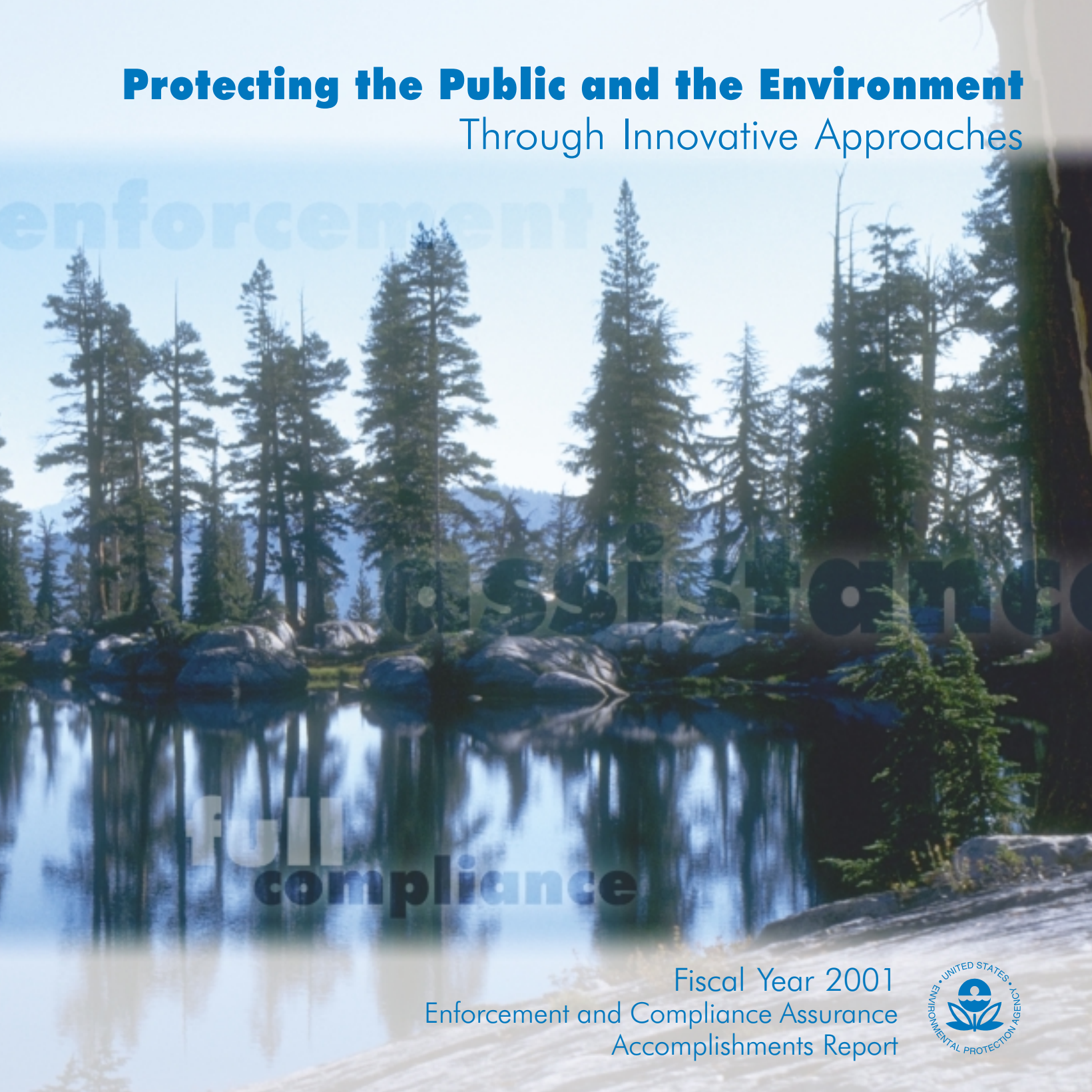
Protecting the Public and the Environment
Through Innovative Approaches



Fiscal Year 2001
Enforcement and Compliance Assurance
Accomplishments Report

U.S. Environmental Protection Agency

Office of Enforcement and Compliance Assurance (2201A)

Washington, D.C.

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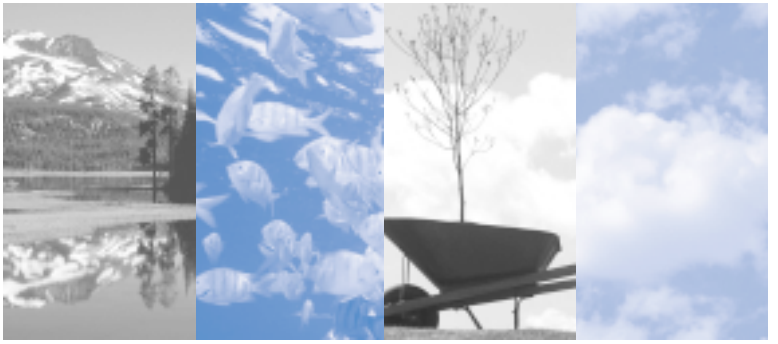

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Christie Whitman

From the Administrator

This past year we witnessed events unlike any our nation has ever experienced and which we will never forget.

While our country focused on the aftermath of the September 11th attacks in New York City, at the Pentagon, and in Pennsylvania, EPA was there—playing a critical role in the investigation, monitoring, and cleanup. I want to thank the men and women of EPA's Enforcement and Compliance Assurance team who worked closely with other federal law enforcement agencies as part of the federal government's response to the attacks. EPA's criminal investigators and forensics staff are still providing crisis management support to other federal agencies to combat domestic terrorism. I am very proud of their service to our country in these uncertain times.

I'm also proud of last year's accomplishments in our enforcement and compliance program. This strong program is leading the charge toward our goal of providing all Americans with a cleaner, safer, and healthier environment. Last year we set our sights high, focusing on areas that posed serious threats to health and the environment. We focused on building partnerships with those who share our goals to find workable and flexible solutions to our nation's most difficult environmental challenges. And we actively pursued those who failed to comply with the law and took swift and appropriate enforcement action when warranted.

As we look toward the future, we will continue to look for new and innovative approaches to achieve measurable and better environmental results in our enforcement and compliance efforts. That work is underway and we're starting to see real environmental results. I'm confident we will continue to make significant progress as we enter a new era in environmental protection.

John Peter Suarez

From the Assistant Administrator

I am pleased to report the successes of our enforcement and compliance assurance program for FY2001.

This report highlights EPA's commitment to ensure full compliance with the law through civil, criminal, and administrative enforcement actions as well as encourage improved compliance through assistance and incentives.

In FY2001, we continued our ongoing collaboration with our state and tribal partners to provide information and assistance to facilities to help them comply with environmental laws. We completed numerous agreements with facilities and companies to conduct their own self-audits and to report and correct violations. And we took significant civil and criminal enforcement actions to address serious environmental problems and ensure fairness in the marketplace.

Reducing pollution is a primary goal for the enforcement and compliance program. Last year we and our partners prevented millions of pounds of harmful pollutants from being released into the environment and ensured that billions of pounds of pollutants were safely treated and managed. We also required violators to spend nearly $1 billion on environmental improvement projects—up 60 percent from the previous year. We understand the challenges regulated entities face to comply with the multitude of complex environmental regulations. These challenges require us to be innovative and to "think outside the box."

As an example, we're employing what we term "integrated strategies," whereby we use a combination of tools to improve environmental management by regulated entities, maximize compliance, and increase environmental protection. These integrated strategy tools include:

- Voluntary compliance incentives such as the Audit, Small Business, and Small Communities Policies to encourage self-auditing, reporting and correction;
- Assistance designed to prevent violations;
- Monitoring to identify violations; and
- Strong enforcement to correct and deter noncompliance.

In my new capacity, I look forward to working hand-in-hand with the dedicated professionals of the Office of Enforcement and Compliance Assurance, EPA regional and program offices, and, most importantly, our partners across the nation to vigorously enforce our environmental laws, protect Americans and future generations, and help ensure clean air, pure water, and better protected land.

John Peter Suarez

What We Do

EPA's enforcement and compliance assurance program's mission is to protect human health and the environment by ensuring that regulated entities, federal, state, tribal, and local governments comply with our nation's environmental requirements for keeping our air, land, and water clean. EPA's Office of Enforcement and Compliance Assurance (OECA) achieves these goals by working in partnership with state governments, tribal governments and other federal agencies, and using an integrated approach of compliance assistance, compliance incentives, and innovative civil and criminal enforcement.

The Office of Compliance (OC) assists industries and other regulated entities to improve their compliance with environmental laws. OC also works with EPA regions and headquarters to establish national enforcement and compliance priorities, monitor compliance, develop and track performance, and measure and evaluate results.

The Office of Criminal Enforcement, Forensics and Training (OCEFT) directs EPA's criminal program, provides technical and forensic services for civil and criminal investigative support, and provides training for federal, state, and local environmental professionals. OCEFT also provides investigative and technical support to the federal government's homeland security program.

The Office of Federal Activities (OFA) reviews all federal Environmental Impact Statements (EIS) prepared under the National Environmental Policy Act (NEPA); maintains a national EIS filing system; assures that EPA's own actions comply with NEPA and other environmental requirements; provides technical assistance, compliance assistance, enforcement, and capacity building.

The Office of Environmental Justice (OEJ) provides a central point for the Agency to address environmental and human health concerns in minority communities and/

or low-income communities—a segment of the population, that has been disproportionately exposed to environmental harms and risks.

The Office of Regulatory Enforcement (ORE) works with states, EPA regional offices, tribes, and other federal agencies to assure compliance with the nation's environmental laws by investigating violations, deterring violations of federal environmental laws through civil enforcement actions, and providing incentives to those members of the regulated community to comply with the law.

The Office of Site Remediation Enforcement (OSRE) facilitates, coordinates, and evaluates the enforcement of EPA's national hazardous waste cleanup programs: Comprehensive Environmental Response (Superfund), Resource Conservation and Recovery Act, Oil Pollution Act, and Underground Storage Tanks.

The Office of Planning, Policy Analysis and Communications (OPPAC) recommends national policy on issues pertaining to environmental enforcement and compliance and addresses emerging and crosscutting issues, such as innovation in OECA's programs.

The Federal Facilities Enforcement Office (FFEO) is responsible for ensuring that federal facilities take all necessary actions to prevent, control, and abate environmental pollution.

Meeting EPA's Strategic Goals

EPA's Strategic Plan charts a course for protecting human health and the environment. To transform this ambitious mandate into concrete actions with measurable results, EPA has identified 10 goals, each of which is a high priority for all Agency offices.

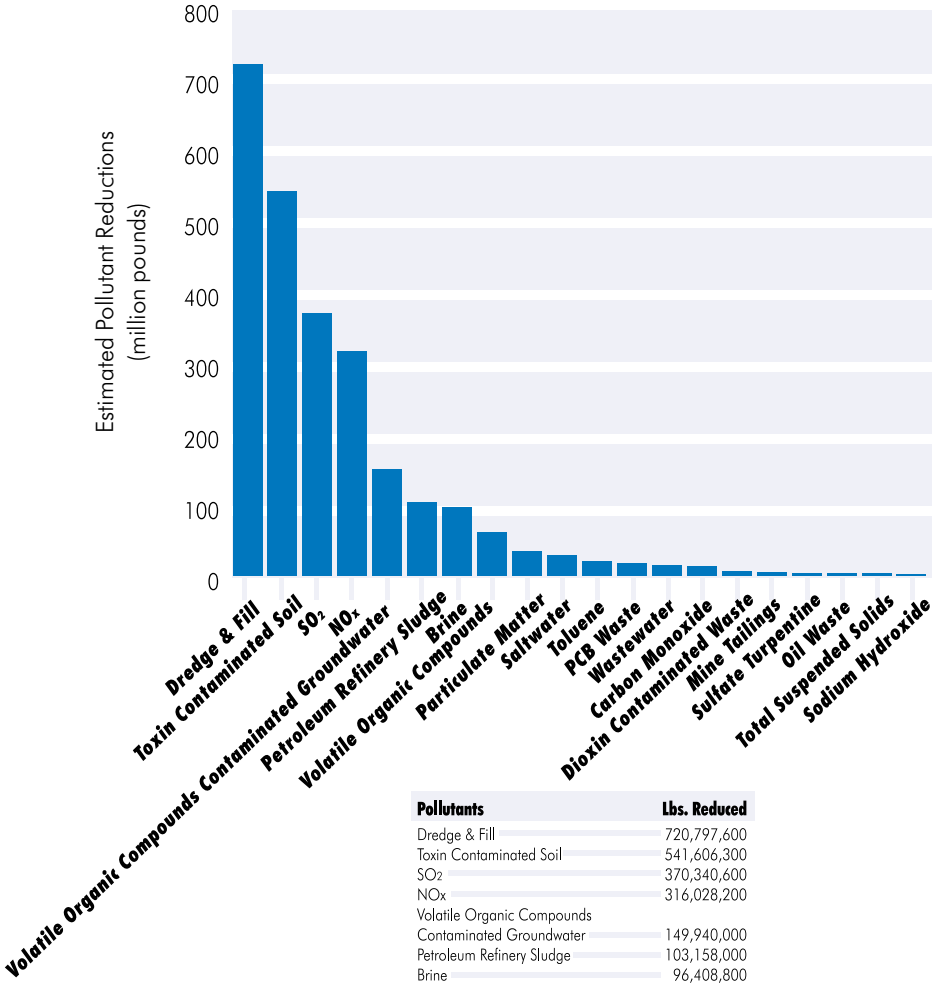
One of the goals—**Goal 9**, which mandates compliance with environmental laws—is the responsibility of the Office of Enforcement and Compliance Assurance and relates almost exclusively to OECA's mission.

Two other goals also represent important parts of OECA's mission: **Goal 7** expands public involvement in environmental protection by giving citizens easy access to information about their local environment, and **Goal 5** ensures that wastes will be managed in an environmentally protective manner and that polluted sites will be cleaned up or restored.

Results—Making a Difference

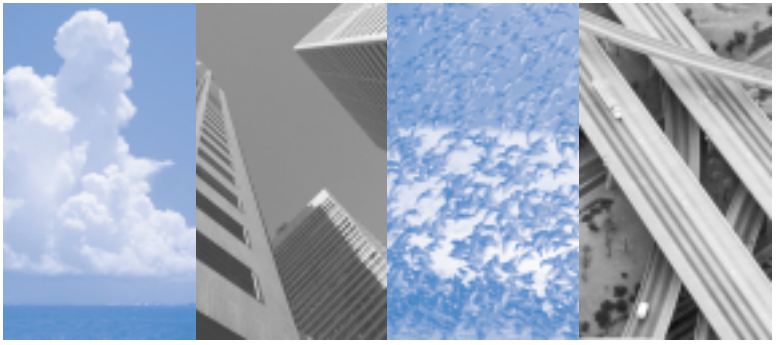
EPA's enforcement and compliance assurance program is focused on producing measurable results to protect public health and the environment. The program has always tracked traditional measures, such as the number of inspections and enforcement actions. EPA has implemented the National Performance Measures Strategy which, while continuing some reporting on traditional activity or output measures, increases the number of outcome measures (e.g., pounds of pollutants reduced as a result of an enforcement action). EPA is now actively engaged in using outcome data to improve program effectiveness and ensure accountability to the public. The accomplishments of the enforcement and compliance assurance program are reported in a variety of measures and documents on OECA's Web sites.

Pollutants with the Largest Reductions Reported for EPA Enforcement Settlements



Pollutants	Lbs. Reduced
Dredge & Fill	720,797,600
Toxin Contaminated Soil	541,606,300
SO_2	370,340,600
NOx	316,028,200
Volatile Organic Compounds Contaminated Groundwater	149,940,000
Petroleum Refinery Sludge	103,158,000
Brine	96,408,800
Volatile Organic Compounds	61,213,300
Particulate Matter	34,589,400
Saltwater	28,991,300
Toluene	21,126,200
PCB Waste	17,226,500
Wastewater	14,715,100
Carbon Monoxide	12,896,000
Dioxin Contaminated Waste	5,663,500
Mine Tailings	4,719,600
Sulfate Turpentine	4,326,000
Oil Waste	4,075,400
Total Suspended Solids	2,563,850
Sodium Hydroxide	2,034,000

At the conclusion of its enforcement settlements, EPA calculates the amount of pollution that will be eliminated or treated.



