



# **Federal Facilities Enforcement & Compliance Accomplishments Report FY 2000**



This document was prepared by EPA's Federal Facilities Enforcement Office (FFEO) in the Office of Enforcement and Compliance Assurance (OECA).

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# Table of Contents

<b>Introduction</b> .....	<b>1</b>
<b>1. Regulation and Policy</b> .....	<b>3</b>
Integrating Environmental Considerations Into Day-to-Day Federal Agency Activities ..	3
DOJ Opinion Confirms EPA's Penalty Authority Against Federal Agencies for Violations of the Underground Storage Tank Requirements of RCRA .....	3
<b>2. Compliance Assurance</b> .....	<b>5</b>
Multi-Media Inspections at Federal Facilities FY 2000 .....	5
First Inspections Completed as Part of the Federal Facilities Inspection Initiative .....	5
National Federal Facilities UST Initiative Continues After Favorable OLC Opinion ....	5
Two Federal Agency Hazardous Waste Compliance Docket Updates Released .....	6
<b>3. Compliance Assistance</b> .....	<b>9</b>
Compliance Assistance Activities at Federal Facilities .....	9
Environmental Management Review National Report: Lessons Learned in Conducting EMRs at Federal Facilities .....	10
A Guide for Ship Scrappers - Tips for Regulatory Compliance .....	10
EPA-National Park Service Environmentally Preferable Cleaning Project .....	11
FedSite - the Federal Facility Compliance Assistance Center .....	11
<b>4. Regulatory Reinvention</b> .....	<b>13</b>
Project XL: Web-Based Electronic Reporting Project at NASA White Sands Test Facility .....	13
<b>5. Enforcement</b> .....	<b>15</b>
Federal Facilities Enforcement Actions in FY 2000 .....	15
<b>6. Cleanup Agreements</b> .....	<b>21</b>
Federal Facility Agreements Completed in FY 2000 .....	21
<b>7. Case Summaries</b> .....	<b>23</b>
CAA Cases .....	23
Bureau of Engraving and Printing Fined by EPA Region VI for Clean Air Act Violations .....	23
U.S. Department of Energy, Schenectady Naval Reactor Office .....	23
Region IX: Davis-Monthan AFB to Pay \$72,918 to Settle Alleged Air Violations .....	23
Region X Issues a Notice of Violation Under the Clean Air Act to the United States Army, Fort Richardson, Alaska .....	24
Region X Issues Administrative Complaint under the Clean Air Act to the United States Army, Fort Wainwright, Fairbanks, Alaska .....	24

CERCLA Cases	24
Time Critical Removal Agreement Signed for the Former Nansemond Ordnance Depot	24
CWA Cases	25
Region X and Navy Sign a Federal Facility Compliance Agreement to Address Clean Water Act Violations at Puget Sound Naval Shipyard	25
Region X and Army Sign a Federal Facility Compliance Agreement to Address Clean Water Act Violations at Fort Lewis	25
Region X Enters Into Federal Facility Compliance Agreement With United States Postal Service	25
RCRA Cases	26
EPA Settlement with Bureau of Engraving and Printing Plant in Washington, D.C.	26
EPA Environmental Appeals Board Reverses and Remands Tinker Air Force Base UST Decision	26
Region VIII Issues RCRA 7003 Imminent and Substantial Endangerment Order to BLM	27
Region X Issues Complaint and Compliance Order to U.S. Army's Fort Lewis for Underground Storage Tank Violations	27
SDWA Cases	28
Region VI Issues Three Safe Drinking Water Act Penalty Actions Against U.S. Forest Service	28
Region IV Issues Safe Drinking Water Act Administrative Complaint Against U.S. Army Base at Fort Bragg, North Carolina	28
Region I Orders Military to Clean up Unexploded Ordnance on Cape Cod	29
Fallon Naval Air Station Ordered to Comply With Safe Drinking Water Act	29
TSCA Cases	30
EPA Environmental Appeals Board Rules Against EPA in Section 1018 Lead- Based Paint Case Brought Against Kingsville Naval Air Station	30

## Attachments

Attachment 1. Organizational Structure of the Federal Facilities Enforcement Office	31
Attachment 2. EPA Regional Federal Facilities Program Managers	33

## Exhibits and Tables

Table 1.	FY 2000 Multi-Media Inspections at Federal Facilities	7
Table 2.	FY 2000 EPA Enforcement Actions Against Federal Facilities by Agency Category and Statute as Tracked in EPA's Enforcement Docket	16
Table 3.	FY 2000 EPA Enforcement Actions Against Federal Facilities by Region as Tracked in EPA's Enforcement Docket Database	18
Table 4.	FY 2000 Federal Facility Agreements for Superfund Sites	21

## Introduction

Federal facilities, like all other regulated facilities, are responsible for complying with environmental requirements. The U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance's (OECA) Federal Facilities Enforcement Office (FFEO) and the ten EPA Regional offices work with federal agencies to help them comply with environmental requirements and take all necessary actions to prevent, control, and abate environmental pollution. EPA assists federal facilities in complying with environmental requirements and preventing pollution and takes enforcement actions against federal facilities to remedy and deter their noncompliance. It is EPA's goal that all federal agencies reach a level of compliance with environmental requirements that equals or surpasses the rest of the regulated community. To accomplish this goal, the Federal Facility Enforcement and Compliance Program has a sector orientation, using multi-media enforcement and emphasizing compliance assistance and pollution prevention.

FFEO participates in enforcement negotiations, oversees compliance assistance and enforcement activities undertaken by Regions, and is responsible for resolving enforcement disputes between EPA and other agencies. Each EPA Region has a designated Federal Facilities Program Manager (FFPM), who, in conjunction with other EPA Regional staff, is responsible for coordinating the implementation of EPA's federal facilities policies and programs at the Regional level. They serve as the primary Regional point of contact for facility environmental managers. FFEO works closely with Regional FFPMs. Their responsibilities include giving program assistance and training for federal facilities; informing federal facilities about current environmental issues and developments; managing, tracking, overseeing, and planning compliance activities; encouraging pollution prevention; and coordinating with the Region's media program staff to implement federal facilities enforcement programs.

A focus on compliance assurance and enforcement activities marks FFEO's FY 2000 accomplishments. In particular, FFEO released the twelfth and thirteenth updates of the Federal Agency Hazardous Waste Compliance Docket; continued with the National Federal Facilities Underground Storage Tank (UST) Initiative; released the *Environmental Management Review National Report* and *A Guide for Ship Scrappers*; launched FedSite, EPA's internet compliance assistance center for federal facilities; and took 46 enforcement actions at federal facilities. These efforts, when combined with compliance assistance, regulation and policy, and regulatory reinvention activities, strengthened the Federal Facilities Enforcement and Compliance Program and provided a strong foundation for achieving EPA's mission.

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# **1. Regulation and Policy**

## **Integrating Environmental Considerations Into Day-to-Day Federal Agency Activities**

On April 21, 2000, President Clinton signed Executive Order (E.O.) 13148 entitled “Greening the Government Through Leadership in Environmental Management.” The primary goal of the E.O. is to ensure that the federal government integrates environmental accountability into agencies’ day-to-day decision-making and long-term planning processes, across each federal agency’s mission, activities, and functions. Signature of the E.O. marked the high point of a three year effort by federal agencies to set forth a framework for renewed environmental leadership at federal agencies.

The E.O. builds on the achievements and success of previous E.O.’s and identifies goals to guide federal agencies in integrating environmental planning and accountability. There are seven goals: developing and implementing environmental management systems (EMSs); improving compliance with environmental statutes and regulations; fully implementing right-to-know and pollution prevention programs; reducing releases of toxic chemicals; reducing use of toxic and hazardous substances; reducing the use of ozone depleting substances; and instituting environmentally sound landscaping practices.

In particular, the E.O. calls for each federal agency to conduct a preliminary EMS review within the agency and implement EMSs at agency facilities, where appropriate. This is a unique opportunity for the federal government to actively incorporate environmental considerations across agency operations. Further, EPA has the opportunity to lead by example and promote EMSs both in the federal community and the private sector.

