall and retrofit more than 550,000 polluting vehicles, and spend more than $7 million on environmental projects in areas with serious air quality problems in California, Arizona, New York, Connecticut, Massachusetts and New Hampshire. When the vehicle recall is completed, at least 120,000 fewer tons of carbon monoxide will be emitted into the air over the next five years.

Clean Water Act

United States v. District of Columbia (Blue Plains Litigation): On August 6, 1996, a Federal District Court approved and entered a judicial settlement agreement requiring the District of Columbia to upgrade the Blue Plains wastewater treatment plant to prevent illegal discharges into the Potomac River. Entry of the agreement was opposed by the Commonwealth of Virginia, which favored a broader settlement. The agreement settles allegations that the District of Columbia failed to operate and maintain the treatment facility in accordance with a permit issued by EPA, in violation of the Clean Water. In 1995, EPA inspected the plant and found that conditions at the facility were deteriorating. Large amounts of user charge revenues collected by the District of Columbia were not being made available to pay for the cost of operating and maintaining the treatment plant.

Under the agreement, the District of Columbia (1) will take steps to improve the way it operates and maintains the facility (including the dedication of user charges to Blue Plains), (2) will launch a $20 million effort to upgrade the facility's water treatment equipment, and (3) will ensure that the plant does not discharge high concentrations of chemical pollutants and harmful microorganisms into the Potomac River. Excess discharges of ammonia, nitrogen, chlorine and certain microorganisms can significantly damage aquatic life. Inadequately treated sewage can increase the health risks for people who use the river for recreational uses like boating, fishing and swimming. The District Court found that "the terms of the agreement contribute to the restoration and maintenance of the chemical, physical, and biological integrity of the nation's water."

United States and State of Montana v. Pegasus Gold Corp. And Zortman Mining, Inc. and Gros Ventre Tribe, Assiniboine Tribe, Ft. Belknap Community Council, and Island Mountain Protectors Association v. Zortman Mining, Inc. Consolidated Settlement: The Zortman and Landusky mines have produced between 110,000 and 113,000 ounces of gold per year between 1979 and 1995. The gold is produced from low grade ore (0.010-0.040 ounces gold per ton of ore) by cyanide heap leaching operations. This process produces between 400,000 to 900,000 ounces per year of silver as a by-product. For at least five years, Pegasus and Zortman discharged low pH, metal-laden (toxic) mine drainage, process water (containing cyanide, nitrates, and heavy metals), and other wastewaters without NPDES permits. Water quality was significantly impacted by the acid mine drainage from the facilities (pH has declined to 2.8 from 7.8), high levels of sulfate (4,090 mg/l), iron and arsenic were found. A civil judicial action was filed against Zortman and Pegasus on December 19, 1994.

A consent agreement settling this action was lodged on July 23, 1996. Under the terms of that agreement, the defendants may only discharge mine wastewater in accordance with interim effluent limitations contained in the decree, the Storm Management Plan contained in the decree, the compliance plan or any legally enforceable Montana NPDES permit. Additionally, the defendants will conduct a ground water investigation to determine the nature and extent of ground water contamination and compliance with Montana's ground water quality standards. Whole effluent toxicity testing will be used to monitor compliance. Defendants will also pay a civil penalty of $2 million to be split between the U.S. and the State, as well as perform several supplement environmental projects valued at approximately $1.5 million. In addition, the Tribes will receive a cash settlement of $1 million, in partial settlement of their aboriginal water rights claim.

The company will fund an investigation of the pathways and possible impacts of environmental contaminants on residents of the Ft. Belknap Reservation, particularly children; fund a 3 year investigation of the general health of aquatic resources on the abutting portions of the Ft. Belknap Reservation; and make improvements to the water supply systems of the communities of the White Crow/Hays/Mission Housing community. This is the largest total settlement to date for a Clean Water Act violations in Region VIII.

RCRA

Harmon Electronics/Beaumont: In these consolidated cases, EPA filed RCRA administrative enforcement actions where the delegated States had brought enforcement actions for some of the same violations -- a practice referred to as "overfiling." An Administrative Law Judge (ALJ) in the Region III *Beaumont* matter ruled that such actions are barred, even here where the State's enforcement response was severely inadequate. The ALJ ruled that EPA can file such actions only where the delegated State fails to act. Although EPA only overfiles in rare circumstances, it is important to have the authority to overfile when, for example, the terms of a State-negotiated consent decree fail to protect human health and the environment because the provisions for injunctive relief are non-existent or insufficient.

The EAB consolidated the *Beaumont* case with the Region VII *Harmon Electronics* matter because both involve issues regarding the potential limits on EPA's overfiling authority. The specific issues before the EAB were: (1) whether *res judicata* or collateral estoppel preclude EPA from overfiling a RCRA administrative action when a State already has adjudicated the same violations under its own authorized program; (2) whether Harmon should qualify for penalty adjustments under EPA's 1995 Audit Policy; and (3) whether Harmon's violations are "continuing" for statute of limitations purposes and, if so, whether the action is nevertheless barred by 28 U.S.C. § 2462 because the alleged claims first accrued more than five years before the Region commenced its action. At oral argument on May 1, 1996, EPA argued that *res judicata* or collateral estoppel do not preclude these actions, that the Audit Policy is intended for use only in settlement and not in litigation (but that Harmon failed to meet the terms of the policy anyway), and that Harmon's active conduct in operating a hazardous waste land disposal facility without a permit is not barred by the statute of limitations. A decision by the EAB is pending.