Environmental Gains at a Glance

EPA's enforcement and compliance program directly impacts our environment, and the quality of the air we breathe, the water we drink, and the land on which we live. Here are a few of the program's major accomplishments in FY2001:

Preventing and Reducing Pollution

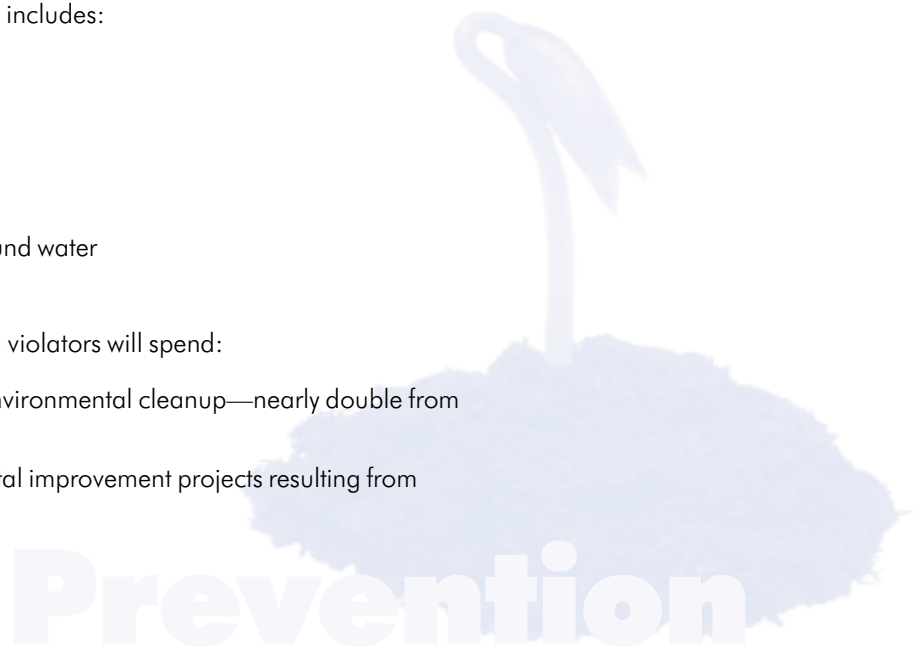
In FY01, EPA secured commitments for an estimated reduction of more than 660 million pounds of harmful pollutants, and the treatment and safe management of an estimated record 1.84 billion pounds of pollutants. This includes:

- 720 million pounds of dredge and fill
- 541 million pounds of contaminated soil
- 370 million pounds of SO_2
- 316 million pounds of NO_x
- 149 million pounds of contaminated ground water

Improving the Environment

In FY2001 as a result of enforcement actions, violators will spend:

- $4.39 billion on pollution controls and environmental cleanup—nearly double from the previous year
- $89 million on supplemental environmental improvement projects resulting from settlements—up 60 percent from FY2000



Helping Businesses, Governments, and Individuals Comply:

More than a million individuals and businesses were helped by EPA through its compliance assistance programs and centers.

- In FY2001, EPA launched the National Compliance Assistance Clearinghouse. The Clearinghouse provides easy access to compliance assistance resources in all 50 states. Last year more than 184,000 Web pages from the Clearinghouse were downloaded.
- In a survey of Compliance Assistance Center users, 90 percent of respondents from the regulated community said the centers helped them to understand environmental regulations.

Providing Incentives to Change Behavior

- 304 companies self-disclosed and corrected violations at 1,754 facilities nationwide.

Making Polluters Accountable

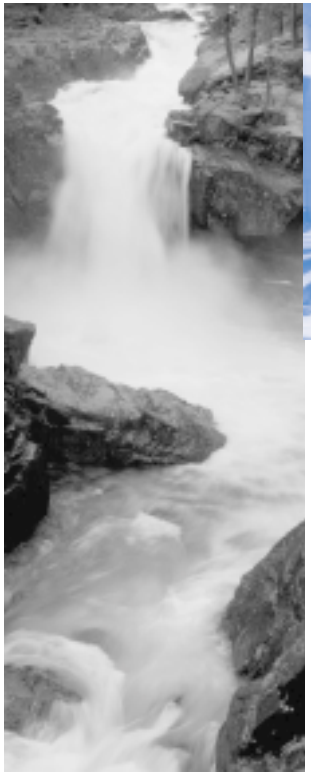
- Violations were addressed in 222 civil judicial cases and 3,228 administrative orders and field citations;
- Violators paid $125 million in civil penalties;
- Violators committed to spend almost $89 million on additional environmental projects or improvements;
- Criminal violators received 256 years of prison time for their environmental crimes; and
- [illegible] $95 million in criminal fines and restitution were collected.

Maximizing Results Through Partnerships

In its compliance monitoring and enforcement programs, EPA works closely with states, local, and tribal governments in conducting inspections and in development of cases.

States bear the lion's share of responsibility for implementing federal programs. EPA also receives assistance in its enforcement activities from tribal governments as well as other federal agencies. EPA works with states to make effective use of resources to achieve the greatest environmental results possible. Together, we set goals and priorities and implement strategies to solve environmental problems. Annually, EPA grants millions of dollars to state enforcement programs. These grant resources help states and tribes build their capacity to implement effective compliance assurance programs that lead to measurable results. EPA uses a number of mechanisms to implement environmental programs and support these partnerships: Memorandum of Agreements, Performance Partnership Agreements, Performance Partnership Grant Agreements, and Categorical Grant Agreements. EPA also has a close working relationship with many national and local organizations such as the National Association of Attorneys General, the Environmental Council of States, and the International Association of the Chiefs of Police.

EPA is responsible for ensuring that federal environmental programs designed to protect human health and the environment are carried out across the United States, including Indian Country. In FY1984, EPA completed its *Indian Policy* describing the Agency's government-to-government relationship and overall commitments to environmental protection for federally-recognized Indian tribes. In July 2001, Administrator Whitman reaffirmed the *Indian Policy's* recognition of "tribal governments as the primary parties for setting standards, making environmental policy decisions, and managing [environmental] programs ... consistent with Agency standards and regulations." EPA remains committed to partnering with tribes in addressing enforcement and compliance issues in indian country.



Integrated Strategies

Using all available tools to improve compliance and increase environmental protection, EPA is increasing the use of integrated strategies to address environmental compliance problems. An integrated strategy involves a strategic approach, which gives thoughtful, up-front consideration to what tool or tools—compliance assistance, incentives, monitoring, or enforcement—to use when addressing identified environmental problems. These strategies contain clear measures to evaluate their effectiveness in resolving compliance problems and achieving environmental results.

The Agency's experience with integrated strategies has shown they can be quite effective in addressing environmental compliance problems. EPA is currently testing a framework for its regions and programs to use as a guide when developing and implementing integrated strategies. This will enable the Agency to better consider the best tools, approaches, outreach, and measures to resolving specific environmental problems.

Determining the appropriate mix of activities to apply to an environmental problem and measuring the overall effectiveness of these combined efforts can be a challenging exercise. While strong enforcement by EPA and its partners is needed to correct and deter noncompliance, EPA also needs to more strategically target its compliance assistance efforts towards areas where regulated entities are having problems understanding how to comply with regulatory requirements. EPA also needs to thoroughly monitor and inspect facilities to identify violations and determine noncompliance trends. In addition, the Agency will continue to offer voluntary incentives for compliance through the Audit, Small Business, and Small Communities Policies. Using these various compliance assurance tools with other innovative "beyond compliance" tools such as pollution prevention and environmental management systems should help EPA to not only increase compliance but improve environmental performance as well.

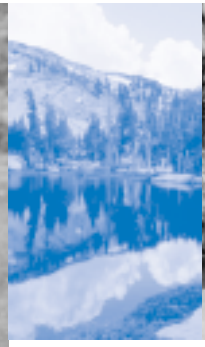
Compliance Assistance:

EPA has focused much attention on developing tools to help facilities understand the laws and regulations with which they must comply. The tools of compliance assistance include:

- Printed information, such as compliance guides and fact sheets;
- In-person tools, including meetings, seminars, workshops, and on-site assistance; and
- Hotlines, Web sites and virtual compliance assistance centers that support specific industry sectors and environmental program priorities.

In FY01, EPA provided compliance assistance to more than 550,000 businesses, and sponsored partnerships to support 10 Internet-based Compliance Assistance Centers created to help small-and medium-sized businesses, local governments, and federal facilities. That same year, the public and regulated entities visited the centers more than 485,000 times, an increase of 19 percent from FY2000. These visits included more than 150,000 requests for compliance documents. Other compliance assistance tools such as hotlines, workshops, and guidance materials effectively reached more than one-half million regulated entities.

Also, in FY2001, EPA launched the National Compliance Assistance Clearinghouse. The Clearinghouse is a Web-based searchable reference tool that provides quick access to compliance assistance materials and a means for the user to interact with EPA, states, and other compliance assistance providers. In FY01, EPA issued its first Compliance Assistance Activity Plan, cataloging 368 assistance projects and activities planned for FY2001 across all EPA. The plan helps states and other assistance providers focus their resources, avoid duplication, and find opportunities for collaboration with EPA.



Compliance Incentives:

Complementing its civil and criminal enforcement authorities are EPA's compliance incentive programs developed to encourage industries to self-audit their facilities and correct violations.

These incentives include the Audit, Small Business and Small Communities Policies. EPA developed the Audit Policy [Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 196186 (April 11, 2000)] to encourage voluntary auditing and self-disclosure of environmental violations and to provide a uniform enforcement response toward such disclosures. The Audit Policy provides incentives for companies to develop environmental audit and compliance management systems to detect, disclose, and correct environmental violations. When companies voluntarily discover and promptly disclose environmental violations to EPA (and meet other specified conditions of the policy), EPA will waive or substantially reduce gravity-based civil penalties by 75 percent or, in most cases, by 100 percent. For those meeting the policy's conditions, where applicable, EPA will not recommend the companies for criminal prosecution.

In FY2001, 304 companies disclosed potential violations at nearly 1,754 facilities under EPA's Audit Policy. These facilities corrected violations found and disclosed through self-auditing.

Enforcement:

Environmental enforcement is a comprehensive program involving federal, state, local, and tribal governments working together to enforce federal environmental laws. The term "enforcement" covers all efforts to compel compliance with environmental laws. EPA and each state have an enforcement program to ensure that laws lead to the results that Congress and the public want. Enforcement actions compel a person or company to comply with environmental laws and regulations. These actions include civil and

criminal prosecution in courts, administrative orders, and other forms of action that take place after a violation has occurred. Although directed at a specific violator, enforcement causes a deterrent effect that motivates other people and companies to comply and ensures a level playing field for those companies that do not violate the law.

Virtually every federal environmental law allows state governments to develop their own programs to enforce that law. EPA must determine that a state program meets federal requirements before approving it. Such programs may be called "delegated," "approved," or "authorized" programs, depending on the environmental statute. Under this arrangement, the states apply national standards and regulations by issuing and enforcing their own rules and permits. State governments carry out most environmental enforcement actions.

In FY2001, EPA saw a civil enforcement program that resulted in many successes including injunctive relief valued at $4.3 billion that will undo past harm and prevent future damage to the environment. Violators also paid $125 million in civil penalties with an additional $25.5 million going to states in shared penalties. Assessing civil penalties establishes deterrence and a level playing field for regulated entities by eliminating economic advantage gained through noncompliance. EPA settled 222 civil judicial cases and issued 3,228 administrative orders and field citations involving violations of a single statute or multiple statutes.

During FY2001, EPA maintained a strong criminal enforcement program to bring to justice those who violated the law knowingly or willfully. Over the year, among other enforcement accomplishments, the criminal program initiated 482 cases, referred 256 cases to the Department of Justice, and charged 372 defendants. The guilty paid nearly $95 million in fines and restitution and were sentenced to 256 years in prison—an increase of more than 100 years from FY2000.

Compliance Monitoring:

Compliance monitoring includes all of the activities EPA conducts to determine whether an individual facility or group of facilities is in compliance with environmental laws and regulations. In FY2001, EPA conducted 17,560 compliance inspections, 366 complex investigations, and 895 inspections specifically targeted to assist states. EPA also responded to over 9,700 complaints received from citizens by phone, in writing, or in person. These activities represent a significant field and monitoring presence to deter both on-going and future violations.

EPA's compliance monitoring includes:

- Performing compliance inspections, surveillance, and investigations;
- Collecting, analyzing, evaluating, and managing compliance data;
- Targeting, gathering information, and developing enforcement strategies;
- Collecting and analyzing environmental samples;
- Reviewing and evaluating self-reported documents, permits, and records; and
- Responding to citizen complaints and referrals from other governmental entities inspections, surveillance, and investigations.

In FY2001, EPA continued to emphasize complex investigations in addition to compliance inspections to uncover serious environmental problems. The investigations revealed a number of different types of serious environmental violations, including:

- Failure to obtain a permit;
- Failure to install, operate, or maintain pollution control equipment;
- Failure to determine the type of hazardous waste and failure to manage it properly; and
- Illegal storage of hazardous waste and discharge of oil in harmful quantities.

Using the Tools of an Integrated Strategy:

The Petroleum Refining Sector

Based on high noncompliance rates and their potential impact on the environment, the petroleum refining sector was identified as one of EPA's national priorities. Five significant compliance problems were identified that needed to be addressed at the federal level. Given the size, complexity, and sophistication of this sector, the majority of the Agency's resources focused on compliance monitoring and enforcement actions, but a multi-year integrated strategy also included compliance assistance and compliance incentive opportunities. The goal of the strategy was to significantly improve the industry compliance rate and reduce emissions that resulted from noncompliance.

The various tools of the integrated strategy were used in combination and in sequence to achieve the highest possible result. While compliance monitoring investigations at refineries proceeded, EPA offered compliance assistance on these five major issues in meetings with trade associations, industry, and other stakeholders. The compliance assistance was designed to give refineries the understanding of how to identify and correct their compliance problems, encourage the refiners to perform self audits and finally to encourage companies where investigations were already underway to enter into innovative global settlement agreements with the Agency. Additionally, a Compliance Assistance Program (CAP) was offered for sources that had significant emissions from improperly controlled storage tanks.

To date, the strategy has resulted in significant measurable environmental benefits. EPA entered into settlements with six companies that have a total of 32 facilities and represent over 30 percent of the country's crude oil refining capacity. The companies agreed to install pollution controls and implement new environmental management programs that cost almost $1.5 billion. In FY01, EPA's petroleum refinery initiative resulted in four settlements that will reduce more than 140,000 tons of harmful air pollutants annually.

Addressing Environmental Problems:

National Priorities

EPA selects its national enforcement and compliance program priorities by considering patterns of noncompliance and environmental or public health risk associated with regulated sectors, particular pollutants, and specific regulatory requirements.

National priorities must be appropriate for federal attention and response. EPA regions support national priorities but also recognize the need for and the importance of the establishment of regional and state priorities, with the commitment to provide the resource flexibility necessary to implement those priorities. In FY01, EPA's national enforcement and compliance priorities were:

Clean Water Act/Wet Weather: Run-off from wet weather events such as overflows from combined sewers, sanitary sewers, or concentrated animal feeding operation (CAFO) discharges. Overflows contain bacteria and other pathogens which cause illnesses and lead to impaired waters, including beach and shellfish bed closures.

> "With our state and local partners, we set a high priority on areas that posed serious threats to health and the environment. The Administration is determined to actively pursue those who fail to comply with the law while working closely with the regulated community to find workable and flexible solutions."
>
> —*EPA Administrator Christie Whitman*
> January 22, 2002

Safe Drinking Water Act/Microbial Rules: Ensuring compliance with microbial regulations and continued federal support of the Clean Water Action Plan. Adverse health effects of microbiological contamination include gastrointestinal distress, fever, pneumonia, dehydration (which can be life threatening), or death.

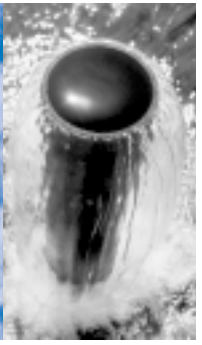
Clean Air Act/New Source Review/Prevention of Significant Deterioration: Ensuring that New Source Review (NSR) requirements of the Clean Air Act (CAA) are implemented. Failure to comply with NSR and/or PSD requirements results in inadequate control of emissions, thereby contributing thousands of tons of uncontrolled pollution each year, particularly of nitrogen oxides, volatile organic compounds, and particulate matter.

Clean Air Act/Air Toxics: Ensuring reduction of public exposure to toxic air emissions through the adoption and implementation of Maximum Achievable Control Technology (MACT) standards.

Petroleum Refinery Sector: Reducing air emissions and eliminating unpermitted releases from an estimated 162 operable domestic refineries spread across the country.

Resource Conservation and Recovery Act/Permit Evaders: Preventing unpermitted waste handling and management operations.