Under the E.O., EPA is responsible for providing assistance to other federal agencies and facilities in meeting the goals of the E.O. After signature of the E.O., FFEO initiated contact with a number of federal agencies to coordinate EPA’s interagency assistance efforts. Since that time FFEO has coordinated interagency implementation activities and serves as chair of an interagency workgroup with over 60 members representing over 25 federal agencies and services. FFEO also chairs two smaller groups charged with developing protocols on reducing usage of toxic substances and implementing EMSs at federal facilities. As required by the E.O., FFEO established FedSite in February 2000 – an internet-based compliance assistance center for federal facilities. EPA also launched the National Environmental Performance Track Program in 2000 to recognize private and public facilities with established EMSs.

## **DOJ Opinion Confirms EPA’s Penalty Authority Against Federal Agencies for Violations of the Underground Storage Tank Requirements of RCRA**

The Department of Justice’s (DOJ) Office of Legal Counsel (OLC) has resolved a dispute between EPA and the Department of Defense (DoD) by confirming EPA authority to require federal agencies to pay penalties for violations of UST requirements of the Resource Conservation and Recovery Act (RCRA). The opinion was issued by the OLC on June 14, 2000, in accordance with E.O. 12146

which governs resolution of legal disputes between Executive Branch agencies. The dispute between EPA and DoD originated from the two agencies' differing interpretations of whether sections 6001(b) and 9006 of RCRA confer upon EPA authority to assess administrative penalties for UST violations.

The OLC opinion confirmed EPA's penalty authority against federal agencies under sections 6001(b) and 9006 of RCRA using the clear express statement standard, and confirmed the validity of EPA's UST field citation procedures. OLC examined the UST issues and concluded that "RCRA clearly grants EPA the authority to assess penalties against federal agencies for UST violations and that EPA's UST field citation procedures do not violate RCRA or the Constitution." The OLC opinion goes on to state that "a straightforward reading of RCRA's statutory text and the relevant legislative history leads us to conclude that it was clearly Congress's intent to authorize EPA to assess penalties against federal agencies for violation of the UST requirements."

This long-awaited confirmation of the validity of EPA's UST field citation procedures as well as EPA's UST penalty authority over federal agencies is an important development for EPA's Federal Facilities Enforcement and Compliance Program. The OLC's opinion is consistent with its July 1997 opinion which confirmed EPA's penalty authority under sections 113(d), 205(c), and 211(d)(1) of the Clean Air Act (CAA). In both opinions, DOJ determined that EPA has penalty authority against federal agencies under any law provided that the statute clearly provides the authority, regardless of whether the waiver of sovereign immunity would be considered broad enough to subject federal agencies to penalties assessed by those outside the federal government. EPA now has administrative order and penalty authority against federal facilities under several environmental laws including CAA, RCRA (UST and hazardous waste), the Safe Drinking Water Act (SDWA), and the lead-based paint provisions of Title IV of the Toxic Substances Control Act (TSCA).



## **2. Compliance Assurance**

### **Multi-Media Inspections at Federal Facilities FY 2000**

A nationwide total of 33 multi-media inspections were performed at federal facilities during FY 2000. State and local government inspectors participated in twelve of the inspections. A minimum of two environmental statutes, one of which was either the Clean Water Act (CWA), CAA, or RCRA, were focused upon at each facility. Overall, the inspections covered RCRA, CWA, CAA, TSCA, SDWA, the Emergency Planning and Community Right-to-Know Act (EPCRA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Five of the 33 multi-media inspections took place at Civilian Federal Agency (CFA) facilities – Department of Veterans Affairs (VA), U.S. Coast Guard, Department of Treasury, Government Printing Office (GPO), and National Aeronautics and Space Administration (NASA). Twenty-five inspections took place at DoD facilities and three took place at Department of Energy (DOE) facilities. For the time frame FY 1993 - FY 2000, EPA Regions have conducted a total of 259 multi-media inspections. See Table 1 on page 7 for a list of all FY 2000 multi-media federal facilities inspections.

### **First Inspections Completed as Part of the Federal Facilities Inspection Initiative**

In FY 2000, FFEO assisted the Regions with inspections at three federal facilities. The Federal Facilities Inspection Initiative was established to provide participating Regions with contract support for planning, conducting, and documenting compliance evaluation inspections. So far, inspections have been completed at the Army National Training Center/Fort Irwin in Fort Irwin, California (June 2000); the Mountain Home Air Force Base in Mountain Home, Idaho (September 2000); and GPO in Washington, D.C. (September 2000).

At each facility, the contract-inspectors helped EPA determine compliance with hazardous waste generation/treatment/storage/disposal requirements under RCRA, CAA Title V permit requirements (compliance certification), Title VI chlorofluorocarbon requirements under the CAA, storm water requirements under the CWA, and Spill Prevention Control and Countermeasure requirements under the Oil Pollution Act (OPA). The Regions are reviewing inspection reports to determine appropriate responses based on the findings.

### **National Federal Facilities UST Initiative Continues After Favorable OLC Opinion**

The National Underground Storage Tank Initiative was strengthened following a favorable opinion issued by the DOJ's Office of Legal Counsel on June 14, 2000. The opinion resolved a dispute between EPA and DoD by confirming EPA's authority to require federal agencies to pay penalties for violations of UST requirements under RCRA.

The initiative was originally launched by FFEO during the spring of 1999 to ensure compliance with UST requirements (in particular with the December 1998 tank upgrade requirements). Federal

facilities not meeting these requirements are considered by EPA a high priority for enforcement. EPA Regions submitted top candidate facilities for inspection based on several criteria, including proximity to sources of drinking water or sensitive ecosystems, compliance history, age of tanks as well as other factors. The inspections, which were conducted nationwide during the summer and fall of 1999, were carried out by a team of experienced inspectors from EPA Headquarters (the Office of Compliance, the National Enforcement Investigation Center, the Office of Regulatory Enforcement, and FFEO) and the Regional offices.

The long-awaited confirmation of EPA's penalty authority has provided a new impetus to the initiative. The Fort Lewis complaint (\$469,661 proposed penalty filed on September 18, 2000) is the first major penalty action taken against a federal facility since the OLC opinion was issued.

### **Two Federal Agency Hazardous Waste Compliance Docket Updates Released**

The twelfth and thirteenth updates of the Federal Agency Hazardous Waste Compliance Docket were published in the *Federal Register* on June 12 and December 29, 2000, respectively. Each update details additions, deletions, and corrections to the previous docket update. Section 120(c) of CERCLA requires EPA to establish the docket and to publish it twice per year in the *Federal Register*. It contains information about federal facilities engaged in hazardous waste activity and about facilities from which hazardous substances may have been or may be released.

The purpose of the docket is to:

- identify all federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List;
- compile and maintain the information submitted to EPA on such facilities under the provisions listed in Section 120(c) of CERCLA; and
- provide a mechanism to make information available to the public.

The initial list of federal facilities to be included in the docket was published February 1988, and the thirteenth update now contains a total of 2,226 federal facilities.

**Table 1: FY 2000 Multi-Media Inspections at Federal Facilities**

<b>Region I</b>	<b>Region VI</b>
VA Medical Center, RI	U.S. Army, Pine Bluff Arsenal, AK
New Hampshire Air National Guard at Pease Air Force Base, NH	U.S. Air Force, Cannon Air Force Base, NM
U.S. Coast Guard Station, ME	<b>Region VII</b>
Vermont Air National Guard, Camp Johnson, VT	U.S. Army, Ft. Riley, Junction City, KS
<b>Region II</b>	Iowa Air National Guard, IA
U.S. Treasury, U.S. Mint, NY	Missouri Air National Guard, MO
U.S. Army, Ft. Monmouth, NJ	U.S. Air Force, Offutt Air Force Base, NE
<b>Region III</b>	U.S. Air Force, McConnell Air Force Base, KS
Government Printing Office, D.C.	Kansas Army Ammunition Plant, KS
Metro Machine Corporation, PA (Navy--Ship Dismantling Ex Blakely FF-1072)	U.S. Air Force, Whiteman Air Force Base, MO
Baltimore Marine Industries, MD (Navy--Ship Dismantling Ex Patterson FF-1061)	U.S. Army, Ft. Leonard, Wood, MO
Norfolk Naval Ship Yard, VA	Iowa Army Ammunition Plant, IA
<b>Region IV</b>	<b>Region VIII</b>
NASA, John C. Stennis Space Center, MS (included the Mississippi Army Ammunition Plant)	U.S. Air Force, Hill Air Force Base, UT
DOE, Oak Ridge Y-12 Plant, TN	Buckley Air National Guard Base, CO
U.S. Navy, Marine Corps Air Station, Cherry Point, NC	U.S. Air Force Academy, CO
U.S. Air Force, Shaw Air Force Base, SC	U.S. Air Force, Malmstrom Air Force Base, MT
<b>Region V</b>	<b>Region IX</b>
DOE, Portsmouth Gaseous Diffusion Plant, OH	DOE, Nevada Test Site, NV
	DoD, Army National Training Center, Fort Irwin, CA
	<b>Region X</b>
	DoD, Yakima Training Center, WA

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### **3. Compliance Assistance**

#### **Compliance Assistance Activities at Federal Facilities**

Compliance assistance activities targeted to the federal facilities sector ranged from responding to phone calls and e-mails from federal agencies to providing information via web sites, mailings, on-site visits and conferences. The ten EPA Regions and Headquarters offices performed 45 on-site compliance assistance visits (including 14 Environmental Management Reviews (EMRs)) and 344 workshops and presentations regarding federal agencies' obligations under various environmental statutes. Together, all compliance assistance activities reached just over 29,300 federal personnel in all categories of federal agencies -- DoD, DOE, and CFAs.