United States and the State of Louisiana v. Marine Shale Processors, Inc. et al.: This nationally significant enforcement action came to a conclusion on April 18, 1996, when the U.S. Court of Appeals for the 5th Circuit handed a decision strongly in favor of the governments. MSP had appealed the August 30, 1994 order by the United States District Court for the Western District of Louisiana which assessed an $8 million penalty against the company for violations of the Clean Air Act, Clean Water Act and RCRA storage requirements and Region VI's denial of MSP's Industrial Furnace permit application. The Fifth Circuit upheld EPA's denial of MSP's permit application and vacated and remanded the United States District Court for the Western District of Louisiana's ruling that the certain material processed

separately at the MSP facility produced a "product" that is not a hazardous waste under RCRA. The Fifth Circuit also reversed the District Court and held that MSP lacked interim status to store RCRA hazardous wastes, and ruled that the federal government may enforce MSP's CAA permit. Finally, the Fifth Circuit upheld $4 million assessment of penalties but reversed and remanded some of the District Court's penalty decisions for reconsideration.

On June 21, 1996, EPA notified MSP that its permit had been denied and that any possible authority they may have had to operate was terminated. The company was ordered to cease accepting all hazardous waste; burn or send off-site any hazardous waste stored at the site within two weeks; and submit a closure plan to EPA which would provide for closure of all hazardous waste management units at the facility and require removal of all ash from the facility and MSP's sister corporation, Recycling Park Inc. After six years of litigation, the unpermitted incinerator operated by Marine Shale Processors, Inc. (MSP) of Amelia, Louisiana was shut down. Once one of the largest burners of hazardous waste in the United States, the facility can no longer receive or burn hazardous waste. The closure was the result of a determined enforcement action brought by the United States and the State of Louisiana to protect the citizens of South Louisiana and ensure the integrity of the RCRA permitting program established by Congress.

FIFRA

Pfizer/AgrEvo: Reporting of unreasonable adverse effects information is required under FIFRA section 6(a)(2), and failure to submit such reports has resulted in a $192,000 settlement involving AgrEvo Environmental Health, Inc. and Pfizer, Inc. The case arose in early 1994 after an individual reported disabling neurological symptoms and chemical sensitivity after using RID products to kill lice. The ensuing EPA investigation revealed numerous additional unreported incidents involving RID which is manufactured by AgrEvo and distributed by Pfizer. EPA amended the complaint charging 24 counts against each company. FIFRA §6(a)(2) requires pesticide registrants to submit to EPA any additional information (beyond that submitted in the pesticide registration process) that they have regarding unreasonable adverse effects of their pesticides on human health or the environment. The information is used by the Agency in the determination of risks associated with pesticides.

Rohm and Haas Company: This complaint cited Rohm and Haas for 66 violations under FIFRA section 12(a)(1)(c), for the distribution or sale of a registered pesticide the composition of which differed from the composition as described in the statement required in connection with its registration under FIFRA section 3. The Agency registers pesticides based upon the accurate assessment of components used in the manufacture of the product. Use of an unapproved formula can lead to production of a pesticide for which no assessment of risk has been determined or result in unknown synergistic effects. Following settlement negotiations, and in accordance with the FIFRA Enforcement Response Policy , the original penalty of $330,000 was reduced to $118,800, based on a 20% reduction to the gravity level, a 40% reduction for immediate self-disclosure, mitigation, and corrective actions, and a 15% reduction for good attitude, cooperation, and efforts to comply with FIFRA.

TSCA

Elf Atochem North America, Inc.: An administrative complaint, dated June 21, 1994 was issued to respondent, Elf Atochem North America, Inc. alleging reporting violations of Sections 5, 8, and 13 of TSCA. The adjusted total proposed civil penalty in the complaint was $489,000 since the respondent voluntarily disclosed the violations to EPA. The parties engaged in extensive negotiations which resulted in a consent agreement in which respondent agreed to pay a civil penalty in the sum of $291,900, and to perform a pollution prevention Supplemental Environmental Project (SEP), estimated to cost the respondent more than $1,000,000. The company has agreed to perform a voluntary TSCA audit at 28 facilities under conditions specified in the consent agreement.

The purpose of the PMN and import certification requirements is to allow EPA to assess the potential health and environmental impacts of chemicals before they enter into commerce. The SEP will serve to lessen public health risks, and the inclusion of an auditing obligation in settling a complaint for past violations (not subject to this future voluntary audit) would promote the goal of the final audit policy "to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose and correct violations of environmental requirements."