The following cases and activities represent actions taken in FY01 in support of meeting our national enforcement and compliance priorities:



Cleaner, Safer Water:

Combined Sewer Overflows (CSOs)

CSOs occur in older sewer systems that collect both sanitary sewage and storm water runoff in the same pipe. In periods of rainfall or snowmelt, the treatment plant and/or associated collection system may lack the capacity to ensure that the wastewater is appropriately collected and treated, resulting in raw sewage and industrial wastewater being released into the environment. In FY2001, EPA regions reached more than 4,400 regulated facilities with compliance assistance information on CSO requirements.

Upper Blackstone River (MA)

One example of EPA's efforts on CSOs is EPA New England's work on the Upper Blackstone River, one of several areas on which EPA is concentrating its efforts to improve water quality. Blackstone River was chosen as an American Heritage River and its waters have direct impacts on Narragansett Bay. Because both CSOs and storm water are pollution sources, an innovative, collaborative effort with the city of Worcester and the Upper Blackstone Water Pollution Abatement District was created to address the most significant pollutant sources. Under an agreement with EPA, the city of Worcester will develop a two-phased water quality improvement program in which the city will first identify ways to reduce the effect of pollution from CSOs and later devise storm water-related projects. The agreement to study both CSO and storm water projects enables everyone involved to make more informed decisions about how much CSO control is appropriate in light of other water quality issues and most effectively uses public funds to improve the quality of the Blackstone River and Narragansett Bay.

Concentrated Animal Feeding Operations (CAFOs)

Significant human health and environmental risks are generally associated with large-scale Concentrated Animal Feeding Operations. Improper handling of manure from feedlots, lagoons, and improper land application can result in excessive nutrients (nitrogen and phosphorus), pathogens (i.e., fecal coliform), and other pollutants in the water. This pollution can kill fish, cause excessive algae growth, and contaminate drinking water. In addition, emissions of air pollutants from very large CAFOs may result in significant health effects for nearby residents.

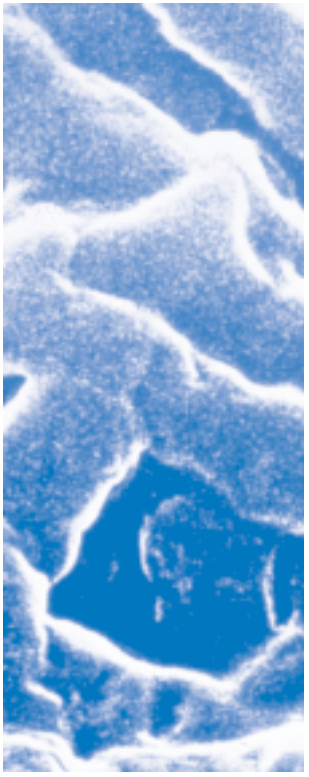
Livestock and Poultry Environmental Stewardship Curriculum Project

Through a cooperative interagency agreement with the United States Dairy Association, EPA, through its National Agriculture Compliance Assistance Center (Ag Center), sponsored a three-year project to help livestock producers implement sound environmental management practices and comply with environmental requirements. A nationwide team, which includes partners from 16 major agriculture research, and teaching universities and other groups, has worked closely with the Ag Center and United States Dairy Association's Cooperative State Research, Education, and Extension Service (CSREES) and Natural Resources Conservation Service to develop a nationally recognized, producer-oriented training curriculum, the Livestock and Poultry Environmental Stewardship curriculum, to address high profile livestock environmental issues.

The program is designed for use in various climates, for poultry, swine, dairy and cattle operations, and for a variety of livestock operations from totally confined to open lot systems. The program promotes the natural stewardship role that livestock and poultry farmers should play in their handling of water, air, waste, and pesticide issues. The materials will assist operators to apply pollution prevention concepts to actual, on-site, day-to-day farming realities to meet environmental requirements. The project builds on the shared, common objectives of USDA and EPA by promoting economically feasible resource management approaches that are scientifically sound and environmentally protective. Upon completion, the curriculum will have received extensive educator and industry review, and in-field pilot testing in locations across the country.

Murphy Farms, Magnolia (NC)

As a result of a civil settlement with EPA and the Department of Justice, Murphy Farms and D.M. Farms of Rose Hill were ordered in July 2001 to take specific measures to prevent future discharges of swine waste at five hog farms in Magnolia, NC, and pay a fine of $72,000 to the United States Treasury. The agreement repre-



sented a settlement of a civil judicial action for violations of the Clean Water Act filed by the Department of Justice on behalf of EPA's Region 4 and by three citizens organizations: the American Canoe Association, the Professional Paddlesports Association and the Conservation Council of North Carolina. EPA and citizen lawsuits alleged a number of illegal discharges to the Cape Fear River Basin from swine operations in violation of the Clean Water Act. An earlier decision by the district court resulted in the state of North Carolina issuing to D.M. Farms the first National Pollutant Discharge Elimination System (NPDES) permit to a concentrated animal feeding operation in the state. Measures called for in the Consent Decree include stream buffers; marking of spraying areas; inspections; training of personnel; taking certain sprayfield areas out of service; and record keeping. The NPDES permit contains substantial additional measures to prevent discharges.

Tommy Naylor Farm (NC)

On September 28, 2001, Region 4 issued an emergency order to Tommy Naylor Farm, a concentrated animal feeding operation in North Carolina. Tommy Naylor Farm was targeted for enforcement action after several private drinking water wells near the farm were found to be contaminated with nitrate. During the course of the investigation, EPA used nitrogen isotope analysis to determine the source of the nitrate contamination in the private wells near Tommy Naylor Farm. As a result of testing, EPA determined that Tommy Naylor Farm was causing or contributing to nitrate contamination in the underground source of drinking water, which resulted in the contamination of three down-gradient private water supply wells. Drinking water with high levels of nitrate can cause serious illness and even death in infants and small children. The order required Tommy Naylor Farm to provide an emergency supply of bottled water to the three homes with wells that were contaminated by the farm's operations. The Farm is also required to perform quarterly sampling of the three private wells and to submit a plan for providing a permanent alternative source of safe drinking water to the affected homes.

Microbial Rules

Contaminated drinking water threatens human health, especially that of children, the elderly, and those with compromised immune systems. Adverse health effects of microbiological contamination include gastrointestinal distress, fever, pneumonia, dehydration, and even death. The focus on microbial rules is intended to provide compliance assistance and enforcement to ensure that these rules are followed. EPA provided 27,152 entities with compliance assistance information on Safe Drinking Water Act requirements in FY01. This included 127 onsite visits, 118 presentations, meetings, workshops and other

Fort Bragg (NC)
In June 2001, EPA Region 4 announced the settlement of an administrative enforcement action against U.S. Army XVIII Airborne Corps at Fort Bragg in North Carolina for alleged violations of the Safe Drinking Water Act Public Water Supply requirements. The complaint alleged a range of violations including: exceeding the maximum contaminant level for Total Trihalomethanes (TTHM) in the drinking water (16 times from March 1994 –December 1999), lack of public notification of the TTHM exceedances; and lack of public education in regards to exceeding lead levels from January 1993–June 1998. Under the terms of the consent agreement and consent order, Fort Bragg agreed to pay a civil penalty of $312,500. In addition, Fort Bragg agreed to perform supplemental environmental projects (SEPs) as part of the settlement.

Kansas Public Water Systems
In May 2001, EPA Region 7 ordered 21 community public drinking water systems in Kansas to provide annual water quality reports for their customers or confirm that they have provided the reports. The systems are those that have not met the new consumer confidence reporting requirements of the federal Safe Drinking Water Act. The Consumer Confidence Report (CCR) is a brief annual report to a system's customers that summarizes water quality information the drinking water system has been required by law to collect.

Storm Water

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to storm water. The runoff from these activities discharges industrial pollutants into nearby storm sewer systems and water bodies. This may adversely impact water quality. The CWA required EPA to implement a two-phase comprehensive national program for addressing storm water discharges. Phase I requires NPDES permits for storm water discharge from a large number of priority sources including medium and large municipal separate storm sewer systems generally serving populations of 100,000 or more and several categories of industrial activity, including construction activity that disturbs five or more acres of land. Phase II requires permits for storm water discharges from certain small municipal separate storm sewer systems and construction activity generally disturbing between one and five acres. In FY01, EPA Regions reached more than 2,300 regulated facilities with compliance assistance information.

Wal-Mart (TX, NM, OK, and MA)
On June 7, 2001, the Department of Justice and EPA reached an environmental agreement with Wal-Mart Stores Inc. to resolve claims the retailer violated the Clean Water Act at 17 locations in Texas, New Mexico, Oklahoma, and Massachusetts. This was the first federal enforcement action against a company for multi-state

violations of the Act's storm water provisions. The settlement committed Wal-Mart to establish a $4.5 million environmental management plan, to improve the retailer's compliance with environmental laws at each of its construction sites, and to minimize the impact of its building on streams and watersheds. The settlement also compelled the company to pay a $1 million civil penalty.

Texas Construction Activities

Throughout FY2001, EPA Region 6 worked closely with the National Association of Home Builders, Associated Builders and Contractors, and Associated General Contractors, to educate their members on how to comply with the storm water construction regulations. This has included developing a Web page with all necessary documents and information for compliance with the storm water construction program. An enforcement training conference was provided for state inspectors and enforcement officers in November 2000 and February 2001, with a combined attendance of 170 government employees. Investigations were initiated resulting in 12 administrative orders issued for construction violations in FY01. EPA Region 6 issued a total of 38 administrative orders and 25 administrative penalty orders in FY01.

Clean Air:

New Source Review/Prevention of Significant Deterioration (NSR/PSD)

Failure to comply with the Clean Air Act's NSR and/or PSD requirements results in inadequate control of emissions, thereby contributing thousands of uncontrolled tons of pollution each year, particularly of nitrogen oxides, sulfur dioxides, volatile organic compounds, and particulate matter. NSR/PSD requirements ensure that the construction of new sources or the modification of existing sources does not jeopardize the attainment of clean air standards in critical areas. The PSD requirements ensure that areas with relatively clean air are not significantly degraded by new sources of air pollution.

Willamette, Industries (OR, LA, AR, SC)

EPA entered into a consent decree in November 2000 with Willamette Industries, Inc. of Portland, OR, for the company's failure to comply with PSD permitting requirements. The settlement requires Willamette to install state-of-the-art pollution control equipment at 13 of its facilities. The pollution control equipment, valued at approximately $74 million, will mean emission reductions of 17,500 tons of volatile organic compounds (VOCs); 8,100 tons of particulate matter (PM); and 1,020 tons of carbon monoxide over the four-year life of the consent decree. Willamette also will spend $8 million on supplemental environmental projects, which include pollution reduction projects, alternative fuels projects, community sewer and water system improvements, and state parkland donations, concentrated in the immediate areas where Willamette facilities are located, many of which are economically disadvantaged areas. Willamette also agreed to pay a civil penalty of $11.2 million, which, at the time of the settlement, was the largest ever assessed for factory emissions of air pollution. This action is a culmination of the government's investi-

gation of the wood products industry and its continuing effort against recalcitrant violators since the first consent decree was lodged against Louisiana-Pacific Corporation in FY1993.

Koch Industries, Inc. and Koch Petroleum Group, L.P. (TX)
Koch Industries, Inc. and Koch Petroleum Group, L.P. (Koch) pleaded guilty on April 9, 2001, to violations of the Clean Air Act by concealing the fact that it had failed to properly control benzene, a known carcinogen. As penalty, Koch agreed to pay $10 million in criminal fines and also agreed to spend $10 million for environmental projects in the Corpus Christi area. Koch must also complete a five year term of probation and adhere to a strict new environmental compliance program. Koch admitted that in January 1995 the company certified that it had installed equipment necessary to control benzene, but then disconnected a critical oil-water separator used to control benzene emissions. The case was investigated by EPA's Criminal Investigation Division with the assistance of EPA's National Enforcement Investigations Center, the FBI and the Texas Natural Resources Conservation Commission. The case is being prosecuted by the Environmental Crimes Section of the Department of Justice and the U.S. Attorney's Office in Houston.

Petroleum Refinery Sector

EPA's priority sectors analysis showed that the petroleum refining sector ranked highest among 17 sectors in VOC and SO_2 emissions, and second highest in NO_x emissions. These "criteria air pollutants" cause significant air pollution problems and are strictly regulated under the Clean Air Act. In FY2001, EPA's national petroleum refinery initiative resulted in four settlements that will reduce more than 140,000 tons of harmful air pollutants annually.

BP Amoco (IN)
On August 29, 2001, the District Court for the Northern District of Indiana entered a consent decree between EPA and BP, to resolve Clean Air Act violations at eight refineries owned by BP, Amoco, and ARCO (recently acquired by BP). Under the settlement, BP will install and operate innovative pollution control technologies that will reduce emissions of nitrogen oxides and sulfur dioxide from refinery process units by more than 50,000 tons annually. The agreement requires BP to pay a $9.5 million civil penalty to the United States Treasury and $500,000 to the state of Indiana. The injunctive relief is estimated by BP to be approximately $600 million.

Motiva, Equilon, Deer Park Refining (DE, LA, TX, CA, WA)
On March 11, 2001, the Department of Justice, the EPA, the states of Louisiana and Delaware, and the Northwest Air Pollution Authority announced agreements with three petroleum refiners that will reduce air emissions from nine refineries by over 60,000 tons per year. The agreements with Motiva Enterprises, Equilon Enterprises, and Deer Park Refining, LP., will affect petroleum refineries located in Delaware, Louisiana, Texas, California, and Washington. Consent decrees filed in federal court in Houston call for the companies to spend an estimated $400 million to install up-to-date pollution-control equipment and significantly reduce emissions from process units, wastewater vents, leaking valves, and flares throughout the refineries. The agreements also resolve alleged violations of federal and state hazardous waste and toxics laws at Motiva's Convent, LA, and Port Arthur and the Deer Park, TX, refineries.

Air Toxics

The adoption and implementation of Maximum Achievable Control Technology standards are intended to regulate the most hazardous air pollutants as well as those posing the greatest risks to human health and the environment because they are released frequently or in large amounts. To reduce the public's exposure and risk of exposure to toxic air emissions, EPA targeted inspections and compliance assistance at sources with existing MACT standards and targeted enforcement at sources with high risk for emissions of air toxics. One example of activities relates to the chromium electroplating MACT.

New Chrome Compliance Tool
EPA's Region 9 developed a manual to aid compliance and enforcement of the Chromium Electroplating MACT to help state and local agencies develop their own MACT standards for chrome platers. This manual represents a comprehensive approach, by not only dealing with the technical and practical aspects of compliance, but also by encouraging the use of pollution prevention and other innovative techniques. The manual is also used by EPA for compliance training and outreach and to support EPA's Air Toxics and Environmental Justice initiatives.

Better Protected Land:

Resource Conservation and Recovery Act (RCRA) Permit Evaders

Handling and disposing of wastes without permits under RCRA present significant environmental threats. Unpermitted operations also economically undercut facilities that comply with environmental laws. In FY01, EPA focused on eliminating dangerous treatment and recycling practices by addressing several areas of noncompliance, including the handling of foundry wastes, waste-derived fertilizers, mineral processing, illegal hazardous waste recycling, illegal dilution of hazardous waste, and practices regarding wastes that were previously exempt but are now included in RCRA regulations.