A few highlights of the compliance assistance activities directed to federal agencies included:

- EPA Region I conducted four mercury site visits which led to a reduction of 300 pounds of mercury used at one of the sites. The purpose of the on-site visits was to pilot test the mercury management questionnaire and the mercury source checklist Region I developed and prepared case studies on each of the facilities efforts to reduce and dispose of mercury.
- EPA Region II developed a Federal Facilities Website to provide access to EPA multi-media compliance assistance and enforcement information, other federal agency web-sites, and pollution prevention resources.
- Region III organized a conference in Baltimore, MD, with the theme "Partnerships for a Better Environment." Three hundred fifty people attended from state, EPA, and other federal agencies.
- Region IV conducted on-site visits to the Choctaw and Seminole Bureau of Indian Affairs to assess environmental compliance assistance needs.
- Region V performed a RCRA presentation to the U.S. Drug Enforcement Administration on the management of hazardous waste.
- Region VI performed an on-site visit to a DOE facility to provide information on the cleanup of PCB contaminated soil.
- Region VII conducted a federal healthcare facilities workshop for 35 individuals in conjunction with a Regional Pollution Prevention Roundtable Meeting.
- Region VIII delivered an Oil Pollution Act Workshop for 55 CFA representatives.
- Region IX mailed information to all 1,650 federal facility contacts regarding the

requirements of RCRA Section 6002, the federal “Buy-Recycled” program.

- Region X conducted EMRs at three Bureau of Land Management sites in Oregon.
- FFEO Headquarters conducted interagency workshops to assist federal agencies with implementation of the EMS requirements of E.O. 13148.

### **Environmental Management Review National Report: Lessons Learned in Conducting EMRs at Federal Facilities**

FFEO completed a 2 ½ year Environmental Management Review Pilot Program where EPA Regional employees and contractors conducted reviews at federal facilities. The study involved 29 separate EMRs done in seven EPA Regions. These pilot programs complemented the previous efforts of EPA Regions I, VI, and X where some reviews had been done for several years prior to the formal pilot program.

The pilot program provided EPA with lessons learned and the ability to identify common strengths and areas of improvement needed to implement EMSs. A few of the strengths and areas of improvement derived from the pilot program are:

- federal facilities personnel acknowledge their environmental responsibilities and are committed to protecting the environment;
- agencies participate in cooperative environmental programs with other organizations;
- facilities lack facility-specific environmental policies, goals, objectives, or targets; and
- agencies and facilities lack adequate environmental staff and formal, annual training, plans, and mechanisms to track individual training needs and accomplishments.

By conducting more EMRs at federal facilities, EPA has the opportunity to help federal agencies focus on ways in which a federal facility manages its activities to decrease adverse impacts on the environment. As a compliance assistance tool, EMRs promote improvement of regulatory compliance, prevent pollution, and encourage good environmental management practices.

For more information about the EMR program, please refer to the National Report (EPA 315-R-99-003) which is posted at: [www.epa.gov/oeca](http://www.epa.gov/oeca).

### **A Guide For Ship Scrappers - Tips for Regulatory Compliance**

In response to recommendations from the Interagency Ship Scrapping Panel to develop an environmental and worker safety compliance manual for industry, FFEO formed an interagency working group to develop a guide for ship scrappers. Working with representatives from the

Occupational Health and Safety Administration (OSHA), the U.S. Maritime Administration (MARAD), the Defense Reutilization and Marketing Service (DRMS), the U.S. Navy, and the U.S. Coast Guard, FFEO created the guide to provide site supervisors with an overview of the most pertinent environmental and worker health and safety requirements to assist them in ensuring compliance at their facilities. FFEO published the guide in 2000.

The guide is structured by specific processes (e.g., asbestos removal, metal cutting, fuel and oil removal) that occur in ship breaking and scrapping operations. Taking a process-specific approach allows the guide to be a more manageable and useful reference tool for key ship scrapping facility personnel. Ship scrappers can review key environmental, safety, and health requirements for each process. There are separate stand-alone sections for each process that can be used during training sessions to educate workers about best practices for ship breaking and scrapping. References to the requirements in the *Code of Federal Regulations* have been provided throughout the guide, and readers are encouraged to review these regulations in detail. Where possible, helpful shadow and check boxes have been provided to articulate guidance or tips.

The *Guide for Ship Scrappers - Tips for Regulatory Compliance* can be found at: [www.epa.gov/oeca](http://www.epa.gov/oeca).

### **EPA-National Park Service Environmentally Preferable Cleaning Project**

During 1999 - 2000, Yellowstone and Grand Teton National Parks piloted a project for EPA Region VIII and the State of Wyoming's Pollution Prevention Program in which the parks switched to environmentally preferable cleaning products. Staff at both parks indicated the switch was more beneficial to the environment and were pleased that more environmentally friendly alternatives were identified for use at their parks. Plant-based products, rather than petrochemical based products, are being used at the parks. The general cleaning products do not contain disinfectants, which are used separately as needed. The products do not contain chemicals on the Toxic Release Inventory. Volatile organic compound (VOC) levels meet or exceed California's VOC regulations for cleaning products. The products are sold in bulk and measured in appropriate concentrations by on-site dispensers. Finally, the products are not delivered in aerosol cans.

A report, *Cleaning National Parks: Using Environmentally Preferable Janitorial Products at Yellowstone and Grand Teton National Parks*, describes the project and how it was implemented. The report was printed on 100% post consumer recycled content paper that is process chlorine free. It is available through the EPA Pollution Prevention Information Clearinghouse. Contact the clearinghouse at [ppic@epamail.epa.gov](mailto:ppic@epamail.epa.gov).

### **FedSite – the Federal Facility Compliance Assistance Center**

In February 2000, EPA opened its tenth compliance assistance center -- FedSite. FedSite is an internet-based, centralized resource of environmental information for federal government agencies, and is sponsored by FFEO. FedSite contains a virtual tour of a fictitious facility and addresses compliance issues typical of federal facilities, including air emissions, water discharges, and hazardous waste management. FedSite also contains links to other federal agencies where one can

obtain information on policies, procedures, programs and requirements of other federal agencies; 50 state environmental and natural resource agencies; the nine other compliance assistance centers; EPA's National Enforcement Training Institute and other training resources; regulatory compliance and pollution prevention demonstration and pilot projects between EPA and other federal agencies; and a variety of relevant executive orders, policy documents and other publications. FedSite is continually upgraded with new information aimed at helping federal agencies comply with environmental requirements and stay abreast of the latest developments which impact their operations. Visit FedSite at [www.epa.gov/fedsite](http://www.epa.gov/fedsite). All ten compliance assistance centers can be accessed directly at [www.assistancecenters.net](http://www.assistancecenters.net).



## **4. Regulatory Reinvention**

### **Project XL: Web-Based Electronic Reporting Project at NASA White Sands Test Facility**

EPA signed an agreement on September 22, 2000 with the NASA White Sands Test Facility (WSTF) and the New Mexico Environmental Department (NMED) to implement a centralized, multi-media, web-based information management and compliance reporting system which will be implemented under EPA's Project XL. Project XL, which stands for "eXcellence and Leadership," is a national initiative that tests innovative ways of achieving better and more cost-effective public health and environmental protection.