CRIMINAL

United States v. John P. Sochocky dba A'Quality Environmental Services (Eastern District of Pennsylvania): John P. Sochocky; an owner, operator, and project manager of A'Quality Environmental Services of Hammonton, New Jersey, was sentenced to 6 months incarceration and 3 years of probation for violating federal law and regulations for the safe removal and disposal of asbestos. In the process, workers removing the asbestos and children who lived near the site of the illegal removal and disposal were exposed to airborne asbestos fibers. Prolonged exposure and inhalation of asbestos fibers can cause cancer and asbestosis, a lung disease which can lead to breathing difficulty and death. The criminal offenses began in May 1992, when Sochocky entered into a contract with Consolidated Rail Corporation (CONRAIL) to remove asbestos from a gantry next to a grain elevator located in Philadelphia, Pennsylvania. Workers were exposed when asbestos was removed from pipes inside the gantry without adequately wetting it to prevent the asbestos fibers from becoming airborne. During the removal, 500 bags of asbestos material were abandoned by the defendant from June 1992 through early 1993. EPA discovered the asbestos violations following a citizen complaint. Neighborhood children became exposed after they entered the unsecured gantry area through an open gate and dropped bags of asbestos through holes in the floor of the grain elevator to watch them splatter as they hit the ground. Conrail has since cleaned up and razed the site. This case was investigated by EPA's Criminal Investigation Division and the Philadelphia Environmental Crimes Task Force.

United States v. Arizona Chemical Co., Inc. (Southern District of Mississippi): The Arizona Chemical Company, Inc., a wholly owned subsidiary of International Paper Company which operates chemical manufacturing plants in Gulfport and Picayune, Mississippi, plead guilty and was fined $2.5 million and ordered to pay $1.5 million in restitution to the Pollution Emergency Fund of the Mississippi Department of Environmental Quality (MDEQ) for felony violations of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA). Arizona Chemical admitted to two felony counts of violating the CWA at its Gulfport plant. The violations occurred as a result of manipulating the plant's wastewater treatment system on sampling days so that it could report more favorable results under the plant's National Pollution Discharge Elimination System permit. The manipulation was accomplished by diluting the wastewater stream and/or reducing the flow of wastewater prior to and during sampling. The company also admitted to one felony RCRA count involving the Picayune plant which had accumulated and stored a number of drums containing hazardous waste and had intentionally mischaracterized some of the drums as "cleaning oil" on inventory sheets. The case was investigated by EPA's Criminal Investigation Division, the FBI, and MDEQ.

United States v. Mark O. Henry, et al.(District of New Hampshire): Mark O. Henry, director and treasurer of Beede Waste Oil of Plaistow, New Hampshire, was sentenced to 37 months incarceration followed by two years of supervised release for a February 22, 1996 jury trial conviction on two counts of wire fraud, two counts of mail fraud, and one count of conspiracy to violate the Resource Conservation and Recovery Act (RCRA) arising from shipping soil contaminated with hazardous waste to an unpermitted disposal facility. A co-defendant, Robert LaFlamme, who was Beede's manager, pleaded guilty to conspiracy to violate RCRA and was sentenced to twelve months in prison and twelve months of supervised release. Henry and LaFlamme had devised a scheme to defraud approximately 75 companies and individuals who were trying to comply with environmental laws concerning the disposal of hazardous wastes. The two defendants accepted approximately 28,000 tons of soil contaminated with hazardous waste claiming that it would be transported to Beede Waste Oil and recycled into asphalt. Henry and LaFlamme knew that this hazardous waste would not be recycled and that Beede Waste Oil could not accept more than 3,000 tons of contaminated soil according to its New Hampshire storage permit. Beede Waste Oil received $1 million as a result of this recycling fraud. The State of New Hampshire has, to date, spent approximately $1 million and the federal government has spent $100,000 on clean up efforts at the Beede site. Several large piles of soil contaminated with hazardous waste, in addition to hundreds of drums and storage tanks containing hazardous waste remain at the site. The case was investigated by EPA's Criminal Investigation Division.

United States v. Richard Hub, et al. (District of Kansas): Richard Hub of Tulsa, Oklahoma was

sentenced to three years in federal prison and ordered to pay $50,000 in restitution for willfully injecting hazardous liquid waste into a disposal well in Coffeyville, Kansas, without a license from the Kansas Corporation Commission between September 1991 and January 24, 1992. Hub's company, Bio-Clean (also known as Genesis Industries and Oil Recovery Technology) operated a waste storage and disposal facility at the OK Oil site in Coffeyville. Hub injected the waste into a disposal well that was not classified to accept hazardous waste. The case was investigated by EPA's Criminal Investigation Division with the assistance of the Kansas Corporation Commission.

United States v. Bruce R. Burrell (Southern District of Florida): Bruce R. Burrell was sentenced in Miami, FL to one year in prison (with credit for time served) a fine of $75,000, and required to pay excise taxes owed to the United States for conspiracy, violation of the Clean Air Act, and tax evasion with a respect to a scheme to illegally import the ozone-destroying substance CFC-12, an outlawed refrigerant gas commonly known by the trade name "freon." Burrell previously pleaded guilty in U. S. District Court in Miami to conspiring to import over 19,000 thirty-pound cylinders (approximately 288 tons) of CFC-12.