Joint Border Warehouse Initiative (TNRCC)

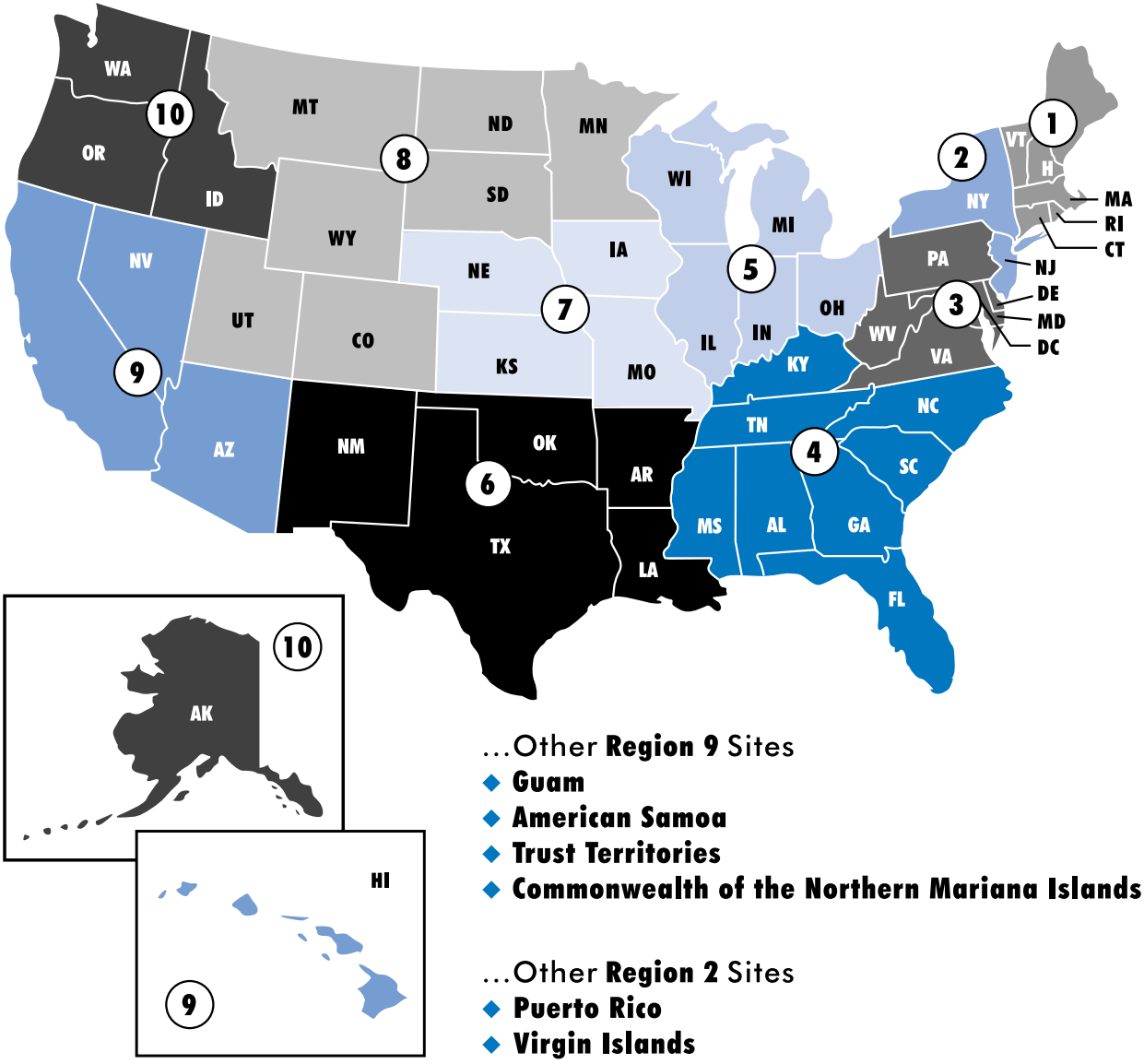
EPA Region 6 and the Texas Natural Resources Conservation Commission developed the Joint Border Warehouse Initiative in FY01 to conduct warehouse inspections along the U.S./Mexico border. Area citizens had been concerned that improper storage of hazardous materials could result in the contamination of the Rio Grande River, a principal source of drinking water, or the exposure of the public to danger. Inspectors conducted inspections of 216 warehouses that were not registered to handle hazardous waste to determine the extent of the mismanagement of hazardous waste. The inspections determined that 36 facilities were found to be noncompliant and that the majority of the violations were due to the warehouse industry's lack of knowledge regarding hazardous waste and RCRA. The investigations also identified that the two main activities that were causing the majority of the violations were abandoned hazardous products/hazardous waste and sham recycling (Some facilities may claim that they are "recycling" a material to avoid being subject to RCRA regulation, when in fact the activity is not legitimate recycling. EPA has established guidelines for what constitutes legitimate recycling

and has described activities it considers to be "sham recycling.") To assist the warehouse industry, EPA and TNRCC held a compliance assistance seminar in Laredo, Texas, at which 40 companies attended. Approximately 10 companies later contacted the TNRCC to report potential RCRA violations. Soon after, EPA and TRNCC conducted an additional 256 warehouse inspections. The inspections determined that approximately 34 facilities were non-compliant, several of which have the potential to be involved in sham recycling activities and thus lead to EPA led enforcement actions.

Magnesium Corporation (UT)

On January 17, 2001, the Department of Justice filed suit against Magnesium Corporation of America, its parent corporation Renco Metals Inc., and other related entities charging that the mineral mining company is illegally handling hazardous waste at its magnesium production plant on the edge of the Great Salt Lake. In the complaint, the government alleges that Magnesium Corporation (MagCorp) is illegally generating, storing and disposing of waste, including at least five wastes regarded as hazardous because of their toxicity or corrosivity. The suit also asks the court to impose penalties on MagCorp under RCRA. MagCorp processes magnesium chloride salts taken from water of the Great Salt Lake at its Tooele County, Utah, plant, and this production of magnesium generates several kinds of hazardous waste. The plant discharges thousands of gallons per day of liquids and solid waste into several unlined ditches and into a 400-acre pond, immediately adjacent to the Great Salt Lake. For many years, MagCorp maintained that its waste was exempt from RCRA requirements because of an exclusion in the law for certain kinds of processes involving minerals.

EPA Regions



...Other **Region 9** Sites

- **Guam**
- **American Samoa**
- **Trust Territories**
- **Commonwealth of the Northern Mariana Islands**

...Other **Region 2** Sites

- **Puerto Rico**
- **Virgin Islands**

Addressing Environmental Problems:

Regional Priorities

In addition to their work in support of EPA's national enforcement and compliance priority areas, regions can identify priority sectors and/or media that are of importance to their specific geographic location. Regions all dedicate resources for national priorities identified as environmental or public health concerns requiring attention nationally.

Region 1

Colleges and Universities

In FY01, EPA New England launched an Audit Policy Initiative for colleges and universities. To date, 170 colleges and universities have declared their intent to participate, and 131 have submitted disclosures for review. Region 1 also completed an Environmental Management System (EMS) Guide specifically targeted to the college and university sector and implemented an EMS Pilot Program to test its efficacy. Colleges and universities participating in the pilot's first round included University of New England, Wentworth Institute of Technology, and The University of Massachusetts-Amherst. The region is currently recruiting an additional six to eight institutions to participate in the second round for the EMS Pilot Program which starts in December 2002. Accurate measurement of the effects of this strategy are important as the region is considering the value of its transferability to other sectors and other regions are considering its utility. Therefore, the region is measuring the effect of discrete phases of the initiative on the college and university sector. The region has already developed and conducted a statistically valid telephone survey to determine how its initial efforts affected college and university regulatory practices and to identify areas for improvement. EPA New England is now expanding the ambit of its original assessment by evaluating the overall

effectiveness of the first two phases of its program, and the value of the specific tools it offers, especially the effect of the Audit Initiative.

In FY01, EPA issued administrative penalty orders against the University of Massachusetts and against Brown University for 11 separate locations. The Region filed judicial consent decrees for the Massachusetts Institute of Technology and the University of Rhode Island. The settlements included substantial supplemental environmental projects as well as significant civil penalties. The Region also conducted air and water inspections at two universities and multimedia inspections at three other colleges. A multi-media inspection at Central Connecticut State University resulted in an emergency removal action to address imminent and substantial hazards observed at the time of inspection.

Region 2

WTC Response Efforts

From the first hours of the morning of September 11, EPA played an ongoing role in the nation's response to the terrorist attacks on the World Trade Center, located only six blocks away from Region 2's Manhattan offices. With assistance from headquarters and other regions, Region 2 employees undertook several support activities at and around Ground Zero as well as at the Fresh Kills Landfill in Staten Island, where debris from the collapsed buildings was brought for evidence-gathering.

In the first weeks after September 11 these activities included monitoring air, water, and dust for potential environmental hazards; helping Financial District firms to retrieve backup computer system files from buildings within the exclusionary zone around Ground Zero; vacuuming dust and debris from streets and other outdoor spaces in lower Manhattan; removing and disposing of hazardous wastes from the sites; and setting up wash stations and providing protective equipment for rescue and recovery workers.

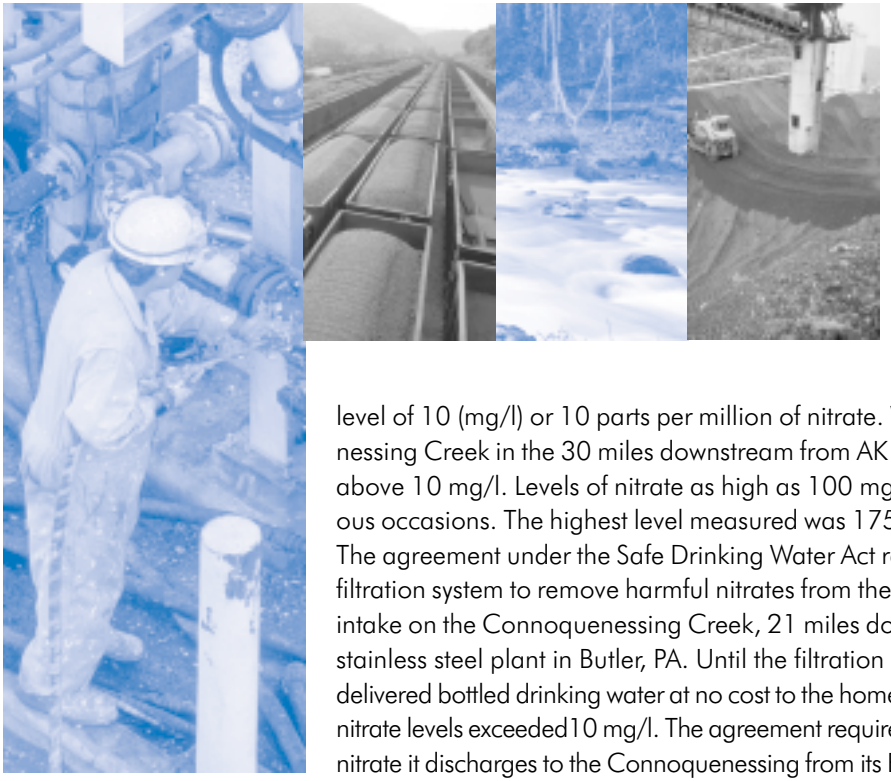
Healthcare Education Initiative

EPA is committed to increasing public awareness about the dangers associated with exposure to mercury and continues to take actions that will provide increased protection of public health. All forms of mercury are toxic to humans, but the various forms of organic and inorganic mercury have different toxicity. In FY2001, EPA Region 2 held a mercury reduction and pollution prevention workshop for federally owned healthcare facilities to better educate healthcare staff on minimizing and properly handling hazardous wastes. Approximately 35 federal facilities staff attended. EPA Region 2 has held two inter-regional compliance and pollution prevention seminars for hospitals and healthcare facilities in FY2001, with Region 1 in Connecticut and with Region 3 in Philadelphia. Seventy-four people attended the first, and over 90 attended the second. Fact sheets and contact information were provided in addition to the speaker's presentations. In addition to compliance information on federal regulations, state regulations have often been included. Environmental management systems, the voluntary audit program, Energy Star, voluntary pollution prevention programs and waste minimization programs have been included. The Region 2 New York Health Care Focus group was created and has had input on various efforts such as planning the seminars and dissemination of information. Similar focus groups are under development for New Jersey and the Caribbean. Speakers also addressed environmental issues, compliance, and EMS at various healthcare meetings, conferences, and seminars held throughout the region.

Region 3

Safe Drinking Water for Citizens of Zelienople Borough (PA)

A consent agreement between EPA and AK Steel was signed in March 2001 that comes in the wake of years of AK Steel's discharging nitrate, a scouring agent, into Connoquenessing Creek, which the borough uses as a drinking water supply. EPA's health-based standard under the Safe Drinking Water Act sets a maximum contaminant

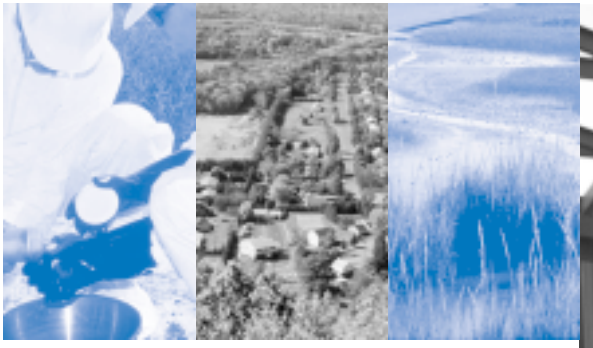


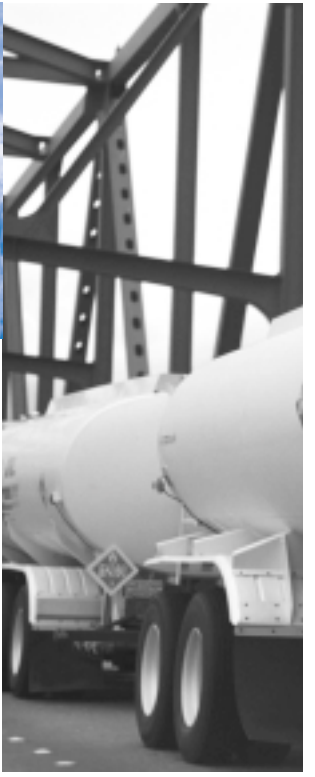
level of 10 (mg/l) or 10 parts per million of nitrate. Water samples from Connoquenessing Creek in the 30 miles downstream from AK Steel routinely showed nitrate levels above 10 mg/l. Levels of nitrate as high as 100 mg/l, have been measured on numerous occasions. The highest level measured was 175 mg/l on October 26, 1999.
The agreement under the Safe Drinking Water Act required AK Steel to provide a filtration system to remove harmful nitrates from the water at the Borough's backup water intake on the Connoquenessing Creek, 21 miles downstream from the company's stainless steel plant in Butler, PA. Until the filtration system was put in place, AK Steel delivered bottled drinking water at no cost to the homes of all Zelienople customers when nitrate levels exceeded10 mg/l. The agreement requires AK Steel to reduce the amount of nitrate it discharges to the Connoquenessing from its Butler plant to 999 pounds per day by October 31, 2002, so that it no longer poses a threat to Zelienople customers. Drinking water with high concentrations of nitrates can cause serious illness and death in infants under six months from a condition known as "blue baby syndrome."

Region 4

Martin County Coal Corporation (KY)

On October 11, 2000, a coal slurry impoundment owned and operated by the Martin County Coal Corporation (MCCC), in Inez, Martin County, KY, had a sudden breach and released an estimated 250 million gallons of waste materials, including coal mine fine refuse slurry, sediments, and other materials. The release occurred due to the collapse of an abandoned mine shaft under and adjacent to the refuse impoundment. The spilled waste material entered both the Wolf Creek and Rockcastle Creek watersheds. The slurry left fish, turtles, snakes, and other aquatic species smothered as the slurry covered the bottoms of the streams and rivers. EPA Region 4 was contacted by the National Response Center and responded immediately to the release along with the Commonwealth of Kentucky. The EPA On Scene Coordinator (OSC) was dispatched and





set up the Unified Command/Incident Command to coordinate the response as required by the National Contingency Plan. Several potable and industrial water supply intakes were affected as a result of the spill. MCCC, under the direction of the OSC and with the help of the Corps of Engineers, began immediately providing alternative water supplies to the impacted communities. The released waste material impacted more than 100 miles of surface water downstream from the site, including the Tug Fork and Levisa Fork of the Big Sandy River, a tributary of the Ohio River. The spill buried yards and farms, covered roads, disrupted water service, and closed schools, businesses and other public facilities. The Tug Fork and Big Sandy border both West Virginia and Kentucky. Region 4 worked closely with the coal company, the state of West Virginia, the Commonwealth of Kentucky, EPA Headquarters, and EPA Region 3 to develop a unique order that requires the company to remove all the slurry material from the water bodies and to restore those water bodies. The order further requires the coal company to pay all of EPA's past and future costs for this site under CERCLA.

Region 5

Metal Platers Initiative

During FY2001, EPA initiated and concluded 54 separate enforcement actions under Section 312 of Emergency Planning and Community Right-to-Know Act as part of its "metal platers" initiative. The initiative involved identifying those metal platers out of compliance with the EPCRA Section 312 requirement that facilities submit information regarding their stored chemicals to the State Emergency Response Commission, the Local Emergency Planning Committee, and the local fire department with jurisdiction over the facility, by March 1 of each year so that these entities can more efficiently respond to emergencies at these facilities. In addition to coming into compliance, the 49 facilities with fewer than 100 employees that agreed to participate in the initiative paid a civil penalty of $5,000. The five facilities with 100 or more employees paid a civil penalty of $10,000. In total, EPA collected penalties of $282,225 from this initiative.