NASA's web-based system will electronically provide regulatory reports and permit information to NMED in lieu of paper reports to satisfy existing EPA and the NMED regulatory requirements. In addition, the web-based system will include a public access section to give the general public access to historical site information, ground water database archives, geographic information system reports, ISO certification information, recycling data, waste minimization reports, National Environmental Policy Act information, community-right-to-know issues, and other associated compliance information.

The NASA project will provide EPA, NMED, and the public with improved access to higher quality regulatory information, scientific data, and analytical tools. The web-based information system also will facilitate a more thorough analysis of WSTF's environmental data and reports by NMED and the general public. The project also will reduce paper use and lower staff costs, both at NASA and at the regulatory agencies.

To implement this project, NASA WSTF must request regulatory flexibility from existing EPA and NMED regulations that require a written signature or paper submission of regulatory reports and permit information affected under this project. As part of this project, EPA will draft site specific rule(s) to facilitate the electronic transmission of permit information and compliance reports. In addition, a formal stakeholder outreach process has been developed by NASA WSTF. The outreach effort will involve public meetings and comment periods at key points throughout the project.

The experience and lessons learned from Project XL will assist EPA in redesigning its current regulatory and policy-setting approaches. Project XL encourages testing of cleaner, cheaper, and smarter ways to attain environmental results superior to those achieved under current regulations and policies. It also requires greater involvement by stakeholders – the people and organizations affected by EPA's decisions. It is vital that each project test new ideas with the potential for wide application and broad environmental benefits. Project XL offers a tremendous opportunity for everyone to think "outside the box" of the current system and to find solutions to obstacles that limit environmental performance.

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## **5. Enforcement**

### **Federal Facilities Enforcement Actions in FY 2000**

In FY 2000, as tracked in EPA's Enforcement Docket database, EPA issued or finalized 46 enforcement actions against federal agencies and government contractors. DoD was named in 20 of these actions, DOE in 5 of the actions, and CFAs in 16 of the actions. In five actions, a federal government contractor was cited as the sole defendant. Four actions cited both the government contractor and the federal agency for which it performed work.

On an EPA Regional basis, Region 10 issued/finalized the most actions with 11 actions reported. On a statute basis, 16 RCRA actions, 9 SDWA actions, 16 CAA actions, and 5 actions under other environmental statutes were issued/finalized. Of the 46 actions, 24 were penalty orders. Under RCRA, \$719,184 in penalties were proposed and \$41,450 in penalties were collected in final penalty orders. Under CAA, \$98,568 in cash and \$231,000 in supplemental environmental projects (SEPs) were collected in final penalty orders. The total amount of penalties in all final penalty orders for all statutes was \$140,018 in penalties and \$231,000 in SEPs. The total amount of penalties in all proposed penalty orders for all statutes was \$844,184. Additionally, over \$370 million of work to correct violations and come back into compliance is to be done as a result of EPA's enforcement actions.

Tables 2 and 3, beginning on the next page, present FY 2000 EPA enforcement actions against federal facilities by agency category and statute and by EPA Region. Details on some of the actions presented in the tables are described in more detail in the Case Summaries.

**Table 2: FY 2000 EPA Enforcement Actions Against Federal Facilities by Agency Category and Statute as Tracked in EPA's Enforcement Docket**

	<b>RCRA</b>	<b>CAA</b>	<b>SDWA</b>	<b>Other</b>
<b>Department of Defense</b>	<p><b>3008A Penalty Order</b>  T Defense Logistics Agency, Ft. Campbell, KY (\$37,125 proposed penalty)  T U.S. Army, Letterkenny Army Depot, PA (\$162,030 proposed penalty)</p> <p><b>3008H Corrective Action</b>  T U.S. Navy, Atlantic Fleet, PR</p> <p><b>9006 UST</b>  T U.S. Army, Ft. Lewis, WA (\$469,661 proposed penalty)</p> <p><b>9006 Field Citation</b>  T U.S. Navy, Naval Ship Repair Facility, Guam (\$450 penalty)  T U.S. Army, AAFES Gas Station, HI (\$600 penalty)</p>	<p><b>113A Compliance Order</b>  T U.S. Army, KS</p> <p><b>113D Penalty Order</b>  T U.S. Navy, Marine Corps, VA (\$1650 penalty)  T DoD, DRMO, VA (\$0 penalty)  T U.S. Navy, Naval Air Station Corpus Christi, TX (\$5000 penalty)  T U.S. Air Force, Davis Monthan AFB, AZ (\$72,918 penalty)  T U.S. Army, Ft. Wainwright, AK (\$25,000/day/violation proposed penalty)</p> <p><b>Notice of Violation</b>  T U.S. Army, Ft. Richardson, AK</p>	<p><b>1431 Imminent and Substantial Endangerment Order</b>  T U.S. Army and MA National Guard, Massachusetts Military Reservation, MA</p> <p><b>1447B Penalty Order</b>  T U.S. Army, Ft. Bragg, NC (\$25,000/day/violation proposed)</p> <p><b>1414G Compliance Order</b>  T U.S. Army, Ft. Missoula, MT  T U.S. Navy, Naval Air Station Fallon, NV</p>	<p><b>CERCLA</b>  T DoD, Nansemond Ordnance Works, VA (hybrid 120E/104 agreement)</p> <p><b>CWA Federal Facility Compliance Agreements</b>  T U.S. Army, Ft. Lewis, WA  T U.S. Navy, Puget Sound Naval Shipyard, WA</p>
	<p><b>9006 Field Citation</b>  T INEEL, ID (\$150 penalty)</p>	<p><b>113A Compliance Order</b>  T Knolls Atomic Power Lab, NY*  T Knolls Atomic Power Lab, NY**  T Knolls Atomic Power Lab, NY***  T Knolls Atomic Power Lab, NY****</p>	-----	-----

	<b>RCRA</b>	<b>CAA</b>	<b>SDWA</b>	<b>Other</b>
<b>Civilian Federal Agency</b>	<p><b>3008A Penalty Order</b> T Department of Treasury, D.C. (\$38,000 penalty)</p> <p><b>7003 Imminent and Substantial Endangerment Order</b> T DOI, Bureau of Land Management, WY T U.S. Army Corps of Engineers, Northern Mariana Islands</p> <p><b>9006 UST</b> T U.S. Postal Service, IL (\$450 proposed penalty) T Veterans Affairs, Hefner Medical Center, NC (\$49,918 proposed penalty)</p> <p><b>9006 Field Citation</b> T General Services Administration, IL (\$1200 penalty)</p>	<p><b>113A Compliance Order</b> T Tennessee Valley Authority, TN T Veterans Affairs, VA Medical Center, SC</p> <p><b>113D Penalty Order</b> T Department of Treasury, Bureau of Engraving and Printing, TX (\$14,000 and \$231,000 SEP)</p>	<p><b>1147B Penalty Order</b> T USDA, Forest Service, Guadalupe Admin. Site, NM (\$25,000/day/violation proposed) T USDA, Forest Service, Canjilon Lakes Campground, NM (\$25,000/day/violation proposed) T USDA, Forest Service, Duran Campground, NM (\$25,000/day/violation proposed)</p> <p><b>1414G Compliance Order</b> T Veterans Affairs, LA T USDA, Forest Service, Targhee National Forest-Alpine Campground, WY</p>	<p><b>FIFRA 13A Stop Sale, Use and Removal Order</b> T DOI, National Park Service, Glacier National Park, MT</p> <p><b>CWA Federal Facility Compliance Agreements</b> T U.S. Postal Service, AK for SPCC violations</p>
<b>GOCO</b>	<p><b>9006 Field Citation</b> T Bechtel Company, ID (DOE GOCO at INEEL) (\$300 penalty) T Bechtel Company, ID (DOE GOCO at INEEL) (\$300 penalty) T Bechtel Company, ID (DOE GOCO at INEEL) (\$450 penalty)</p>	<p><b>113A Compliance Order</b> T Knolls Atomic Power Labs, Inc., NY (DOE GOCO)* T Knolls Atomic Power Labs, Inc., NY (DOE GOCO)** T Schenectady Naval Reactor Kessler, NY (DOE GOCO)*** T Schenectady Naval Reactor-NISK, NY (DOE GOCO)**** T Mercer Wrecking and Recycling Corporation, NJ (Air Force GOCO)</p> <p><b>113D Penalty Order</b> T Alaska Abatement Corp., AK (U.S. Coast Guard GOCO) (\$5000 penalty)</p>	-----	-----