Casey Raja, a co-defendant, was previously sentenced to one year in prison and $100,000 in fines in April 1996. Both men are liable for the unpaid taxes which, with a 75% fraud penalty and other fines from the Internal Revenue Service, could amount to $6,000,000. Beginning in April, 1993, Burrell, Casey Raja, and other co-conspirators illegally imported freon into the United States through various ports and sold it domestically as if it had been legally imported and as if excise taxes had been paid. The sales were made through corporations established under fictitious identities or the identities of people not involved in the conspiracy. Proceeds of the sales were laundered through bank accounts in South Florida established under fictitious names or the names of nominee corporations, and were also transferred to offshore accounts as part of the laundering process. Defendants in this case attempted to obstruct justice by trying to persuade witnesses to lie to investigators, commit perjury before the grand jury and alter or destroy subpoenaed documents. Burrell was previously extradited from Costa Rica on June 12, 1996, where he had been imprisoned since December of 1995, after being arrested by the Costa Rican government subsequent to his indictment in the United States. This is one of 19 CFC smuggling cases investigated by EPA in cooperation with other federal government agencies in FY 1996.

United States v. Robert Cyphers (District of Oregon): Robert Cyphers, former owner of UST Environmental Services, pled guilty and was sentenced to 30 months of imprisonment for multiple counts of making false statements. Cyphers' company performed removal of leaking underground storage tanks and remediation of contaminated soil and groundwater. Cyphers submitted over one thousand fictitious documents to the Oregon Department of Environmental Quality concerning laboratory analysis reports regarding soil and water taken from the contaminated sites. The analyses were never conducted.

United States v. Bunker Group, et. al. (District of Puerto Rico): Pedro Rivera, General Manager of Bunker Group Puerto Rico, and three corporate defendants, Bunker Group Puerto Rico, Bunker Group Incorporated, and New England Marine Services were convicted on felony and misdemeanor charges in Federal Court for their roles in the January 7, 1994 spill of more than 750,000 gallons of oil in the waters off of Puerto Rico's Escambron Beach. Mr. Rivera was sentenced to spend six months in a half-way house; serve two years of supervised release, the first six months of which will be in home confinement; pay a $10,000 fine, and perform 120 hours of community service. Each of the three corporations was assessed a $25 million fine, all of which are currently on appeal. Prior to the spill the beach was in pristine condition and was an important source of tourist revenue. The spill occurred when the barge Morris J. Berman, which was carrying nearly 35,000 barrels of number 6 fuel oil broke loose from the tugboat Emily S after an improperly repaired tow cable broke while all but one of the crew were asleep. Capt. Roy A McMichael, Jr., who was in command of the Emily S, testified. Both he and First Mate Victor Martinez, who was supposed to be on watch that night previously pled guilty to violations of the Clean Water Act. The three corporations belong to the Frank's family of corporations whose assets were placed under court supervision on April 6, 1994 by the federal courts. These convictions were the result of close cooperation between agents of the EPA Criminal Investigation Division, the U.S. Coast Guard, and the FBI.

United States v. James J. Wilson (District of Maryland): James J. Wilson, Chairman of the Board of Interstate General, a publicly-traded real estate development company was sentenced in U.S. District Court, in Greenbelt, Maryland to a fine of $1 million and 21 months imprisonment for illegal filling of wetlands in Charles County, Maryland. In addition, fines of $3 million were imposed on two companies that took part in the development of the land where the wetlands were filled. Wilson was ordered to pay the

personal fine of $1 million within six months. In addition, Interstate General Company, L.P. (IGC), which is involved primarily in real estate development in Puerto Rico, Maryland, and Washington, D.C.,was fined $2 million. The second company, St. Charles Associates, L.P. (SCA), which is a closely related partnership that owned the land where the crimes occurred, was fined $1 million. Both corporate fines are to be paid within two years. IGC and SCA were also placed on probation for a period of five years and were ordered to implement a wetlands restoration plan. In addition to paying the fine during the probationary period, IGC and SCA must also comply with other terms of probation, including developing an effective environmental compliance plan to prevent future violations of the law and implementing the wetland remediation plan. EPA's Criminal Investigation Division was the lead investigative agency on the case, with assistance from the Federal Bureau of Investigation.