Region 6

Problem Oil Pits (AR)

In FY2001, Region 6 addressed oil field waste disposal pits in Arkansas that posed a threat to human health or the environment. Previously, the U.S. Fish and Wildlife Service (FWS) determined that pits or ponds containing oil pose a threat to migratory birds and other wildlife. They identified, through aerial surveys, numerous sites in southern Arkansas that appeared to exhibit this type of threat. As a result, during the past fiscal year, a partnership formed between members of the FWS, EPA, Arkansas Oil and Gas Commission (AOGC), and Arkansas Department of Environmental Quality. Through this partnership, additional concerns are being addressed regarding oil field sites in southern Arkansas, such as inadequate containment for tanks and actual or potential discharges of oily waste to waters of the United States. For this reason, the initiative is now being referred to as the "Southern Arkansas Environmental Improvement Project." Three workshops were held in southern Arkansas for the oil exploration and production industry, as well as oil field waste handlers, to explain the concerns, and the state and federal regulations relevant to their businesses. Over 100 people attended the workshops. Site visits of potential problem areas, along with steps to correct those problems, are planned.

Region 7

Grain Processors Compliance Incentive Program

In FY01 EPA offered a voluntary air compliance audit program for grain processing facilities. Region 7 has identified the grain-processing sector as an enforcement priority for FY2001 and plans to increase overall inspections of grain processing facilities. Voluntary audit programs play an important role in helping companies meet their obligation to comply with environmental laws. Participants were given six months to complete an air compliance audit and disclose any potential areas of noncompliance to EPA. Demand for products from this sector has steadily increased in the past decade. Existing facilities may have increased capacity by modifying process units or building new ones to meet this new demand. Increased capacity may trigger the need to obtain pre-construction permits under the Clean Air Act.

Region 8

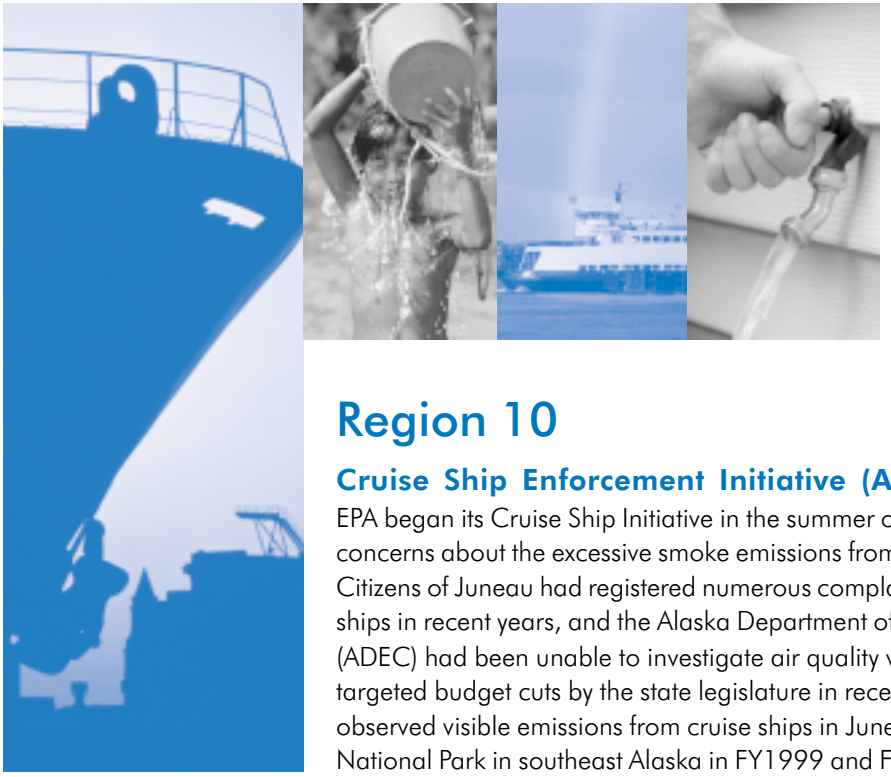
Fort Peck Reservation, Denver, CO

On September 20, 2001, EPA Region 8 issued an emergency administrative order requiring several oil companies to deliver full replacement water for all household uses including safe drinking, bathing and cooking, to 20 families whose private water supply wells have, or are at risk of having, unsafe levels of the contaminants benzene and total dissolved solids. The order extended to Marathon Oil Co., Murphy Exploration and Production Co., Pioneer Natural Resources USA Inc., Samson Investment Co., and Samson Hydrocarbons Co. The companies were also ordered to collect new data and submit relevant documents to indicate whether the groundwater contamination from their oil production operations might pose a future threat to the city of Poplar's drinking water supplies. The groundwater contamination was affecting 20 private water wells in the East Poplar oil field.

Region 9

Methyl Tertiary Butyl Ether Cleanup (MTBE) (CA)

Spurred by a series of EPA enforcement actions against more than a dozen parties responsible for leaking gasoline underground storage tanks, the nation's largest cleanup of soil and water tainted by the gas additive MTBE is now well underway. The contamination forced Santa Monica, CA, to shut down wells that formerly provided 40 percent of the city's drinking water. EPA, working in partnership with the Los Angeles Regional Water Quality Control Board, successfully compelled the parties to pay over $5 million for replacement drinking water, treat over 100 million gallons of contaminated ground water, remove over 4,100 cubic yards of contaminated soil, remove over 17,000 lbs of hydrocarbons using soil vapor extraction, drill over 400 groundwater monitoring wells, collect over 4,000 ground water samples, collect over 10,000 soil samples, and conduct pilot treatment tests of eight different technologies. By late FY2001, they had collectively spent about $90 million on this effort.



Region 10

Cruise Ship Enforcement Initiative (AK)

EPA began its Cruise Ship Initiative in the summer of 1999 to address the public's concerns about the excessive smoke emissions from cruise ships in southeast Alaska. Citizens of Juneau had registered numerous complaints about excessive smoke from the ships in recent years, and the Alaska Department of Environmental Conservation (ADEC) had been unable to investigate air quality violations by cruise ships because of targeted budget cuts by the state legislature in recent years. For this initiative, EPA observed visible emissions from cruise ships in Juneau, Seward, and Glacier Bay National Park in southeast Alaska in FY1999 and FY2000 and documented a number of violations by cruise ships. EPA issued administrative complaints to Carnival Cruise Lines and Princess Cruise Lines alleging violations of the state of Alaska's marine vessel visible emission standards and the requirement to report excess emissions to the state. Following the EPA's initial investigation and notification to the company of the opacity violations, each of these companies took steps to correct the cause of the opacity problems. Specifically, the companies switched the fuel used in the engines, installed opacity monitors on the engine stacks, and trained the ship engineers on the importance of proper operation to lower opacity. Additionally, Princess Cruise Lines announced that, in FY2001, four of its five cruise ships in Juneau, AK, would use shore power rather than power generated on board to reduce opacity violations. In FY2001, EPA resolved the complaints with the issuance of a consent agreement and final order assessing a penalty of $42,000 against Carnival and $77,000 against Princess.

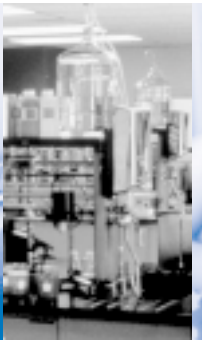
Addressing Environmental Problems:

Superfund Cleanup Enforcement

Although cleaning up hazardous waste sites generally takes several years, when there is an immediate danger to human health or the environment, EPA can order responsible parties to promptly investigate contamination and to take whatever actions are necessary to reduce the threat of exposure to hazardous substances. Under the federal Superfund law, any and all responsible parties must pay for cleanup—tax funds are used only as a last resort. This is known as the "polluter pays" principle.

To make sure that those responsible clean up or pay for the cleanup as much as possible, EPA's Superfund Enforcement program identifies the companies or people responsible for contamination at a site and negotiates with them to do the cleanup. In the event EPA pays for some or all of the cleanup at a site and then finds the people responsible, EPA can recover the money it spent from them. The Superfund law also requires federal facilities to clean up contamination at facilities they own or operate.

For FY2001, EPA's Office of Site Remediation Enforcement, which facilitates, coordinates, and evaluates the enforcement of EPA's national hazardous waste cleanup programs including Superfund, Resource Conservation and Recovery Act, Oil Pollution Act, and Underground Storage Tanks, reports the following:



Potentially Responsible Party Commitments

A Potentially Responsible Party (PRP) is any party that has been notified either through a general notice or special notice letter of potential liability under CERCLA or has been party to a CERCLA enforcement settlement or order. In FY01, EPA secured PRP commitments exceeding $1.7 billion. Of this amount, PRPs signed settlements for more than $1.3 billion for future response work, and settlements for more than $413.5 million in past costs.

Enforcement Fairness

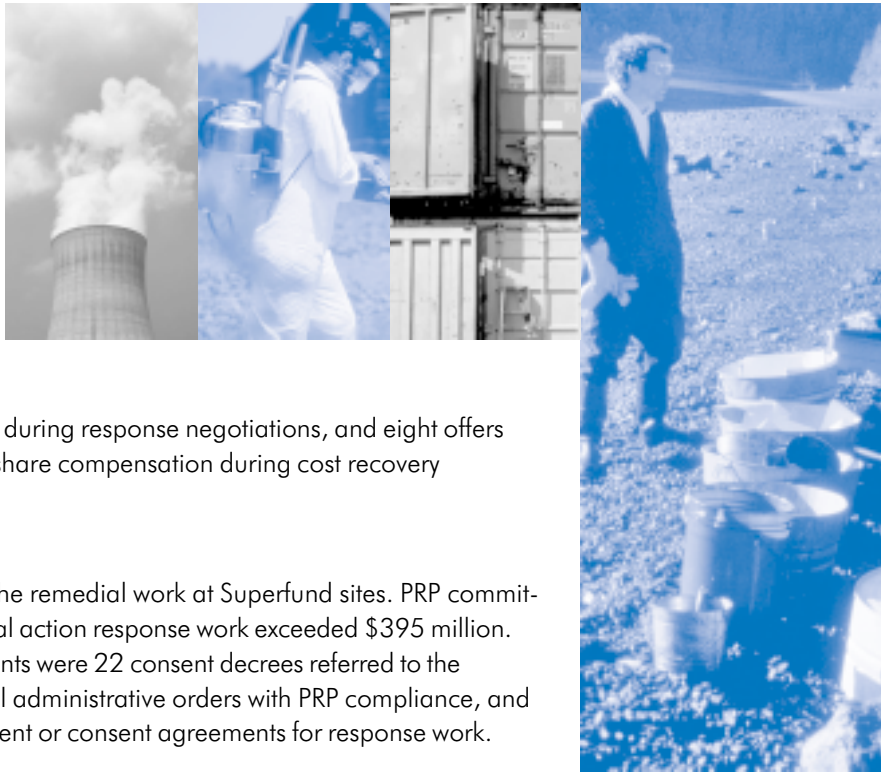
To promote enforcement fairness and resolve small party contributors' potential liability under Section 122 (g) of CERCLA, EPA concluded 15 *de minimis* settlements with over 1,900 parties. Through FY01, EPA has achieved more than 475 settlements with over 24,700 small volume waste contributors.

Prospective Purchaser Agreements (PPA)

To promote redevelopment of contaminated properties, EPA has sought to protect prospective purchasers, lenders, and property owners from Superfund liability. With Prospective Purchaser Agreements, bona fide prospective purchasers were not held responsible for cleaning up sites where they did not contribute to or worsen contamination. In FY2001, the Agency assessed 22 PPA requests, and signed 16 PPAs.

Orphan Share Compensation

Frequently, waste has been contributed to a site by parties that are now insolvent or defunct and are not affiliated with other liable, viable PRPs at the site. The share of cleanup liability attributable to such insolvent or defunct parties is called the "orphan share." In FY2001 EPA made orphan share compensation offers at 100 percent of eligible sites in work negotiations. The Agency made eight offers for more than $17.6



million in orphan share compensation during response negotiations, and eight offers for more than $5.2 million in orphan share compensation during cost recovery negotiations.

PRP Participation

In FY01, PRPs initiated 67 percent of the remedial work at Superfund sites. PRP commitments for remedial design and remedial action response work exceeded $395 million. The type of remedial response settlements were 22 consent decrees referred to the Department of Justice, seven unilateral administrative orders with PRP compliance, and six other administrative orders on consent or consent agreements for response work.

Using Special Accounts

A Special Account is a specific account established under a CERCLA (Section122(b)(3)) settlement, in to which PRPs deposit funds for cleanup costs at the site. The regions achieved 50 settlements providing for deposit of more than $297 million into special accounts and four settlements providing for disbursement of over $21 million from special accounts to PRPs. The regions collected $311 million in cash payments for response work, created 36 special accounts, and accrued $28 million in interest for a total of $339 million, and the program disbursed about $60 million. Through FY01, the program collected $878 million in cash payments for cleanup work, created 197 special accounts, and accrued over $135 million in interest for a total of over $1 billion, and the program also disbursed $326 million.

Superfund Settlements

Iron Mountain Mine (CA)

On October 19, 2000, the United States and the state of California reached a settlement with Aventis Crop Sciences USA, Inc. (formerly Rhone Poulenc, Inc.) to fund future cleanup costs at the Iron Mountain Mine Superfund Site near Redding, CA. The settlement, one of the largest with a single private party in the history of the federal Superfund program, will ensure long-term control of more than 95 percent of the releases from Iron Mountain, the source of the most acidic mine drainage in the world. Aventis has arranged for the IT Group to operate and maintain the site cleanup over the next 30 years, and for a payment to the federal and state governments of $514 million in FY2030 to pay for future site costs. This unique funding mechanism enables Aventis (which is securing the funding through a financial assurance and insurance vehicle) to pay roughly $160 million to fund the long-term operation and maintenance at the site (an estimated cost of $200 to $300 million), a payment to the EPA of approximately $8 million, and a $10 million payment to the natural resource trustees to fund natural resource restoration projects. The innovative settlement will benefit the people, fish, and animals of northern California and will allow salmon to once again migrate and spawn in the Sacramento River.

Operating Industries Inc. (CA)

EPA negotiated a $340 million settlement last year with more than 160 companies to pay for further cleanup work at the Operating Industries Inc. site, a 190-acre landfill about 10 miles east of downtown Los Angeles. From 1948 to 1984, the landfill accepted municipal, commercial, and industrial solid and hazardous wastes, including at least 300 million gallons of liquid waste. EPA found that nearly 4,000 different parties sent wastes to the landfill. Over the past two decades, EPA has

reached settlements with more than 1,250 of them to pay for cleanup work, including small businesses that have demonstrated an inability to pay their share of the cleanup costs and for whom EPA has been willing to accept payment in installments. The $340 million settlement brings the responsible parties' commitments for cleanup costs to more than $600 million, one of the largest sums ever raised for a toxic cleanup. The landfill towers hundreds of feet over the community of Montebello. There are approximately 53,000 homes near the landfill, including many adjacent to it. Earlier problems at the site have included contaminated water runoff into neighborhoods, unstable slopes threatening to slump onto houses, and methane and odors migrating to nearby homes. The work to be performed under the agreement will protect human health and the environment from the risks posed by the site. The remedy includes long-term maintenance of the landfill cover to contain landfill gases and to limit odors and health impacts to nearby residents. Contaminated landfill liquids will be captured by a control system at the landfill perimeter to avoid degradation of area groundwater. EPA actively sought community input during the remedy selection process for the site, and the community has been very supportive of EPA's progress.

Schaffer Landfill Portion of Iron Horse Park Superfund Site (MA)

On April 19, 2001, The U.S. District Court in Boston entered a consent decree for the Schaffer Landfill portion of the Iron Horse Park Superfund Site in Billerica, MA. In addition to requiring the responsible parties to reimburse the costs incurred by EPA and Massachusetts Department of Environmental Protection, the consent decree mandates the capping of the landfill and installation of landfill gas and leachate collection systems; groundwater monitoring; and fulfillment of operating and maintenance responsibilities. More than 30 responsible parties, representing landfill owners and operators, generators and transporters, will reimburse more than $1.5 million to the United States and nearly $150,000 to the commonwealth of Massachusetts. The capping of the landfill will be completed by the end of 2002 at an estimated cost of $15 million to the responsible parties and the leachate collection system will collect and treat/dispose of up to 10,000 gallons per day of leachate. To ensure that cleanup goals are being met, the responsible parties will conduct ground water monitoring for up to 15 years, after which Massachusetts will assume monitoring responsibility. Forty years of operating and maintenance costs will be borne by the responsible parties; thereafter, the costs will be assumed by the state.