*note: all actions and penalties are final except where noted.*

\* one action with two defendants    \*\* one action with two defendants    \*\*\* one action with two defendants    \*\*\*\* one action with two defendants

**Table 3: FY 2000 EPA Enforcement Actions Against Federal Facilities by Region  
as Tracked in EPA's Enforcement Docket Database**

<b>Region 1</b>	
SDWA 1431 Imminent and Substantial Endangerment Order	<ul style="list-style-type: none"> <li>U.S. Army and MA National Guard, Massachusetts Military Reservation, MA</li> </ul>
<b>Region 2</b>	
CAA 113A Compliance Orders	<ul style="list-style-type: none"> <li>Knolls Atomic Power Labs, Inc. (GOCO) and DOE Knolls Atomic Power Lab, NY</li> <li>Knolls Atomic Power Labs, Inc. (GOCO) and DOE Knolls Atomic Power Lab, NY</li> <li>Schenectady Naval Reactor Kessler (GOCO) and DOE Knolls Atomic Power Lab, NY</li> <li>Schenectady Naval Reactor-NISK (GOCO) and DOE Knolls Atomic Power Lab, NY</li> <li>Mercer Wrecking and Recycling Corporation, NJ (Air Force GOCO)</li> </ul>
RCRA 3008H Corrective Action Orders	<ul style="list-style-type: none"> <li>U.S. Navy, Atlantic Fleet, PR</li> </ul>
<b>Region 3</b>	
CAA 113D Penalty Orders	<ul style="list-style-type: none"> <li>U.S. Navy, Marine Corps, VA (\$1650 penalty)</li> <li>U.S. DoD, Defense Reutilization and Marketing Office, VA (\$0 penalty)</li> </ul>
RCRA 3008A Penalty Orders	<ul style="list-style-type: none"> <li>Department of the Treasury, D.C. (\$38,000 penalty)</li> <li>U.S. Army, Letterkenny Army Depot, PA (\$162,030 proposed penalty)</li> </ul>
CERCLA	<ul style="list-style-type: none"> <li>DoD, Nansmond Ordnance Works, VA (hybrid 120E/104 agreement)</li> </ul>
<b>Region 4</b>	
SDWA 1447B Penalty Order	<ul style="list-style-type: none"> <li>U.S. Army, Ft. Bragg, NC (\$25,000/day/violation proposed penalty)</li> </ul>
CAA 113A Compliance Orders	<ul style="list-style-type: none"> <li>Tennessee Valley Authority, TN</li> <li>Department of Veterans Affairs-VA Medical Center, SC</li> </ul>
RCRA 3008A Penalty Orders	<ul style="list-style-type: none"> <li>DoD, Defense Logistics Agency, Ft. Campbell, KY (\$37,125 proposed penalty)</li> </ul>
RCRA 9006 UST	<ul style="list-style-type: none"> <li>Department of Veterans Affairs, Hefner Medical Center, NC (\$49,918 proposed penalty)</li> </ul>
<b>Region 5</b>	
RCRA 9006 (UST)	<ul style="list-style-type: none"> <li>U.S. Postal Service, IL (\$450 proposed penalty)</li> </ul>
RCRA 9006 UST Field Citation	<ul style="list-style-type: none"> <li>General Services Administration, IL (\$1200 penalty)</li> </ul>
<b>Region 6</b>	
CAA 113D Penalty Orders	<ul style="list-style-type: none"> <li>U.S. Navy, Naval Air Station Corpus Christi, TX (\$5000 penalty)</li> <li>Department of Treasury-Bureau of Engraving and Printing, TX (\$14,000 penalty and \$231,000 SEP)</li> </ul>

SDWA 1447B Penalty Orders	<ul style="list-style-type: none"> <li>• USDA, U.S. Forest Service, Guadalupe Administrative Site, NM (\$25,000/day/violation proposed penalty)</li> <li>• USDA, U.S. Forest Service, Canjilon Lakes Campground, NM (\$25,000/day/violation proposed penalty)</li> <li>• USDA, U.S. Forest Service, Duran Campground, NM (\$25,000/day/violation proposed penalty)</li> </ul>
SDWA 1414G Compliance Order	<ul style="list-style-type: none"> <li>• Department of Veterans Affairs, LA</li> </ul>
<b>Region 7</b>	
CAA 113A Compliance Order	<ul style="list-style-type: none"> <li>• U.S. Army, KS</li> </ul>
<b>Region 8</b>	
SDWA 1414G Compliance Order	<ul style="list-style-type: none"> <li>• U.S. Army, Ft. Missoula, MT</li> <li>• USDA, U.S. Forest Service, Targhee National Forest-Alpine Campground, WY</li> </ul>
RCRA 7003 Imminent and Substantial Endangerment Order	<ul style="list-style-type: none"> <li>• Department of Interior-Bureau of Land Management, WY</li> </ul>
FIFRA 13A Stop Sale, Use and Removal Order	<ul style="list-style-type: none"> <li>• Department of Interior-National Park Service, Glacier National Park, MT</li> </ul>
<b>Region 9</b>	
SDWA 1414G Compliance Order	<ul style="list-style-type: none"> <li>• U.S. Navy, Naval Air Station Fallon, NV</li> </ul>
CAA 113D Penalty Order	<ul style="list-style-type: none"> <li>• U.S. Air Force, Davis Monthan Air Force Base, AZ (\$72,918 penalty)</li> </ul>
RCRA 7003 Imminent and Substantial Endangerment Order	<ul style="list-style-type: none"> <li>• U.S. Army Corps of Engineers, Commonwealth of the Northern Mariana Islands</li> </ul>
RCRA 9006 UST Field Citation	<ul style="list-style-type: none"> <li>• Naval Ship Repair Facility, Guam (\$450 penalty)</li> <li>• U.S. Army, AAFES Gas Station, HI (\$600 penalty)</li> </ul>
<b>Region 10</b>	
CAA 113D Penalty Orders	<ul style="list-style-type: none"> <li>• Alaska Abatement Corporation, AK (U.S. Coast Guard GOCO) (\$5000 penalty)</li> <li>• U.S. Army, Ft. Wainwright, AK (\$25,000/day/violation proposed penalty)</li> </ul>
CAA Notice of Violation	<ul style="list-style-type: none"> <li>• U.S. Army, Ft. Richardson, AK</li> </ul>
RCRA 9006 (UST)	<ul style="list-style-type: none"> <li>• U.S. Army, Ft. Lewis, WA (\$469,661 proposed penalty)</li> </ul>
RCRA 9006 UST Field Citations	<ul style="list-style-type: none"> <li>• Department of Energy, INEEL, ID (\$150 penalty)</li> <li>• Bechtel Company (GOCO) at DOE INEEL, ID (\$300 penalty)</li> <li>• Bechtel Company (GOCO) at DOE INEEL, ID (\$300 penalty)</li> <li>• Bechtel Company (GOCO) at DOE INEEL, ID (\$450 penalty)</li> </ul>
CWA Federal Facility Compliance Agreements	<ul style="list-style-type: none"> <li>• U.S. Postal Service, AK (for SPCC violations)</li> <li>• U.S. Army, Ft. Lewis, WA</li> <li>• U.S. Navy, Puget Sound Naval Shipyard, WA</li> </ul>

*note: all actions and penalties are final except where noted.*

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## 6. Cleanup Agreements

### Federal Facility Agreements Completed in FY 2000

EPA, the Navy, and DOE signed two Interagency Agreements in FY 2000 that will govern the cleanup of two Superfund sites. Interagency agreements are entered into by EPA, the responsible federal agency, and often the state, and provide enforceable schedules for the progression of the entire cleanup, including penalty provisions for missed deliverables. CERCLA §120(e) requires EPA and the responsible federal agency to negotiate and sign agreements for all federal facility Superfund sites that are listed on the NPL. The following table provides some detail on the two signed agreements:

**Table 4: FY 2000 Federal Facility Agreements at Superfund Sites**

<b>Federal Facility Name</b>	<b>State</b>	<b>Agency</b>	<b>Listed on NPL</b>	<b>IAG Signed</b>
South Weymouth Naval Air Station	MA	Navy	5/94	11/30/99
LEHR Landfill	CA	DOE	5/94	10/29/99

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## 7. Case Summaries

In FY 2000, EPA took 46 formal enforcement actions against federal facilities under CAA, CERCLA, CWA, RCRA, SDWA, and TSCA. Some of these actions, as well as other actions that are not tracked in EPA's Enforcement Docket database, are summarized below.