United States v. Iroquois Pipeline Operating Co., Inc., et. al.(Northern District of New York): The Iroquois Pipeline Operating Company and four of its top officials pled guilty to knowingly violating a number of environmental and safety provisions of its construction permit while constructing a natural gas pipeline from Ontario, Canada to Long Island, New York. The total settlement paid by the company amounted to $22 million in fines and penalties. One of the felony counts to which the company pleaded guilty involved its failure to cleanup or otherwise restore 188 streams or wetlands. After the company learned that it was the subject of a criminal investigation, it went back and began to restore a number of those affected streams and wetlands. The company also pleaded guilty to failing to construct safety devices called "trench breakers" at regular intervals along the pipeline ditch and at the edge of wetlands. These devices control soil erosion and prevent weakening of the pipeline by stopping water from migrating along the pipeline, especially when the terrain slopes. The failure to install them could have washed out the soil which holds the pipeline securely in place. Under the terms of the plea, the company will clean up 30 streams and wetlands and pay $22 million in fines and penalties, $2.5 million of which will be used to create additional wetlands. In addition, due to its criminal admissions, the company will be unable to pass on to consumers, in the form of higher rates, another $20 million directly or indirectly related to the construction of the pipeline. Early in FY 1997, four additional former employees of Iroiquois were indicted for alleged felony violations of the Clean Water Act as part of the ongoing investigation of the construction of the pipeline. This case was investigated by EPA's Criminal Investigation Division, the U.S. Army Corps of Engineers, the FBI, the U.S. Department of Energy, the Federal Energy Regulatory Commission, the U.S. Department of Transportation, the New York State Public Service Commission, and the New York Department of Environmental Conservation, with the assistance of EPA's National Enforcement Investigations Center.

United States v. Kelley Technical Coatings, Inc., et al. (Western District of Kentucky): Arthur Sumner of Memphis, Indiana, Vice President in Charge of Manufacturing for Kelley Technical Coatings, Inc. (KTC) of Louisville, Kentucky was sentenced to 21 months in prison, 2 years of supervised release, and ordered to pay a $5,000 fine for the illegal storage and disposal of hazardous wastes in violation of the Resource Conservation and Recovery Act. KTC is a manufacturer of swimming pool paints and industrial coatings. Sumner and KTC were found guilty by a jury of storing and illegally disposing chemical wastes which were used as solvents to clean paint manufacturing equipment. In July 1992, state inspectors discovered over 600 drums of waste-paint related materials at one of KTC's plants. Many drums were rusty, leaking, or open, and contained ignitable materials. Federal and state law prevents the storage of hazardous waste for more than 90 days. The wastes contained a variety of hazardous chemicals including xylene, ethyl benzene, and toluene. The case was investigated by EPA's Criminal Investigation Division, EPA's National Enforcement Investigations Center, the FBI, and the State of Kentucky Cabinet for Natural Resources and Environmental Protection.

United States v. Leo G. Kelly (Western District of Wisconsin): Leo G. Kelly was sentenced to four concurrent terms of 41 months imprisonment and was required to pay $6,242.85 in restitution as a result of a conviction by a federal jury on four counts of violating the Resource Conservation and Recovery Act (RCRA). Kelly, who operated companies under the names of Environmental Waste and Material Systems, Inc., Environmental Services, and Central Testing Services, was in the business of removing underground petroleum storage tanks, disposing of the waste materials from those tanks, and conducting site remediation. He was convicted of unlawfully transporting and disposing of seventeen 55-gallon drums containing hazardous wastes including, benzene, lead, trichloroethylene, and tetrachloroethylene. Kelly was convicted of directing his employees to transport and illegally dispose of the drums at Winter Auto Salvage, a business in Winter, Wisconsin, during 1990 and 1992. Upon his release, Kelly must pay restitution to the owner of Winter Salvage for damage done at the site due to the illegal waste disposal. The case was the

result of a joint investigation conducted by EPA's Criminal Investigation Division and Wisconsin's Department of Natural Resources with the assistance of EPA's National Enforcement Investigations Center.

United States v. Marman U.S.A, Inc., and Robert Renes (Middle District of Florida): In a case relating to the regulation of pesticide exports, Marman U.S.A., Inc. of Tampa, Florida was fined $350,000 and placed on probation for two years, and Robert Renes, Marman's Vice President was fined $150,000 and placed on probation for three years for their involvement in a scheme to forge EPA seals on false certificates of registration for pesticides which they sold abroad. EPA gold seals indicate that a document is an official EPA document and many foreign countries require such proof of EPA registration before a pesticide can be imported to their nations from the United States. Marman U.S.A. used the forged seals to export pesticides to sixteen Central and South American countries. The case was investigated by EPA's Criminal Investigation Division.

United States v. Midwest Alloys Foundry, et al. (Eastern District of Missouri): Midwest Alloys Foundry of O'Fallon, Missouri, and Vern Kneib, its plant manager, pleaded guilty in St. Louis, Missouri, to multiple felony and misdemeanor charges involving environmental violations, violations of immigration laws, and providing false statements to the government. Midwest Alloys pleaded guilty to one felony count of illegally disposing of hazardous waste, one felony count of violating the Clean Water Act, one misdemeanor count of a pattern and practice of hiring unauthorized aliens for employment, one felony count of making a false statement to a material fact in a document required by immigration laws, and one felony count of willfully providing a false statement to the Tennessee Valley Authority (TVA). The offenses which Midwest Alloys pleaded to involved ordering employees to dump hazardous waste on company property, during which an employee was injured; the unpermitted discharge of cooling water into Buleau creek in 1995; the false reporting of alloys used in the composition of rocker washers produced for the TVA; knowingly engaging in the hiring of unauthorized aliens; and knowingly providing false statements in reference to the hiring of unauthorized aliens. Kneib admitted to directing employees to dump two drums of hazardous waste, and he also admitted to engaging in the practice of hiring unauthorized aliens. Midwest Alloys has agreed to pay fines and restitution totaling $150,000. Of that amount, $9,000 will go the federal Immigration and Naturalization Service; $25,000 will go to the TVA; $100,000 will go to the Missouri Department of Natural Resources; and $16,000 will go to the federal treasury. The company is also required to replace all defective rocker washers supplied to the TVA. Midwest Alloys has also entered into a site remediation cleanup plan agreement with EPA Region VII. The case was investigated by EPA's Criminal Investigation Division and the Immigration and Naturalization Service with the support of EPA's National Enforcement Investigations Center.