Marisol, Inc. (NJ)

In April 2001, a consent decree was entered in this case, involving the Lang Property Superfund Site. Under the settlement, Marisol, Inc., agreed to pay approximately $11 million toward the cost of an EPA cleanup at the site located in Pemberton Township, NJ. EPA removed and properly disposed of 13,200 tons of contaminated soil and constructed a system that has treated 232 million gallons of contaminated groundwater since August 1995. In the 1970s, hazardous waste from the company was disposed of at the Lang Property, a 40-acre parcel of rural land in New Jersey's Pinelands National Reserve, one of the country's valuable environmental resources. In June 1975, between 1,200 and 1,500 drums of unidentified chemical waste were discovered in a clearing at the end of the unpaved road leading to the Lang Property site. Under a New Jersey state order, the site owners paid for the removal of the drums and contaminated soils from the site in 1976. However, before the removal, the contents of the drums were emptied into unlined pits on the site, or the contents were spilled on the ground, which caused the contamination of soils and ground water at the site. In FY1979, Burlington County and the state confirmed the site had contaminated ground water. The Lang Property site was placed on EPA's National Priorities List of hazardous waste sites in FY1983. Under the settlement, EPA will recover about $10 million in federal expenditures and the state of New Jersey will recover about $1.1 million in state expenditures. To date, the total cost of the federal cleanup at the Lang Property site is approximately $21 million. The proposed settlement amount is based on the company's limited ability to pay.

Addressing Environmental Problems:

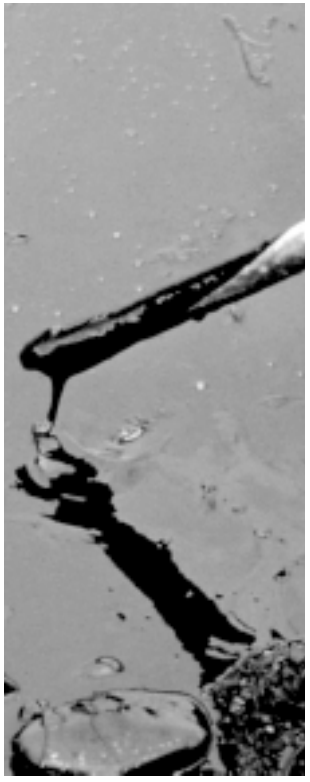
Our Core Programs

In addition to national enforcement and compliance priorities, EPA has a number of ongoing "core" programs or statute specific programs in which all regions participate. EPA is committed to maintaining a robust core compliance and enforcement program necessary to achieve a strong and credible enforcement presence to deter non-compliance. The work done to meet the requirements of Goal 9 are the core program elements, which address air, land, and water statutory requirements in addition to the federal facilities, undergrou storage tanks, criminal enforcement, multimedia, tribal, and environmental justice pr Seven sectors are included under the core program: petroleum refining, coal-fired pc plants, CAFOs, industrial organics, chemical preparation, iron and steel, and primc nonferrous facilities were the subject of focus in FY01. Three of the sectors, CAFOs, fired power plants, and petroleum refining are national enforcement and compliance priorities.

The following is a snapshot of activities and enforcement actions that occurred u EPA's core enforcement and compliance program for FY2001:

Chlorofluorocarbons (CFCs)

The depletion of stratospheric ozone is a serious global environmental problem. depletion can result in an increase in skin cancer, cataracts, and possible immu system impairments among humans as well as a reduction in crop yields and dir productivity of oceans. The Clean Air Act phases out the production and consun certain types of ozone depleting substances, requires recycling of CFCs, prevents



and other excessive leaks from certain equipment, and restricts motor vehicle air conditioning repair activities.

During FY2001, EPA continued its long-term initiative against the illegal smuggling of CFCs into the U.S.

Air Liquide
On June 19, 2001, the Justice Department and EPA announced a groundbreaking Clean Air Act settlement with Air Liquide America Corporation to replace refrigerant chemicals that destroy the earth's stratospheric ozone layer with environmentally friendly alternatives. The United States charged Air Liquide with illegally releasing ozone-depleting gases from industrial process refrigeration systems at 22 facilities located in 18 states. The agreement, filed in U.S. District Court in Texas, requires Air Liquide to convert all its industrial refrigeration systems now using regulated ozone-depleting chlorofluorocarbons to systems using alternative, environmentally friendly refrigerants. The company also will fund an "environmental justice" supplemental project that will benefit a lower income, predominately minority community in Louisiana and pay a $4.5 million civil penalty.

Oil Pollution Act

The Oil Pollution Act (OPA) was signed into law in August 1990, largely in response to rising public concern following the Exxon Valdez oil spill in Alaska's Prince William Sound. The OPA is the most recent and the most comprehensive effort by Congress to deal with the harmful environmental impacts of oil spills. Oil spills pose a potentially serious threat to human health and the environment. EPA studies show that one pint of oil released into the water can spread over a surface area of one acre, severely damaging aquatic habitats.

BP Amoco
In April 2001, BP Amoco, formerly ARCO Pipeline Company (ARCO), agreed to a civil settlement for violating the federal Clean Water Act by dumping almost 162,500 gallons of oil into the Marais des Cygnes River in Osawatomie, KS, disrupting the city's water supply for 38 days. Osawatomie is 50 miles southwest of Kansas City. The consent decree resolves a 1999 lawsuit filed by EPA against ARCO for discharging 162,498 gallons of oil into the Marais des Cygnes River in January 1994. The oil spill was caused by a break in a pipeline owned at the time by ARCO. Residents used bottled water and water trucked in by local and state agencies until a temporary pipeline was built. In addition to the civil penalty, BP Amoco agreed to pay an $804,700 civil penalty and spend at least $145,300 on a supplemental environmental project involving reconstruction improvements to Osawatomie's water intake.

Pretreatment

To address "indirect discharges" from industries to publicly owned treatment works (POTWs), EPA, through CWA authorities, established the National Pretreatment Program as a component of the NPDES Permitting Program. The program requires industrial and commercial dischargers to treat or control pollutants in their wastewater prior to discharge to POTWs. Without pretreatment, toxic pollutants may pass through the treatment plant into the receiving stream, posing serious threats to aquatic life, to human recreation, and to consumption of fish and shellfish from these waters. These discharges can also interfere with the biological activity of the treatment plant causing sewage to pass through the treatment plant untreated or inadequately treated.

Guide Corporation (IN)

On June 18, 2001, the Guide Corp., an auto parts manufacturer, pled guilty to seven criminal violations of the Clean Water Act resulting from the discharge of toxic wastewater which, after disrupting operations at the local wastewater treatment plant, killed more than 100 tons of fish and other aquatic life along a 40 mile stretch of the White River, from Anderson, IN, to Indianapolis. The company admitted that it negligently discharged sodium dimethyldithiocarbonate, used in metal treatment operations, to the Anderson sewage treatment plant. For these environmental crimes, the company will pay $1.9 million in criminal penalties, $1.9 million in asset forfeitures, and $275,000 restitution for damaging the Anderson treatment plant. Forensic support from EPA's National Enforcement Investigations Center established the link between the discharge of the chemical by the plant and the subsequent fish kill.

Wetlands

Wetlands and riparian areas play a significant role in managing the adverse water quality impacts associated with nonpoint source pollution, and they help decrease the need for costly storm water and flood protection facilities. In addition, in their natural condition they provide habitat for feeding, nesting, cover, and breeding to many species of birds, fish, amphibians, reptiles, and mammals. Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged and fill material into waters of the United States, including wetlands. The program's premise is that no discharge of dredged or fill material can be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the nation's waters would be significantly degraded. EPA and the Army Corps of Engineers jointly administer the program.

Montana Land Developer

In an unprecedented prosecution, David Allan Phillips, a Montana land developer, was convicted on July 12, 2001, of felony conspiracy to violate the CWA, of seven CWA felonies, and of seven CWA misdemeanors. This is the first case where a federal jury in Montana has convicted an individual of conspiracy to violate the CWA. The offenses occurred when an attempt was made to develop land near Phillipsburg, MT. The area was being developed for recreational home sites valued at several hundred thousand dollars each. They were marketed nationally with false assurances that all required permits had been obtained, including those required under the CWA for wetlands. Two of Mr. Phillips' associates, Mitch Buday and Larry Zinger, previously pled guilty to conspiracy charges relating to these violations. When sentenced, Phillips faces a maximum penalty of five years imprisonment and a $250,000 fine on each felony count and one year imprisonment and a $100,00 fine on each misdemeanor count. The case was investigated by EPA's Criminal Investigation Division with assistance from the Montana Department of Environmental Quality and the Internal Revenue Service. The case was prosecuted by the U.S. Attorney's Office in Missoula, MT.

Lead Paint

Although preventable, lead poisoning remains a major childhood environmental disease. Nearly 1 million children in the U.S. have blood-lead levels high enough to result in irreversible neurological and other health damage. Roughly 24 million children under the age of six are potentially at risk for lead poisoning, generally through exposure to lead-based paint and lead-contaminated dust and soil. The Real Estate Notification and Disclosure Rule (Disclosure Rule) requires that landlords and owners of regulated property provide information about lead poisoning to prospective renters and purchasers and disclose known information regarding lead-based paint to potential lessees or purchasers prior to finalizing lease or purchase agreements.

Washington D.C. Landlord

In the first-ever criminal prosecution under the Disclosure Rule, David D. Nuyen a Washington D.C. landlord pled guilty to, among other things, violating the rule and to obstructing justice and making false statements to federal officials to conceal his violation. The landlord owned approximately 15 low-income rental properties. Three children living in his property required medical attention for exposure to lead. In March, he was sentenced to two years in prison and ordered to pay a $50,000 fine. He also must provide all tenants with new notices of actual and potential lead hazards, hire an independent contractor to assess lead paint hazards on his properties, and develop a lead abatement plan for his current properties.

Antimicrobial Pesticides

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) regulates pesticides, including germ-killing substances, or "antimicrobials." Because of the risks posed by human pathogens, antimicrobials are an especially important group of pesticides. EPA, therefore, reviews this type of pesticide for both efficacy and safety.

S.C. Johnson

EPA determined that S.C. Johnson and Son, Inc., makers of Raid® and Off!®, violated FIFRA by marketing unregistered antimicrobial pesticides in a product for asthma sufferers. Under an administrative settlement agreement, the company agreed to pay a penalty and, as a supplemental environmental project, fund purchase and operation of a mobile asthma clinic, known as the "Breathmobile"®, to provide asthma diagnostic and treatment services to underprivileged, at-risk children. (See page 50.)

Micro Flo, LLC

EPA issued a complaint in Sept. 2001 against Micro Flo, LLC, (Micro Flo) for violations of the FIFRA. The company is a subsidiary of BASF Corporation, and is in the business of formulating and selling pesticide products. The complaint alleges that the Micro Flo offered for distribution or sale several pesticide end-use products and active ingredient pesticides which differed in composition at the time of sale or distribution from the composition described in the statement required in connection with the registration; and that Micro Flo falsified the Notices of Arrivals (NOAs) accompanying multiple shipments of active ingredient pesticides, by using the EPA Establishment Number of an approved producer while importing the pesticide ingredients from unapproved producers. The complaint assessed a civil penalty of $3,701,500. The penalty, at the time, was the largest penalty sought under FIFRA by EPA, Region 4.

Underground Storage Tanks (UST)

Underground storage tanks range in capacity from a few hundred to 50,000 or more gallons, and are used to store gasoline, heating oil, and other fuels, waste oil and hazardous substances at gas stations, marinas, government facilities and large industrial sites. Leaks from tanks often contaminate the soil around them and can cause unhealthy gasoline vapors to settle into the basements of private homes and apartment buildings. EPA and states' underground storage tank regulations were put in place to prevent releases of petroleum and, if a release does occur, to ensure that it is addressed immediately.

Supplemental Environmental Project: Helping Baltimore's Inner City Children with Asthma

A supplemental environmental project (SEP) involves actions a violator agrees to undertake as part of an enforcement settlement to protect human health and the environment beyond any required injunctive relief, in exchange for a penalty reduction. In FY2001, EPA obtained SEPs valued at $89.1 million, up 60 percent from last year's value of $55.8 million.

One significant SEP in FY2001 included a project funded by S.C. Johnson and Son, Inc. The company violated Federal Insecticide, Fungicide and Rodenticide Act by marketing an asthma product that contained unregistered pesticides. To resolve its liability, the company entered into an administrative settlement with EPA under which, among other things, the company provided funds to the Asthma and Allergy Foundation of America to purchase and operate the "Breathmobile,®" a mobile asthma clinic. This SEP—valued at approximately $700,000—included funds to hire and train a full-time physician, nurse and respiratory therapist to provide preventive care and specialized treatment to under-privileged children at high-risk for asthma in Baltimore, MD. Asthma is the number one reason for pediatric emergency room visits, and the leading cause of school absenteeism. This SEP addresses both environmental justice and children's health concerns involving allergies—and brings state-of-the-art care to children who, otherwise, may not have routine access to such care. The SEP funds the Breathmobile® for one year. Thereafter, the University of Maryland will operate the mobile clinic.

Raceway Petroleum (NJ)
On August 22, 2001, Raceway Petroleum Inc. and 15 related companies settled with EPA on charges of underground storage tank mismanagement at several Raceway gas stations in New Jersey. EPA had issued two complaints against Raceway and affiliated companies, charging that they did not follow federal regulations when it came to regularly testing tanks at their gas stations for leaks and closing out-of-service tanks. The companies and the agency have reached a settlement in which the companies committed to comply with all applicable regulations and to make additional environmental improvements not required by regulation to 12 gas stations. The companies will also make a $30,000 payment.

Hazardous Waste

Lee Brass (AL)
Lee Brass Company, Inc. of Anniston, AL, agreed to a settlement with EPA, the Department of Justice and the State of Alabama, for alleged violations of RCRA. These alleged violations included illegal treatment of hazardous waste foundry sand in the sand reclamation unit without a permit; illegal storage of the sand; disposal in violation of Land Disposal Restriction lead standards; preparedness and prevention violations; training violations; and container management violations, including management of hazardous waste in open, improperly marked, and unlabeled containers. The settlement required the company to close its sand reclamation unit consistent with RCRA requirements and conduct an extensive compliance audit of its facility. The consent decree also calls for Lee Brass to pay a monetary penalty of $350,000; to handle all non-reused sand as a solid waste and, if applicable, hazardous waste; and to investigate its entire facility to determine whether there is a need for a corrective action cleanup. The company produces brass and bronze parts, mainly for the plumbing industry, through a variety of casting processes using sand molds, and produces a lead contaminated foundry sand. Lead exposure is known to have significant human health effects, including developmental effects on children.

Criminal Enforcement, Forensics, and Training Program

During FY2001, EPA maintained a strong criminal enforcement program to bring to justice offenders representing the most serious threat to public health and the environment. Over the year, among other enforcement accomplishments, the criminal program initiated 482 cases, referred 256 cases to the Department of Justice, and filed charges against 372 defendants. The guilty paid nearly $95 million in fines and restitution and were sentenced to 256 years in prison—an increase of more than 100 years from FY2000. In addition to committing resources and manpower to the Agency's criminal enforcement efforts, EPA's criminal staff also worked closely with other federal law

enforcement agencies as part of the federal government's response to the September 11 terrorist attacks. Immediately after the September 11 attacks, EPA's criminal enforcement staff provided investigative and technical support at the World Trade Center, Pentagon, and Pennsylvania crash site. Subsequently, EPA Special Agents and technical staff were also called upon to respond to the Anthrax threat at the U.S. Capitol. Since the attacks, investigative and technical staff have continued to provide homeland security-related support to the Secret Service, Federal Bureau of Investigation, State Department and the Office of Homeland Security. Special agents have been designated to each of the FBI's 36 Joint Terrorism Task Forces and also participate on each of the Department of Justice's 95 Anti-Terrorism task forces. National Enforcement Investigations Center (NEIC) serves on the EPA counter-terrorism response team, which collects, samples, analyzes, and identifies environmental and chemical evidence.

On February 1, 2001, the NEIC, located in Lakewood, CO, was part of EPA's Office of Criminal Enforcement, Forensics, and Training (OCEFT), was granted accreditation by the National Forensic Science Technology Center. It thus became the first and only environmental forensic center in the country to be granted this prestigious accreditation. It was recognized for its overall field and laboratory environmental measurement activities such as field measurements/monitoring, field sampling, and laboratory measurements, on-site investigations, and providing fact and expert trial testimony.

A crucial part of EPA's criminal enforcement program is training that the Agency delivers to other federal, state, tribal and local civil and criminal law enforcement personnel. Working through the National Enforcement Training Institute (NETI), OCEFT's training division, EPA
3,269 federal, state, local, tribal and international personnel through 128 different
leliveries in FY2001. Training state, local and tribal personnel remained a strong
s a combined total of 5,155 students, or 62 percent, were trained from these
ations. A total of 2,470 federal employees received training, and international and
udents numbered 644. NETI released two new training products in FY2001: the
spector Training Computer-Based Training (CBT) and the RCRA Inspector Training—
BT. Besides these two products, NETI enhanced its virtual university, "NETI Online,"
rovides training course information and registration support for students.

nedia Program

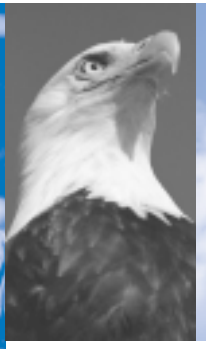
nultimedia" approach means the Agency develops ways to work simultaneously
ate different environmental media, such as air, water, and land. Although many
environmental regulations focus on one medium (e.g., the Clean Air Act),
timedia approach focuses on whole facilities and sectors, so it may involve
at regulatory compliance for air, water, and hazardous waste simultaneously
ite.