### CAA Cases

#### *Bureau of Engraving and Printing Fined by EPA Region VI for Clean Air Act Violations*

EPA Region VI settled its enforcement action against the Bureau of Engraving and Printing's (BEP) Western Currency Facility in Fort Worth, Texas. BEP violated Clean Air Act regulations by not properly controlling emissions of volatile organic compounds from cleaning and degreasing solvents, and record-keeping and reporting deficiencies. BEP will pay a cash penalty of \$14,000 and undertake SEPs valued at \$231,000. The projects include installation of a pollution prevention system on BEP's nickel plating line, additional pollution reduction equipment on BEP's chromium plating line, and rinse water recycling equipment in both the nickel and chrome plating systems.

#### *U.S. Department of Energy, Schenectady Naval Reactor Office*

In February of 2000, Region II issued administrative orders to DOE, and to its contractor, Knolls Atomic Power Laboratories, Inc., a Lockheed Martin Company, for their failure to comply with various Clean Air Act reporting and record keeping requirements for steam generating facilities at DOE's Niskayuna, NY and West Milton, NY locations.

DOE was required to record and maintain records of the amounts of fuel combusted during each day at each facility. In addition, DOE was required to maintain such records for a period of two years. An EPA inspection of each facility discovered the violations. The compliance orders are intended to ensure both DOE's and its contractor's compliance with the record keeping requirements.

#### *Region IX: Davis-Monthan AFB to Pay \$72,918 to Settle Alleged Air Violations*

On April 17, 2000, EPA reached a settlement with DoD that called for DoD to pay \$72,918 for numerous alleged Clean Air Act violations at the Davis-Monthan Air Force Base, Tucson, AZ. The alleged violations occurred while removing asbestos during a renovation of an airman's housing facility in August 1995. The alleged violations included: failure to provide written notification of its intention to renovate; failure to keep regulated asbestos-containing material adequately wet when stripping from a facility; failure to keep regulated asbestos-containing material adequately wet until collected and contained or treated in preparation for disposal; failure to discharge no visible emissions to the outside air during the collection, processing or transporting of asbestos-containing waste material; and failure to deposit regulated asbestos-containing waste material at an approved waste disposal site.

*Region X Issues a Notice of Violation Under the Clean Air Act to the United States Army, Fort Richardson, Alaska*

On June 19, 2000, Region X issued a Notice of Violation (NOV) under Section 113(a) of the CAA to the United States Army, Alaska Garrison, Fort Richardson, Alaska. An inspection conducted by EPA in May 1999, revealed that Fort Richardson had been operating four emergency coal-fired boilers without a properly functioning continuous emission monitoring system (CEMS) for carbon monoxide and oxygen, and without a continuous opacity monitoring system (COMS). In addition, the inspector observed that the facility was violating the 20% opacity standard as prescribed in its operating permit. The NOV also alleges that the Army failed to notify the Alaska Department of Environmental Conservation (ADEC) when the CEMS or COMS were not properly functioning, failed to timely submit its semi-annual Facility Operating Reports, and failed to conduct performance tests on its CEMS and COMS as required by its operating permit.

*Region X Issues Administrative Complaint under the Clean Air Act to the United States Army, Fort Wainwright, Fairbanks, Alaska*

On December 30, 1999, Region X issued an administrative complaint under Section 113(d) of CAA to the United States Army, Fort Wainwright, located in Fairbanks, Alaska. An inspection conducted by EPA revealed that Fort Wainwright had been operating six coal-fired boilers at its central heating and power plant without emission control devices to provide optimum control of air contaminant emissions in violation of its operating permit, the Alaska State Implementation Plan, and the CAA. As a result of the Army's failure to have installed baghouses on its boilers, emissions from the plant violate the 20% opacity standard on almost a daily basis. The Army also failed to have continuous emission monitors for carbon monoxide and oxygen, and continuous opacity monitors installed on the boilers at the plant. A review of ADEC records revealed that these violations pre-date the EPA inspection and are documented in state files back to 1992. The Region is seeing penalties of up to \$25,000 per day for each violation that occurred prior to January 31, 1997, and \$27,500 per day for each violation that occurred on or after that date.

## **CERCLA Cases**

*Time Critical Removal Agreement Signed for the Former Nansemond Ordnance Depot*

CERCLA Section 104/120 Interagency agreement became effective on December 30, 1999 which requires the performance of a CERCLA time critical removal action at the Former Nansemond Ordnance Depot in Suffolk, Virginia. The Army will investigate and, as necessary, remove ordnance and explosive hazards at the Former Nansemond Ordnance Depot. This agreement is nationally significant agreement because it contains provisions that: (1) the U.S. Army Corps of Engineers (USACE) may not proceed with work when EPA disagrees with the USACE's work plans and (2) the U.S. Army will seek an appropriation to reimburse EPA's oversight costs.

## **CWA Cases**

### *Region X and Navy Sign a Federal Facility Compliance Agreement to Address Clean Water Act Violations at Puget Sound Naval Shipyard*

In February of 2000, the Puget Sound Naval Shipyard in Bremerton, Washington, entered into a compliance agreement with EPA to address a chronic problem of copper discharges into Puget Sound's Sinclair Inlet, beyond what is allowed under its water discharge permit. The compliance agreement outlines the steps the Navy will take to meet the conditions of its permit and remain in compliance. As the largest naval shipyard on the west coast, the shipyard is allowed to discharge wastewater directly into Sinclair Inlet, but only if it meets the EPA-specified permit conditions. Discharge monitoring reports from 1997 to 1999 show the amount of copper released from the shipyard frequently exceeded the permitted levels. Some of the copper in the wastewater comes from dry-blasting paint from naval vessels. Under the compliance agreement, the Navy will develop and implement procedures for reducing the amount of copper discharges into Sinclair Inlet including conducting dry-blasting within contained enclosures and operating a collection and treatment system for the wastewater from the dry docks.

### *Region X and Army Sign a Federal Facility Compliance Agreement to Address Clean Water Act Violations at Fort Lewis*

In May of 2000, EPA Region X reached agreement with the U.S. Army on steps the Army will take to correct chronic water pollution discharge problems at the Fort Lewis Army Installation in Washington. Discharge Monitoring Reports from 1998 through May 1999 note 146 separate violations of an EPA-issued National Pollutant Discharge Elimination System (NPDES) permit. The violations were primarily for excessive discharge of oil and grease from auto and helicopter wash facilities. The Army is allowed to discharge polluted water into Puget Sound at Solo Point, but only in amounts specified in the NPDES permit. Under the Agreement, the Army will change its wastewater handling process at an auto wash, prepare a plan to deal with problems at the helicopter wash, upgrade oil and grease treatment at its outfall facilities, and upgrade a stormwater outfall as part of a barracks renewal project.

### *Region X Enters Into Federal Facility Compliance Agreement With United States Postal Service*

On August 24, 2000, Region X entered into a Federal Facility Compliance Agreement (FFCA) with the United States Postal Service (USPS) resolving alleged violations of Section 311(j) of the Clean Water Act. On June 19, 2000, the Region notified the USPS that it was in violation of the Oil Pollution Prevention regulations, 40 C.F.R. Part 112, for failing to prepare and implement a Spill Prevention Control and Countermeasure plan for its fuel storage tank located at the United States post office located in Dutch Harbor, Alaska. The FFCA memorializes a schedule which will bring the Dutch Harbor post office into compliance with the Oil Pollution Prevention regulations.

## **RCRA Cases**

### *EPA Settlement with Bureau of Engraving and Printing Plant in Washington, D.C.*

In July of 2000, the U.S. Treasury Department's BEP agreed to pay a \$38,000 penalty for unsafe storage and labeling of hazardous waste at the bureau's currency and postage stamp production plant in Washington, D.C. In addition to the penalty, BEP has now certified its compliance with all relevant regulations governing treatment, storage, and disposal of hazardous waste at the plant. EPA's September 1999 administrative complaint alleged violations of several safeguards designed to reduce the risk of hazardous waste spills and leaks, including unsafe storage of hazardous wastes, failure to mark and date hazardous waste containers, and failure to properly identify hazardous waste discharge emergency coordinators. The hazardous wastes included waste oils and butyl alcohol-containing inks, residues from plating operations, bucket wash sludge, caustic wash, ferric chloride, and spent cyanide solution residue.