United States v. John Morrell and Co. (District of South Dakota): Timothy J. Sinskey and Wayne Kumm were convicted by a jury of polluting the Big Sioux River in Sioux Falls, South Dakota by illegally discharging slaughterhouse waste from a meatpacking plant owned by John Morrell and Company, and for participating in an eight-year long conspiracy, which included falsifying reports to the EPA. Sinskey was a Morrell Senior Vice President and until 1992, he was the head of Morrell's Sioux Falls Division. He was convicted in a Sioux Falls U. S. District Court, after a three week trial, of 12 felony counts of violating the Clean Water Act (CWA) and of conspiracy. Kumm, who was the Morrell Plant Engineer at Sioux Falls, was convicted of one felony count of violating the CWA. The jury found that Sinskey deliberately falsified monthly reports submitted to the EPA regarding wastewater discharges from the Morrell plant into the Big Sioux River in order to cover non-compliance with the plant's discharge permit. Kumm was convicted of intentionally using an inaccurate monitoring method to help conceal the company's violations. Evidence also established that Kumm tried to prevent the resignation of the assistant manager of the company's waste water treatment plant, Barry M. Milbauer, by suggesting that Milbauer's cooperation in the conspiracy could lead to a promotion in the company's environmental program. Milbauer resigned despite this suggestion. These latest convictions follow the guilty pleas by the Morrell Company to six counts of dumping slaughterhouse waste into the Big Sioux River. The company pled guilty to a number of illegal acts including: failing to disclose that it had committed more than 100 permit violations; knowingly submitting false reports to the EPA; deliberately rigging sampling tests to get desired results; concealing violations; and deliberately refusing to expend funds necessary to correct the problems and bring the plant into compliance. The Morrell Company was sentenced to pay a $2 million criminal fine and pay $1 million to establish a local environmental cleanup fund. In addition, Ronald E. Greenwood and Barry M. Milbauer, the former manager and assistant manager of Morrell's on-site wastewater treatment plant, previously pled guilty to conspiracy to violate the CWA. Greenwood and Milbauer testified at this trial that between 1990 and 1992 defendants Sinskey and

Kumm directed them to falsify discharge monitoring reports and lab records. This prosecution resulted from an investigation done by EPA's Criminal Investigation Division with support from EPA's National Enforcement Investigation Center.

United States v. Larry Vaughan (Southern District of California): Larry Vaughan, the co-owner of Chino Corona Farms, Inc., a company that had contracted with the City of San Diego to haul and process 120,000 tons of sewage sludge each year from the Point Loma Metropolitan Wastewater Treatment Plant, was sentenced to six months confinement in a halfway house, five years probation, and a $50,000 fine for violating the Clean Water Act by improperly disposing of the sludge. Vaughan pleaded guilty in April 1996 in San Diego to a federal felony charge for illegally dumping sludge at an unapproved site. Management of the San Diego sewage sludge is regulated by San Diego's CWA permit which required that sludge disposal meet State of California water quality standards. Originally, the City's sludge was to be taken to the Torres-Martinez Indian Reservation, an environmental justice community, where it was to be composted and used as fertilizer. However, Vaughan and co-owner and co-defendant, Gordon Cooper, engaged in a scheme to defraud the City by falsely billing the city and by not processing the sludge. The fraud resulted in several million dollars in false invoice claims to the City. In addition, the huge untreated sludge pile on tribal land, estimated in size at over 200,000 tons, resulted in a major community nuisance for tribal residents and was locally named "Mount San Diego." When the defendants could no longer pile the sludge on the tribal lands, it was hauled to Mexico as well as to an unapproved location in Imperial County, California. Gordon Cooper and the corporation were indicted for their role in this unlawful activity and are awaiting trial. The investigation which led to this successful prosecution of this environmental justice case was conducted by EPA's Criminal Investigation Division and the FBI.