Morton (MS)

The United States and Mississippi Department of Environmental Quality (MDEQ) announced a civil settlement and criminal plea agreement by Morton International Inc. to resolve charges the chemical company violated several environmental laws at its Moss Point, MS, facility. These violations include the Resource Recovery and Conservation Act (among other violations, illegal treatment, storage, and disposal of hazardous waste, and illegal disposing of hazardous wastes into a landfill, including spent solvents, liquid wastes, and acutely toxic wastes); the Safe Drinking Water Act (illegal disposal of hazardous wastes into underground injection wells and improper operation and maintenance of those wells); the Clean Water Act (falsification of nearly a hundred discharge monitoring reports, concealing hundreds of illegal discharges of pollutants to a local river, and more than 600 effluent limitation exceedances) the Clean Air Act (no pre-construction and operating permit, and no operation and maintenance log for a regulated source of air pollution); and the Emergency Planning, Community Right-to-Know Act; and the Comprehensive Environmental Response, Compensation, and Liability Act (numerous unreported releases of hazardous waste to the environment). Morton, a wholly owned subsidiary of Rohm and Haas Company based in Philadelphia, PA, agreed to pay a $20 million penalty that will be divided equally between the United States and Mississippi under the civil settlement filed in U.S. District Court in Biloxi. This penalty marks the largest-ever civil fine for environmental violations at a single facility. The civil settlement obligates Morton to perform $16 million worth of projects to enhance the environment.

Nucor (AL, AR, IN, NE, SC, TX, and UT)

Nucor Corporation Inc. agreed to spend nearly $100 million to settle an environmental suit alleging that it failed to control the amount of pollution released from its steel factories in seven states. This was the largest and most comprehensive environmental settlement ever with a steel manufacturer. The settlement, filed in U.S. District Court in Florence, SC, will require Nucor to undertake broad environmental improvements at its 14 facilities in Alabama, Arkansas, Indiana, Nebraska, South Carolina, Texas, and Utah. The Charlotte, NC-based company also will pay a $9 million civil penalty and spend another $4 million on continued emissions monitoring of hazardous pollutants and environmental projects to benefit the communities where the factories are located. The agreement covers eight Nucor "mini-mills," which produce steel by melting scrap metal in large electric arc furnaces and six steel fabrication plants, where the final molding and painting of steel products occurs. The settlement resolved allegations, contained in a federal complaint filed along with the agreement, that Nucor violated environmental standards regulating the release of pollutants into the air, water, and soil.



Federal Facilities Enforcement

One of EPA's most important roles is ensuring that federal agencies comply with environmental requirements in the same manner and extent as privately-owned facilities. The Federal Facilities Enforcement Office (FFEO) and the EPA regions regularly analyze compliance and enforcement data, monitor federal agency compliance, negotiate and issue compliance orders and agreements, assess fines, and develop federal agency enforcement and compliance policy and guidance. In FY2001, EPA issued or finalized 53 enforcement actions against federal agencies and government contractors. The Department of Defense was named in 26 of these actions, the Department of Energy in three of the actions, and other federal agencies in 19 of the actions. In five actions, a federal government contractor was cited as the sole defendant.

The majority of the enforcement actions were for violations under RCRA with 28 actions. There were also eight CAA actions, eight CWA actions, four SDWA actions, two CERCLA actions and three EPCRA enforcement actions. Of the 53 actions, 37 were proposed or final penalty orders. The total dollar amount of penalties in all final penalty orders for all statutes was $1,356,840 in penalties and $3.5 million in SEPs. Additionally, over $2.1 million of work to correct violations and come back into compliance is to be done as a result of EPA's enforcement actions for FY01. To assist federal facilities, EPA provided 71 onsite compliance assistance visits, including 12 Environmental Management Reviews and 128 workshops and presentations. Together, compliance assistance activities for federal facilities reached over16,000 federal facility employees nationwide.

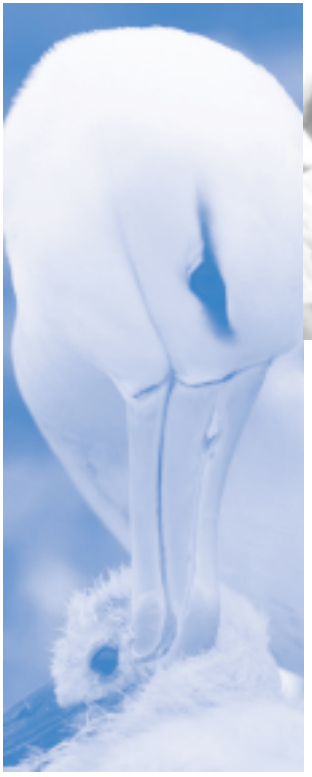
> "Under this Administration, federal facilities will be held accountable to the same standards for environmental compliance as other members of the regulated community. Federal facility compliance is a top priority for EPA,"
>
> *—EPA Administrator Christie Whitman*
> October 4, 2001

International Enforcement Program

EPA's international enforcement program implements international commitments for enforcement and compliance cooperation with other countries, especially those along the U.S. border. This program's mission is to reduce risks to U.S. citizens from external sources of pollution and prevent or reduce U.S. impacts abroad.

FY01 Accomplishments

- For all ports of entry to the United States, EPA's Office of Federal Activities (OFA) intensified post-September 11, 2001 planning work to improve the EPA-customs cooperative efforts to better control imports of hazardous chemicals.
- For the Canadian and Mexican borders, OFA continued to coordinate and manage OECA's lead in the U.S. representation on the North American Working Group on Environmental Enforcement and Compliance Cooperation of the tri-national Commission for Environmental Cooperation.
- For the Mexican border, OFA continued to coordinate and manage OECA's lead in the U.S. representation on the Working Group on Environmental Enforcement and Compliance Cooperation under the bi-national La Paz Agreement with Mexico.
- EPA's Import-Export Program (IEP) controls international trade in hazardous waste for the United States. The United States has agreements with several countries, including Canada and Mexico, which provide for prior notification of shipment of wastes (both importing and exporting of wastes). EPA has issued regulations under the Resource Conservation and Recovery Act that are binding on the regulated community. On average, IEP annually processes over 1,500 notifications, involving more than 7,600 waste streams; collected from the United States Customs Service more than 20,000 export manifests documenting individual shipments of waste; and received about 450 export annual reports from the regulated community.



Environmental Justice

In FY2001, Administrator Whitman directed EPA staff to ensure equal environmental and health protection and access to information for all individuals and communities across the United States. She underscored the Agency's commitment to "... environmental justice and its integration into all programs, policies, and activities, consistent with existing laws and their implementing regulations." The Administrator's memo paved the way for the integration of environmental justice into the Agency's core operations. The Office of Environmental Justice, in partnership with The Environmental Law Institute and the National Academy of Public Administration, published two documents which highlight the efficacy and soundness of incorporating environmental justice as a core regulatory practice. The first, *Opportunities for Advancing Environmental Justice: An Analysis of US EPA's Statutory Authorities*, describes how environmental justice can be addressed in EPA's major environmental laws governing air and water quality, waste management, pesticide and chemical regulation, and public right-to-know. The report also identifies statutory authorities for promoting environmental justice in such program functions as standard setting and permitting, enforcement, and delegation of program authority to states. The second, *Environmental Justice in EPA Permitting: Reducing Pollution in High-Risk Communities is Integral to EPA's Mission*, serves as a handbook to public administrators by describing the practical areas where environmental justice can be integrated into EPA's federal programs for issuing permits.

The message in both reports is key to EPA's role to address environmental and human health concerns in segments of the population, such as low-income and/or minority communities, which have been disproportionately exposed to environmental harms and risks. The Office of Environmental Justice works to ensure that environmental justice considerations are integrated into the Agency's policies, programs and activities.

Here are some highlighted activities in FY2001:

Training

In FY2001, the work of the **Environmental Justice Training Collaborative**, a group comprised of representatives from each region and the Office of Environmental Justice, completed the Environmental Justice Fundamentals Workshop. This collaboration includes stakeholders and partners from other federal agencies, state and tribal agencies, local government, industry, community and faith-based organizations, and academia. The training provided a basic overview of environmental justice to help participants put this concept into practice in their own duties and responsibilities.

Advice and Recommendations

The National Environmental Justice Advisory Council (NEJAC) provides advice to EPA on broad public policy issues. It recently released the final report from its 16th meeting, which addressed the integration of environmental justice throughout the federal agencies. This report proposed the following recommendations: support advancement of the Interagency Working Group (IWG) on Environmental Justice Action Agenda and its collaborative interagency problem-solving model as exemplified in 15 demonstration projects, explore and identify ways for greater use of legal authorities and removal of regulatory impediments to achieve environmental justice, as discussed in the Environmental Law Institute report "Opportunities for Advancing Environmental Justice," and collaborate in identifying focus areas or target programs where environmental justice principles could significantly benefit communities.

The Interagency Working Group on Environmental Justice is chaired by EPA and is comprised of 12 federal agencies. The IWG was established as a result of Executive Order 12898, to mobilize federal agencies to address the needs of communities, which may be adversely and disproportionately affected by environmental harms and risks. The IWG developed an integrated federal action agenda to focus attention on 15

community revitalization projects. This action agenda emphasizes coordinated federal initiatives and resources to help environmentally and economically distressed communities. Some examples of their accomplishments include:

- Establishing strong working partnerships of more than 150 organizations and 11 federal agencies;
- Securing commitments of more than $15 million in public and private funding;
- Augmenting existing brownfields redevelopment initiatives to fully meet quality-of-life and economic development needs in diverse communities; and
- Addressing children's health concerns in minority, low-income and tribal communities.

Outreach and Technical Assistance

The Environmental Justice Small Grants Program continues to significantly empower communities to address problems at the local level. In FY2001, 85 grants were awarded across the country, bringing the total since FY1994 to more than 900. The *2nd Edition of the Environmental Justice Small Grants Emerging Tools for Local Problem-Solving* was published and describes 71 of the "best" grants completed under the Small Grants program to demonstrate how communities can solve local problems. Another program to assist communities is the Community Intern Program, which was created to provide students with "hands-on" experience in community organizations. In FY2001, 30 students spent their summer training in community organizations.

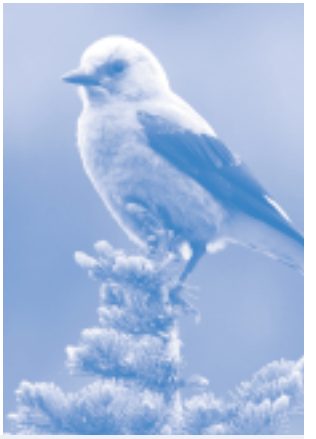
The National Environmental Policy Act Program

The National Environmental Policy Act (NEPA) requires federal agencies to consider the environmental consequences of their actions. For approximately 500 major actions a year, agencies prepare an environmental impact statement, which EPA reviews to assess those impacts and determine the adequacy of public disclosure. The NEPA program's mission is to carry out NEPA responsibilities so as to maximize protection of human health and the environment and public understanding of the environmental impacts of federal actions.

FY01 Accomplishments

- Federal agencies reduced 76 percent of the significant impacts identified by EPA's review of major federal actions.
- For the first time, EPA collected data on measurable environmental improvements:
  - More than 5,000 acres of aquatic habitat were protected; and
  - More than 25 million acres of terrestrial habitat were protected.
- The National Energy Policy cited a "win-win" for the environment and energy production: through the NEPA process, a California power plant design was changed to reduce ground water consumption by 95 percent and eliminate particulate emissions while still producing a much needed energy supply.

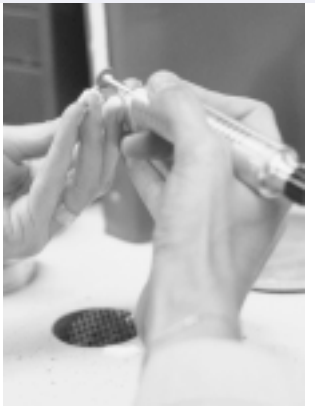
Future



"I believe that a vigorous enforcement program, both civil and criminal, will help us achieve strong measurable environment outcomes, and improve the quality of our nation's air, water, and land. I'm confident that our compliance programs will continue to bring more and more companies into compliance through the use of innovative efforts such as our compliance assistance centers and the self-disclosure policy.

Together, the resources of OECA provide formidable tools to safeguard our environment and public health."

—EPA Administrator Christie Whitman
August 2, 2002



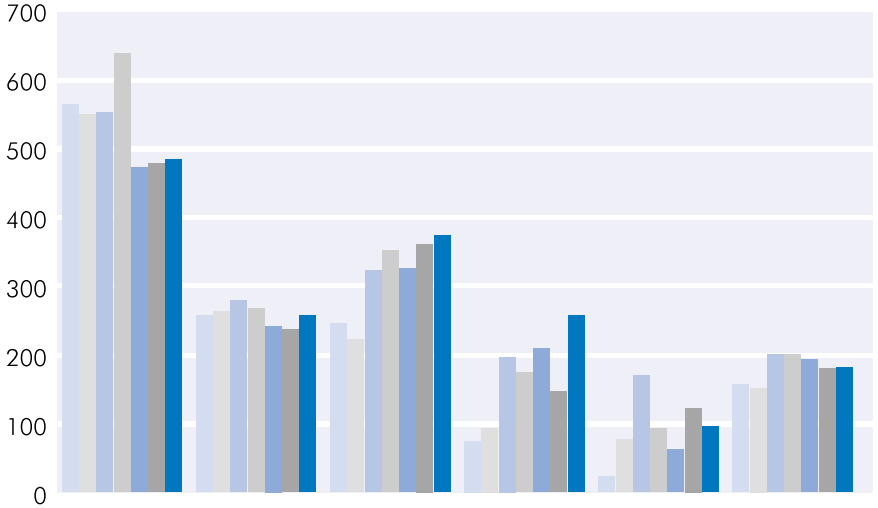
Acronyms

BACT	Best Available Control Technology
BLM	Bureau of Land Management
BOD	Biological Oxygen Demand
CAA	Clean Air Act
CAFO	Concentrated Animal Feeding Operations
CCR	Consumer Confidence Report
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFC	Chlorofluorocarbon
CSO	Combined Sewer Overflows
CWA	Clean Water Act
DOD	Department of Defense
DOE	Department of Energy
DOJ	Department of Justice
EA	Enforcement Action
EAO	Emergency Administrative Order
EJ	Environmental Justice
EMS	Environmental Management System
EMR	Environmental Management Review
EO	Executive Order
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
ERNS	Emergency Response Notification System
FFEO	Federal Facilities Enforcement Office
FIFRA	Federal Insecticide, Fungicide and Rodenticide Act
FY	Fiscal Year
GPO	Government Printing Office
GPRA	Government Performance and Results Act
HUD	Department of Housing and Urban Development
IDEA	Integrated Data for Enforcement Analysis
LDAR	Leak Detection and Repair

MACT	Maximum Achievable Control Technology
MCL	Maximum Concentration Limits
MRBMA	Mercury-Containing and Rechargeable Battery Management Act
MTBE	Methyl Tertiary Butyl Ether
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NESHAPs	National Emissions Standards for Hazardous Air Pollutants
NEIC	National Enforcement Investigations Center
NO_2	Nitrogen Dioxide
NOx	Nitrogen Oxides
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
NPMS	National Performance Measures Strategy
NSR/PSD	New Source Review/Prevention of Significant Deterioration
OAQPS	Office of Air Quality Planning and Standards
OECA	Office of Enforcement and Compliance Assurance
OI	Order for Information
OLC	Office of Legal Counsel
ORE	Office of Regulatory Enforcement
OTIS	On-line Tracking Information System
PCB	Polychlorinated Biphenyl
PM	Particulate Matter
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
RMP	Risk Management Plan
SEP	Supplemental Environmental Project
SDWA	Safe Drinking Water Act
SWTR	Surface Water Treatment Rule
SFIP	Sector Facility Indexing Project
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SNC	Significant Noncompliance
SO_2	Sulfur Dioxide
SPCC	Spill Prevention Control and Countermeasure
SSO	Sanitary Sewer Overflows
TRI	Toxic Release Inventory
TSCA	Toxic Substances Control Act
TSS	Total Suspended Solids
USCG	U.S. Coast Guard
USFS	U.S. Forest Service
UST	Underground Storage Tank
VOC	Volatile Organic Compound

Criminal Program Statistics

Last year criminal violators received 256 years of prison time for their environmental crimes.