### *EPA Environmental Appeals Board Reverses and Remands Tinker Air Force Base UST Decision*

On July 27, 2000, the EPA Environmental Appeals Board (EAB) reversed the May 19, 1999, Administrative Law Judge (ALJ) order granting Tinker Air Force Base's Motions to Dismiss and for Accelerated Decision, and remanded the case back to the ALJ. The EAB deferred to the June 14, 2000, Opinion of DOJ's OLC which confirmed EPA's penalty authority against federal agencies for UST violations under sections 6001(b) and 9006 of RCRA, and confirmed the validity of EPA's UST field citation procedures.

The case was initiated in January 1998, when EPA Region VI filed an administrative complaint against Tinker alleging violations of the UST requirements of RCRA. The administrative complaint sought a penalty of \$96,703, and was part of EPA's first set of UST cases against federal facilities. At the same time the case was pending before the ALJ, and before the order was issued in May 1999, DoD referred the issue of whether or not EPA has statutory authority to assess civil administrative penalties against another federal agency for UST violations to the OLC. Shortly after the UST penalty issue was referred to OLC, the ALJ issued the May 1999 order which found that EPA lacked the statutory authority to assess civil administrative penalties against another federal agency under the UST provisions of RCRA (Section 9006). EPA appealed the ALJ order to the EAB in June 1999. In light of the OLC opinion and with the case remanded to the ALJ, Tinker and EPA recommenced settlement negotiations. A settlement was reached in November 2000, wherein Tinker agreed to a pay a penalty of \$51,500.

EPA has found that most federal facilities have proper UST equipment for release detection, spill and overflow prevention, and corrosion protection. Generally, facilities in violation have deficiencies in properly managing the equipment for release detection requirements. Federal agencies should ensure that their personnel are familiar with proper UST management methods and are thoroughly trained to operate UST release detection equipment.

*Region VIII Issues RCRA 7003 Imminent and Substantial Endangerment Order to BLM*

EPA Region VIII issued an administrative order to the Bureau of Land Management (BLM) under the imminent and substantial endangerment provisions of RCRA section 7003, after the completion of a conference between the State Director for BLM in Wyoming and the Region VIII Regional Administrator. The order required BLM to take immediate measures to eliminate threats to the environment from two oil pits on land it owns in the Poison Spider Field southwest of Casper, WY, and to produce plans for the cleanup and closure of the pits. The pits were among more than 200 sites identified by a multi-agency team that began working together in Casper in January 1997 to bring the resources of federal and state agencies, oil companies, and the Wind River Tribes to bear against “problem oil pits” in Wyoming. The order also directed BLM to immediately begin daily inspections of the site and keep birds and wildlife away from the pits that killed more than 75 birds during the summer of 1999 and partly covered two mule deer fawns that had to be destroyed by officials.

In compliance with the order, BLM timely submitted a plan of interim measures it will take to protect human health and the environment until a final cleanup is achieved. The plan includes a schedule and an “operation and maintenance” plan to assure that the measures are not interrupted. BLM also submitted a plan for closing the pits which details the methods it will use to manage oil, oily waste, and debris. The plan also describes the quality and depth to groundwater near the pits and identifies any groundwater users within a mile, describes surface water features in the area, describes alternative “closure” measures it evaluates and the method it selects, and provides a schedule for the chosen method. As of early January 2001, BLM is in compliance with the requirements of the EPA-approved plans.

*Region X Issues Complaint and Compliance Order to U.S. Army's Fort Lewis for Underground Storage Tank Violations*

On September 18, 2000, EPA Region X issued an administrative complaint and compliance order with a proposed penalty of \$469,661 against the U.S. Army's Fort Lewis Army Installation for violations of federal UST regulations. The penalty is the largest UST penalty ever proposed for a DoD installation. Specific violations outlined in the complaint involve 32 of 62 regulated UST systems on the base, with 10 of the systems having more than one violation. The violations were discovered and shared with base personnel during facility inspections in September 1999. Some of the same violations also were found during an UST inspection conducted by EPA in 1994. Types of violations found included not having upgraded equipment for spill and overflow protection, and not properly performing leak detection. The Washington Department of Ecology participated in the 1999 inspection. The complaint and order requires Fort Lewis to bring its USTs into compliance with the State of Washington's EPA-approved UST regulations. The complaint also assesses a penalty to encourage timely resolution of the violations, to support fair and equitable treatment of the regulated community, and to deter federal agencies and others from future violations.

## **SDWA Cases**

### *Region VI Issues Three Safe Drinking Water Act Penalty Actions Against U.S. Forest Service*

On August 17, 2000, EPA Region VI issued three administrative complaints against the U.S. Forest Service alleging violations of the Safe Drinking Water Act. The complaints allege violations of the National Primary Drinking Water Regulations, including failure to perform coliform bacteria monitoring and exceeding the maximum contaminant level for coliform bacteria. The water systems cited are the Duran Campground and the Canjilon Lakes Campground in the Santa Fe National Forest, and the Guadalupe Administrative Site in the Lincoln National Forest. Settlement negotiations between EPA and U.S. Forest Service are ongoing.

Microbiological contaminants present a health issue in drinking water systems and have long been considered one of the drinking water program's highest enforcement priorities. Total coliform bacteria are used as an indicator in drinking water to assess the sanitary integrity of the treatment processes and distribution system. If total coliform are present in drinking water, conditions also exist for the presence of harmful pathogens. Enforcement of the microbiological rules is a national enforcement priority with EPA, and negotiations have commenced with the U.S. Forest Service for settlement.

### *Region IV Issues Safe Drinking Water Act Administrative Complaint Against U.S. Army Base at Fort Bragg, North Carolina*

On March 14, 2000, Region IV issued a Safe Drinking Water Act 1447(b) Administrative Complaint against the U.S. Army base at Fort Bragg, North Carolina, seeking \$25,000 per day per violation for violations of public water system requirements. Fort Bragg owns and operates a public water system that serves 65,000 people.

Fort Bragg's water treatment plant violated requirements by exceeding maximum concentration limits (MCL) for Total Trihalomethanes (TTHM), failing to meet public education requirements when exceeding lead action levels, as well as other violations. The exceedances were significant and TTHM is a human carcinogen.

This action was the latest effort to correct violations discovered during a 1998 multi-media inspection. In March 1999, the Region issued a SDWA 1414(g) order requiring compliance with the SDWA, a report on actions taken since 1994 to address the TTHM problems, and a written plan to address actions that will be taken to reduce the amount of TTHM contamination in drinking water.

Fort Bragg has complied with the March 1999 order and, as of January 2000, was in compliance with requirements for TTHM MCLs. The details of the 1447(b) settlement are under development.



*Region I Orders Military to Clean up Unexploded Ordnance on Cape Cod*

On January 7, 2000, EPA exercised its authority under the Safe Drinking Water Act on an active military range to prevent contamination of Cape Cod's sole source aquifer from unexploded ordnance.

Region I issued a unilateral administrative enforcement order against the Massachusetts National Guard (MNG) and the National Guard Bureau (NGB) at the Massachusetts Military Reservation (MMR) on Cape Cod effective January 14, 2000. In a letter from Assistant Administrators Steven A. Herman and Tim Fields, EPA told the Department of Defense that the order was a necessary and appropriate exercise of the unique authority Congress mandated EPA to use in a preventative and prospective manner to protect underground supplies of drinking water. Congress used broad terms in drafting the imminent hazard provisions included in the environmental statutes to give appropriate government officials the right to seek relief, or take other appropriate action to avert threats to the environment or public health. In this case, one or more contaminants related to unexploded ordnance are present or likely to enter the drinking water supply, and the contaminants may present an endangerment that is both imminent and substantial.

The Region I order aimed to protect the health of persons on Cape Cod, where some 200,000 year-round residents and 520,000 summer visitors depend on the Cape Cod Aquifer as the sole source of their drinking water. Significant numbers of live unexploded ordnance have been uncovered at the site. The order was issued because DoD would not agree to conduct the necessary studies and cleanup in a manner or time frame that would protect the Cape Cod Aquifer and the health of persons dependent on it as their sole source of drinking water.

*Fallon Naval Air Station Ordered to Comply with Safe Drinking Water Act*

On September 4, 2000, Region IX issued a compliance order to Fallon Naval Air Station, near the City of Fallon, Nevada, requiring the base to adhere to a strict EPA schedule for removing arsenic from its drinking water to comply with the Safe Drinking Water Act.