United States v. William Nowak (District of Washington): William Nowak former owner and manager of a wood-burning stove certification laboratory in Kent, Washington, was sentenced to three years probation and 240 hours of community service as a result of being convicted on one felony count of submitting fraudulent data to the EPA. From December 1992 through December 1994, Nowak's laboratory, Energy and Environmental Systems Performance Corp., performed certification tests, as required by the Clean Air Act, on at least 21 models of wood-burning stoves. Of the 21, Nowak admitted to having falsified the laboratory test data on 10 models manufactured by seven different companies. Nowak said he falsified the data because he suspected that the true test results would have caused these models to fail the stringent air emission standards imposed by the State of Washington on stoves sold within that state. Falsified test reports were provided to the EPA which relied on the inaccurate data to grant federal certification to the ten stove models. Once certified, these stoves became available to the public and have been sold nationwide. Certification is required to demonstrate that stoves do not produce levels of airborne particulate matter high enough to cause respiratory illnesses. As of September 27, 1996, approximately 53,000 invalidly certified stoves were in the marketplace. All of the wood stove model lines falsely certified by Nowak have either been retested and meet the federal standard, withdrawn from the marketplace, or have been out of production and will not be required to be retested. Only two models, the Quadra Fire 4300 and the Lopi Freedom, meet Washington State standards, which are more stringent than the federal standards. This case was investigated by EPA's Criminal Investigation Division.

United States v. Ray F. McCune and Bruce L. Jones (District of Utah): Ray F. McCune, president and owner of Reclaim Barrel Supply Company, Inc. and Allstate Container, Inc., pled guilty in U.S. District Court in Salt Lake City, Utah, to two felony counts of violating the Resource Conservation and Recovery Act (RCRA) for illegally storing hazardous wastes at facilities owned by his companies in West Jordan, Utah. McCune operated Reclaim Barrel Supply Company from 1988 to 1992. He later abandoned that facility and opened another barrel reconditioning facility, Allstate Container, leaving behind thousands of drums at the Reclaim Barrel site. Many of the drums left at Reclaim Barrel contained hazardous wastes. This action by McCune led to the initiation of a clean up action at the site by the EPA Region VIII Emergency Response Section. Allstate Container, Inc. was opened in July 1992, and Ray F. McCune again stored hazardous waste at the site in violation of RCRA. In April 1994, sampling conducted under a search warrant indicated that 297 drums of hazardous waste were being illegally stored at Allstate Container. Bruce L. Jones, plant manager of Reclaim Barrel and Allstate Container, pled guilty to one felony count of illegal storage of hazardous wastes. This case was investigated by EPA's Criminal Investigation Division with support from EPA's National Enforcement Investigations Center.

United States v. Ray Phipps, et al. (Western District of Texas): River City Plating Co. (River City) in San Antonio, Texas, Ray H. Phipps, owner of River City ,

his son Russell Phipps, and employee Keith Krupalla were sentenced for felony violations of various federal laws. River City Plating Co. and the other defendants discharged hazardous wastes into the city sewer system in San Antonio, Texas. River City was a general plating business which electroplated a variety of objects including automobile parts, bumpers, silverware, trays, and pots. Ray Phipps and the other defendants admitted that they discharged waste metals including nickel, chromium, copper and zinc into the San Antonio sewer system from 1988 to 1994. The elder Phipps admitted that he had informed the City of San Antonio Water System that River City Plating was a "zero discharger", meaning River City claimed that it discharged no industrial wastes into the sewer system. As a result of the sentencing, Ray Phipps was barred from the plating business for life. In addition, he was also sentenced to serve fifteen months in federal prison, one year supervised release, and a $5,000 fine as a result of his guilty plea to one count of violating the federal Clean Water Act. Co-defendant River City, which also previously pled guilty to one count of violating the Clean Water Act, was sentenced to pay a $100,000 fine and received five years probation. Phipps" son, Russell Phipps, another co-defendant, had previously pled guilty to misprision of a felony for failing to inform the government of felony violations of the Clean Water Act by River City. He was sentenced to three years of probation, 40 hours of community service, and a $500 fine. A third co-defendant, Keith Krupalla, previously pled guilty to one felony count of perjury for making false statements in front of a federal grand jury. He was sentenced to twelve months in jail and three years supervised release. The case was investigated by EPA's Criminal Investigation Division and the Texas Natural Resources Conservation Commission's Special Investigations Division with the assistance of the Texas Environmental Task Force. The case was investigated by the joint federal/state Texas Environmental Task Force which includes representatives from EPA's Criminal Investigation Division, the Texas Natural Resource Conservation Commission's Special Investigations Division, the San Antonio Water System, and the U.S. Attorney's Office in San Antonio.

United States v. Thomas R. Rudd (Northern District of Texas): Thomas R. Rudd, president of Striping Technology, Inc.(STI)-one of the largest pavement, road and highway striping contracting businesses in Texas, pled guilty to one felony count of violating the Clean Water Act by ordering employees to dump hazardous paint wastes and other pollutants into pits dug into groundwater which flows into a tributary of Black Fork Creek near Tyler, Texas. The wastes containing toluene, methyl ethyl ketone and waste lead, which are toxic to human beings, fish, and wildlife, had been dumped at Rudd's direction on October 10, 1994 at an STI facility in Smith County, and on a ranch. In addition, the investigation conducted by the joint federal-state Texas Environmental Task Force uncovered three other sites in Tarrant and Smith Counties where Rudd had illegally disposed of hazardous paint wastes. As part of the plea agreement Rudd will be personally responsible for the costs of environmental clean up at all five sites. In addition, he faces up to three years in prison and a fine of up to $250,000. The agreement also calls for Rudd to provide $250,000 to a trust fund for the East Texas Ecological Center which is a project of the Texas Parks and Wildlife Department. This case was the result of a joint investigation by EPA's Criminal Investigation Division, the FBI, and the Texas Natural Resource Conservation Commission with the assistance of EPA's National Enforcement Investigations Center.