Arsenic in Fallon's drinking water was 100 parts per billion (ppb), among the highest of any public water system in the nation. EPA had been working with Fallon officials for more than a year to get the city and the military base to reduce the arsenic in its drinking water down to the current federal standard of 50 ppb. The order requires the base, and a separate order requires the city, to meet all deadlines outlined in a schedule leading up to the installation and management of a treatment system that will significantly reduce arsenic in the town's drinking water by December 2004. The Navy has made available to its residents and employees alternative low or no arsenic water for drinking and cooking.

Although a naturally occurring mineral, arsenic is a poison. It is naturally found in groundwater throughout Region X. Drinking high levels of arsenic increases the chance of lung, bladder, and skin cancers, as well as heart disease, diabetes, and neurological damage. Arsenic inhibits the body's ability to fight off cancer and other diseases.

## **TSCA Cases**

### *EPA Environmental Appeals Board Rules Against EPA in Section 1018 Lead-Based Paint Case Brought Against Kingsville Naval Air Station*

On March 17, 2000, EPA's EAB issued a final order in the U.S. Department of Navy, Kingsville Naval Air Station case. The case was on Interlocutory Appeal to the EAB based on a motion filed by the Kingsville Naval Air Station in response to an order issued by ALJ Stephen McGuire. The Navy was named by EPA Region VI as a Respondent in a TSCA administrative penalty complaint filed in July 1998, for failing to comply with the Section 1018 Real Estate Notification and Disclosure Rule. Oral argument in the case was heard by the EAB on October 28, 1999.

One of the central issues on appeal was whether the Residency Occupancy Agreements (ROAs), which the Navy enters into with enlisted military personnel at Kingsville, are "contracts to lease" under the Disclosure Rule. The terms "contract to lease" and "lease" were not defined by the Disclosure Rule. The Navy argued, among other things, that it does not enter into "contracts to lease" with military personnel and thus the Disclosure Rule is inapplicable. ALJ McGuire ruled that the ROAs were "contracts to lease" under the Disclosure Rule, and based his analysis on Texas contract and property law which is where the Navy housing in question is located.

The EAB held that ALJ McGuire's "Order cannot be upheld based upon the Presiding Officer's analysis, which relied on Texas law." The EAB observed that there is no definition for "contract to lease" in the rule and stated that "it is not clear that an ROA would necessarily be included or excluded from any so-called ordinary definition of the term lease." The EAB further stated that "while the Board does have the authority, as the Agency's final decision maker in this case to fashion through this adjudicative proceeding a legally binding interpretation of the terms 'lease' and 'contract to lease' . . . we decline to exercise that authority here." The EAB concluded by stating that "if the Agency intends to regulate ROAs under the Disclosure Rule, it needs to develop a workable and supportable interpretation of the Disclosure Rule to that end, and as appropriate amend the Disclosure Rule to reflect that interpretation." The EAB specifically did not rule on whether TSCA Section 408 provides the requisite "express statement" of Congressional intent that EPA has administrative penalty authority over another federal agency.

The EAB concluded by noting that DoD issued a February 18, 1997, memorandum to the military services that states that occupancy of DoD housing by military members and their families is considered to be leasing of housing, with regard to the Disclosure Rule. Thus, given the serious and unquestioned health effects of lead-based paint, the EAB stated that they expected the Navy to comply with the disclosure requirements as contemplated by the February 1997 DoD memorandum.

# Attachment 1

## Organizational Structure of the Federal Facilities Enforcement Office

<p><b>Federal Facilities Enforcement Office</b>  <b>Phone: (202) 564-2510</b>  <b>Fax: (202) 501-0069</b>          Director: Craig Hooks          Associate Director: Elliott Gilberg          Senior Enforcement Counsel: Joyce Olin</p>
<p>Priscilla Harrington: (202) 564-2461          Theresa Branch: (202) 564-2466          Madeline Queen: (202) 564-2472</p>

<p><b>Planning, Prevention, and Compliance Staff</b>          Director: Gregory Snyder          Ph: (202) 564-4271          Fax: (202) 501-0069</p>
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<p><b>Site Remediation and Enforcement Staff</b>          Director: John Fogarty          Ph: (202) 564-8865          Fax: (202) 501-0644</p>
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Will Garvey	202-564-2458
Sarah Hart	202-564-2457
Joyce A. Johnson	202-564-2592
Kelly A.C. Jones	202-564-2459
Dorothy King	202-564-2473
Isabelle Lacayo	202-564-2578
Dianne Lynne	202-564-2587
Marie Muller	202-564-0217
Augusta Wills	202-564-2468

Melanie Barger-Garvey	202-564-2579
Andrew Cherry	202-564-2589
Sally Dalzell	202-564-2583
Dan Drazan	202-564-2328
Lance Elson	202-564-2577
William (Bill) Frank	202-564-2584
Sonja Johnson	202-564-2573
David Levenstein	202-564-2591

<p>Regional Federal Facilities          Program Managers          (see Attachment 2)</p>
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## Attachment 2

### U.S. EPA Federal Facilities Program Managers

Region/Name	Address	E-Mail	Telephone/Fax Number
<b>HEADQUARTERS</b> <b>Greg Snyder, Director</b> <b>Planning, Prevention,</b> <b>&amp; Compliance Staff</b>	U.S. EPA Headquarters Federal Facilities Enforcement Office 1200 Pennsylvania Avenue, NW Washington, D.C. 20460	snyder.greg@epa.gov	202-564-4271 (t) 202-501-0069 (f)
<b>REGION I</b> <b>Anne Fenn</b>	U.S. EPA Region I Office of Environmental Stewardship 1 Congress Street, Suite 1100, Mail: SPP Boston, MA 02114-2023	fenn.anne@epa.gov	617-918-1805 (t) 617-918-1810 (f)
<b>REGION II</b> <b>Kathleen Malone</b> <b>Alt: John Gorman</b>	U.S. EPA Region II Compliance Assistance Section 290 Broadway, 21 <sup>st</sup> Fl. New York, NY 10007-1866	malone.kathleen@epa.gov gorman.john@epa.gov	212-637-4083 (t) 212-637-4008 (t) 212-637-4086 (f)
<b>REGION III</b> <b>Bill Arguto</b>	U.S. EPA Region III Office of Environmental Programs 1650 Arch Street Philadelphia, PA 19103-2029	arguto.willam@epa.gov	215-814-3367 (t) 215-814-2783 (f)
<b>REGION IV</b> <b>David Holroyd</b>	U.S. EPA Region IV Env. Accountability Division, Federal Facilities 61 Forsyth Street, SW Atlanta, GA 30303-8960	holroyd.david@epa.gov	404-562-9625 (t) 404-562-9598 (f)
<b>REGION V</b> <b>Lee J. Regner</b>	U.S. EPA Region V Office of Enforcement & Compliance Assurance 77 West Jackson Blvd Chicago, IL 60604-3507	regner.lee@epa.gov	312-353-6478 (t) 312-353-5374 (f)
<b>REGION VI</b> <b>Joyce F. Stubblefield</b>	U.S. EPA Region VI Compliance Assurance & Enforcement Division 1445 Ross Avenue Dallas, TX 75202	stubblefield.joyce@epa.gov	214-665-6430 (t) 214-665-7446 (f)
<b>REGION VII</b> <b>Diana Jackson</b>	U.S. EPA Region VII Enforcement Coordination Office 901 North 5 <sup>th</sup> Street Kansas City, KS 66101	jackson.diana@epa.gov	913-551-7744 (t) 913-551-9744 (f)
<b>REGION VIII</b> <b>Dianne Thiel</b> <b>Connally Mears</b>	U.S. EPA Region VIII 999 18 <sup>th</sup> Street Denver, CO 80202-2466	thiel.dianne@epa.gov mears.connally@epa.gov	303-312-6389 (t) 303-312-6044 (f) 303-312-6217 (t) 303-312-6409 (f)
<b>REGION IX</b> <b>Larry Woods</b>	U.S. EPA Region IX Cross-Media Division 75 Hawthorne Street, CMD-2 San Francisco, CA 94105	woods.larry@epa.gov	415-744-1580 (t) 415-744-1598 (f)
<b>REGION X</b> <b>Michele Wright</b>	U.S. EPA Region X Office of Enforcement & Compliance (OEC-164) 1200 6 <sup>th</sup> Avenue Seattle, WA 98101	wright.michele@epa.gov	206-553-1747 (t) 206-553-7176 (f)