United States v. Summitville Consolidated Mining Co., Inc. (District of Colorado): The Summitville Consolidated Mining Company, Inc. ("Summitville") was sentenced to pay $20 million in fines based on its guilty plea to 40 counts of violating the Clean Water Act and other federal statutes with respect to its operation of the Summitville Gold Mine in Southwestern Colorado from 1984 to 1992. The violations include one count of conspiracy, four counts of making false statements, five counts of failing to report under the Water Pollution Control Act (also known as the Clean Water Act), and thirty counts of knowingly violating the Clean Water Act by making unauthorized discharges to waters of the United States. Because of the company's bankruptcy and the fact that the majority of the company's remaining assets will go toward the costs of cleaning up the Summitville Mine, it is likely that Summitville will only be able to pay part of the fine. Also named in prior indictments and charged with multiple felony counts are Samye N. Buckner, Summitville's general manager from March 1988 to January 1991, and Tom S Chisholm, the company's environmental manager from August 1988 to September 1991. The trial date of these individuals is pending. The plea agreement does not limit the government's options with respect to taking administrative or civil actions. The case was investigated by the EPA's Criminal Investigation Division, EPA's National Enforcement Investigations Center, and the FBI.

United States v. Don Budd, et al. (Eastern District of Texas): Don Budd of Nederland, Texas, was convicted by a jury on one felony count of conspiring to mail and three felony counts of mailing false reports concerning pollution discharges to the City of

Nederland and several companies in Southeastern Texas. Budd, who was owner and President of Texas Environmental Services, Inc. (TES), in Nederland, Texas, falsely claimed that TES was following EPA approved methods when reporting test results which were used by the City of Nederland and the companies to satisfy requirements of their National Pollution Discharge Elimination System permits and Water Quality permits from the EPA and the State of Texas. The case was investigated by EPA's Criminal Investigation Division and other federal, state and local members of the Texas Environmental Enforcement Task Force with the assistance of EPA's National Enforcement Investigations Center.

United States v. Pacific and Arctic Pipelines, Inc., et al. (District of Alaska): Two Alaska corporations, Pacific and Arctic Pipelines, Inc. (PAPI) and Pacific and Arctic Railway and Navigation Company (PARN), were sentenced in U.S. District Court in Anchorage, Alaska, to pay $1.5 million in fines and restitution costs and were placed on five years probation for criminal violations of the Clean Water Act which occurred when they caused a break in an oil pipeline and a subsequent discharge of oil into the Skagway River. The two companies also were sentenced to 5 years probation and agreed to clean up several contaminated sites along the historic White Pass Alaska railroad route. PARN owns the White Pass and Yukon Route railroad that originally ran from Skagway to Whitehorse, Yukon Territories, Canada. PAPI owns a petroleum pipeline that parallels the railroad right of way. The spill occurred as a result of PARN's illegal removal of rock from U.S. Forest Service land adjacent to the pipeline six miles from Skagway. On October 1, 1994, a piece of construction equipment struck the pipeline, causing a 14-inch crack. The high pressure pipeline immediately began spewing oil, and the oil ran down an embankment into the Skagway River. PAPI was convicted and sentenced for negligently discharging oil into the Skagway River following the pipeline break, failing to report the discharge in violation of the Clean Water Act (CWA), and making false statements to U. S. Coast Guard (USCG) investigators about the spill. PARN was previously convicted and sentenced for theft of rock from U.S. Forest Service land adjacent to the railroad, and for the illegal transportation of hazardous waste into Canada. PARN paid $146,280 in fines and restitution for the rock and for illegally using the railroad to transport the hazardous waste which was dumped and burned in Canada in 1995. The case was investigated by EPA's Criminal Investigation Division, the U.S. Coast Guard, and the FBI.

United States v. Wilbur-Ellis, et al. (District of Idaho): The Wilbur-Ellis Company, Inc., a fertilizer and pesticide distribution corporation that operates on a national and international scale, agreed to plead guilty to a one-count federal information filed in Boise, Idaho, charging that the company negligently violated the Clean Water Act (CWA) when it released rinse water that killed an estimated 40,000 fish in Idaho streams. The charge states that on March 19, 1992, managers of the Wilbur-Ellis facility in Genesee, Idaho, released an unknown quantity of fertilizer and pesticide rinse water from a rinse water collection tank into a tributary of Cow Creek. The Company did not have a CWA permit to release the rinse water. The Idaho Department of Fish and Game and the Idaho Division of Environmental Quality estimated that approximately 40,000 fish were killed in an eight-mile stretch of Cow Creek and Union Flat Creek in the state of Idaho as a result of the rinse water release. The terms of the plea agreement indicate that the corporation will pay the $25,000.00 maximum fine allowed. This case was investigated by EPA's Criminal Investigation Division.