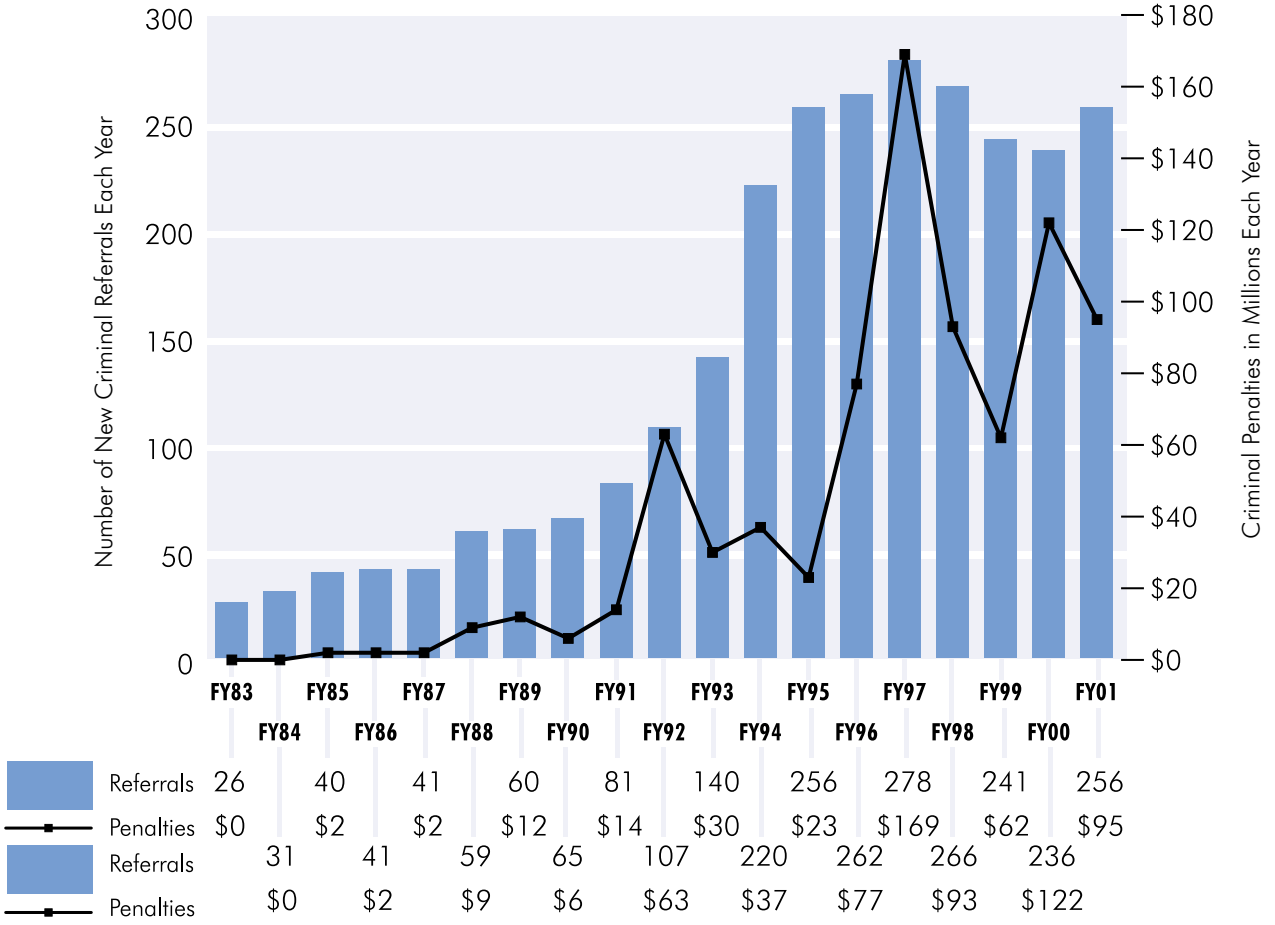


	Cases Inititated	Referrals	Defendants(1)	Sentences(2)	Fines(3)	Agents
FY1995	562	256	245	74	23.2	156
FY1996	548	262	221	93	76.7	151
FY1997	551	278	322	195.9	169.3	200
FY1998	636	266	350	172.9	92.8	200
FY1999	471	241	324	208.3	61.6	192
FY2000	477	236	360	146.2	122	179
FY2001	482	256	372	255.9	94.7	181

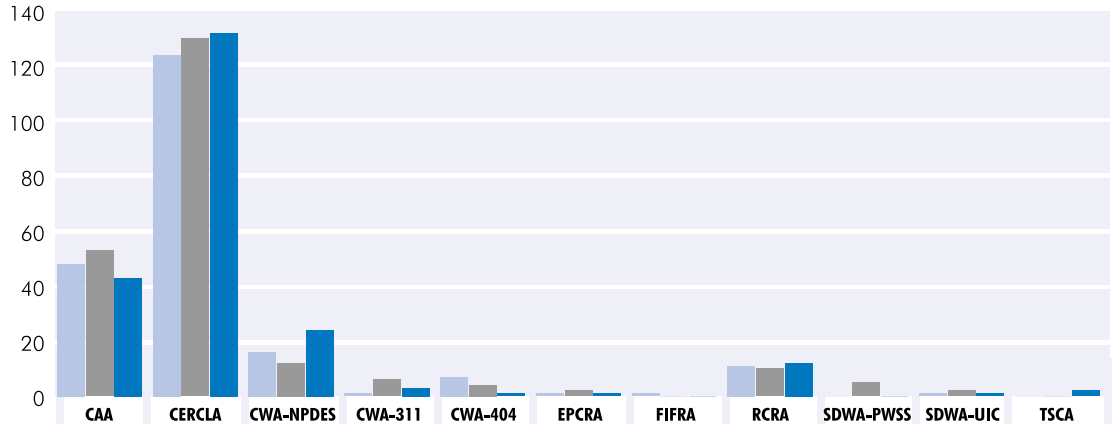
(1) Defendants equal entities and individuals charged in the fiscal year
(2) Years of Incarceration
(3) Millions of Dollars

EPA Criminal Program : Referrals vs. Penalties (FY1983 - FY2001)

In FY01, the guilty paid nearly $95 million in fines and restitution.

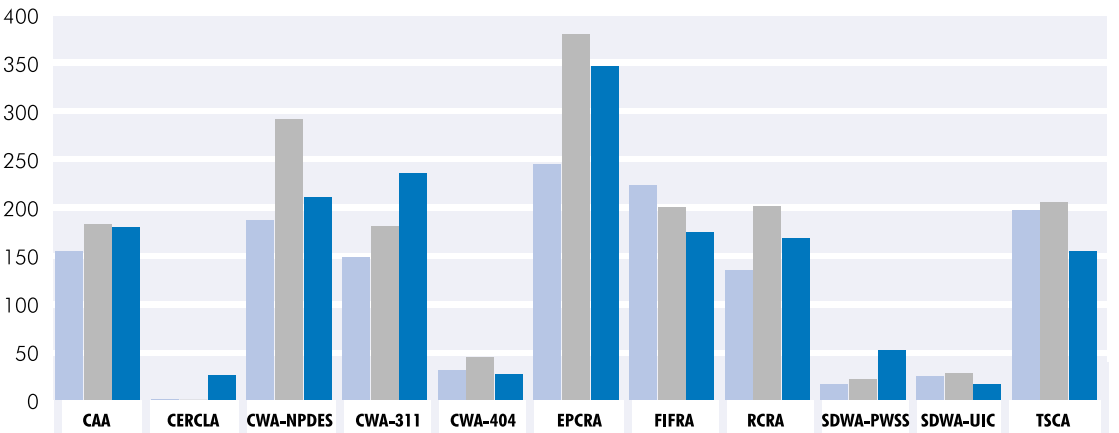


EPA Civil Judicial Settlements by Act



	CAA	CERCLA	CWA-NPDES	CWA-311	CWA-404	EPCRA	FIFRA	RCRA	SDWA-PWSS	SDWA-UIC	TSCA	Total
FY01	43	132	24	3	1	1	0	12	0	1	2	**222**
FY00	53	130	12	6	4	2	0	10	5	2	0	**219**
FY99	48	124	16	1	7	1	1	11		1	0	**215**

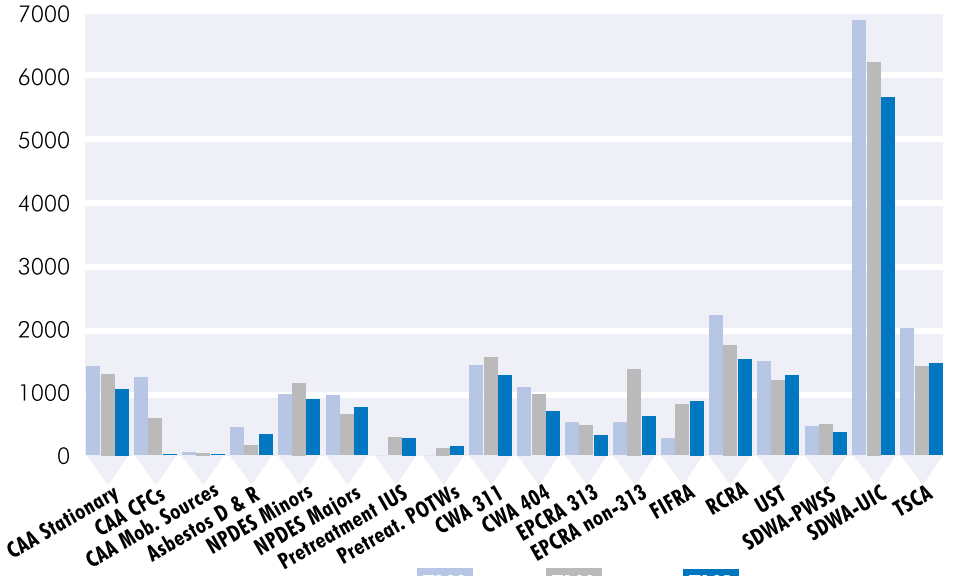
EPA Administrative Penalty Settlements (Conclusions)



	CAA	CERCLA	CWA-NPDES	CWA-311	CWA-404	EPCRA	FIFRA	RCRA	SDWA-PWSS	SDWA-UIC	TSCA	Total
FY01	179	25	210	235	26	346	174	168	51	16	154	**1,584**
FY00	182	0	291	180	44	379	200	201	21	27	205	**1,730**
FY99	154	1	186	148	31	244	223	134	16	24	197	**1,358**

EPA Regional Inspections

In FY2001, EPA conducted 17,560 compliance inspections, 366 complex investigations, and 895 inspections specifically targeted to assist states. EPA also responded to 9,700 citizen complaints. These activities represent a significant field and monitoring presence to deter both ongoing and future violations.

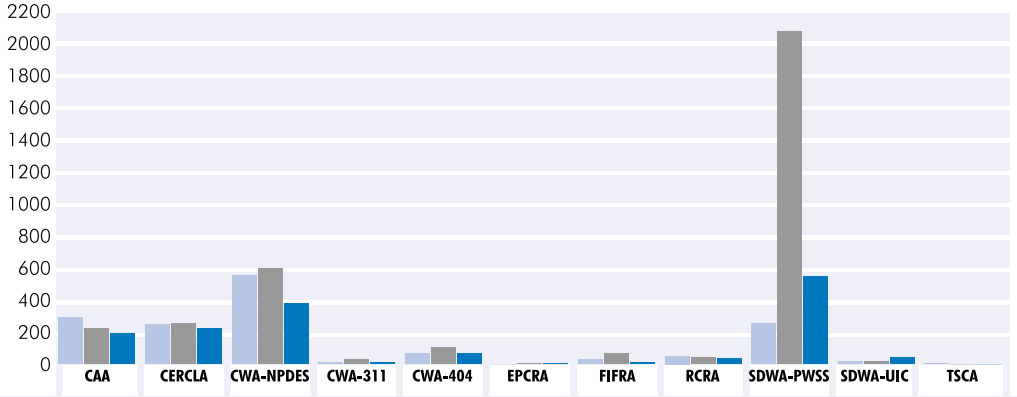


	FY 99	FY 00	FY 01
CAA Stationary	1406	1284	1046
CAA CFCs	1227	579	12
CAA Mob. Sources	39	34	8
Asbestos D & R	437	151	325
NPDES Minors	965	1141	876
NPDES Majors	949	640	758
Pretreatment IUS	0	277	273
Pretreat. POTWs	0	115	134
CWA 311	1424	1549	1269
CWA 404	1079	964	699
EPCRA 313	513	472	321
EPCRA non-313	521	1366	613
FIFRA	259	799	858
RCRA*	2214	1746	1521
UST	1482	1185	1259
SDWA-PWSS	449	488	362
SDWA-UIC	6880	6227	5663
TSCA	2003	1400	1453
Total	**21,847**	**20,417**	**17,560**

There were also 111 GLP inspections and 316 data audits by HQ.

Enforcement causes a deterrent effect that motivates regulated entities to comply and ensures a level-playing field for those who comply with our nation's environmental laws.

EPA Compliance Orders Issued

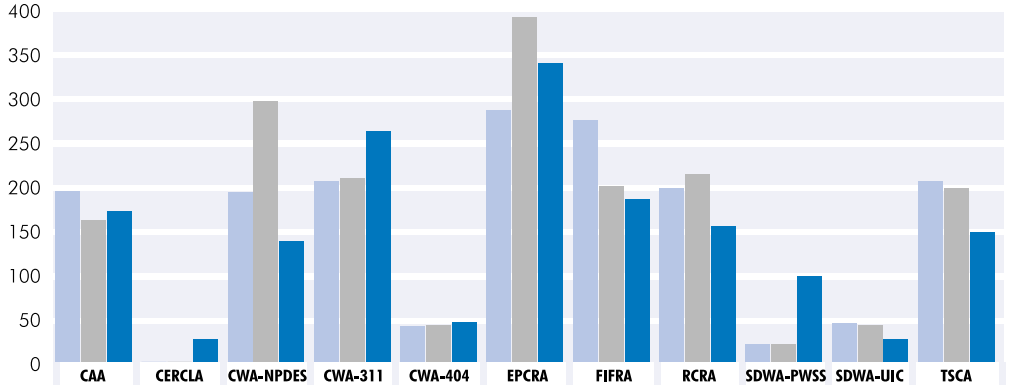


	CAA	CERCLA	CWA-NPDES	CWA-311	CWA-404	EPCRA	FIFRA	RCRA	SDWA-PWSS	SDWA-UIC	TSCA	Total
FY01	192	220	374	12	66	1	12	35	542	39	0	**1,494***
FY00	219	251	596	29	102	1	64	42	2,067**	17	0	**3,388**
FY99	298	247	549	8	64	0	28	50	251	18	3	**1,516**

* This includes 1 Mercury-Containing and Rechargeable Battery Management Act Order.
In addition, there were 35 HQ CAA Mobile

** The significant number of compliance orders issued in FY2000 was due to Safe Drinking Water Act administrative enforcement actions related to non-submissions of the required Consumer Confidence Report (CCR), an annual drinking water quality report for consumers. On October 19, 1999, community water systems across the nation were, for the first time, required by federal and state regulations to provide consumers with a CCR.

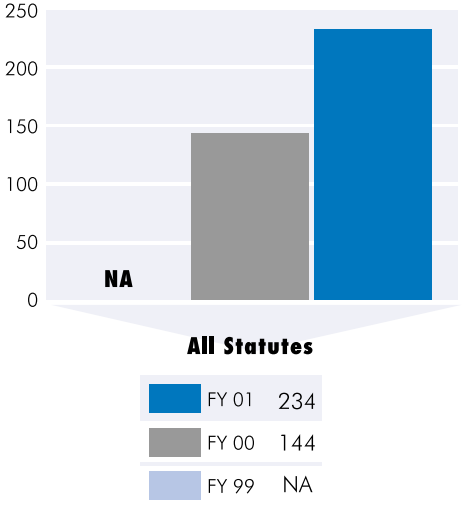
EPA Administrative Penalty Order Complaints



	CAA	CERCLA	CWA-NPDES	CWA-311	CWA-404	EPCRA	FIFRA	RCRA	SDWA-PWSS	SDWA-UIC	TSCA	Total
FY01	170	25	136	261	45	338	184	154	97	25	147	**1,582**
FY00	160	0	295	208	41	390	199	212	20	41	197	**1,763**
FY99	193	0	192	204	40	285	274	197	20	44	205	**1,654**

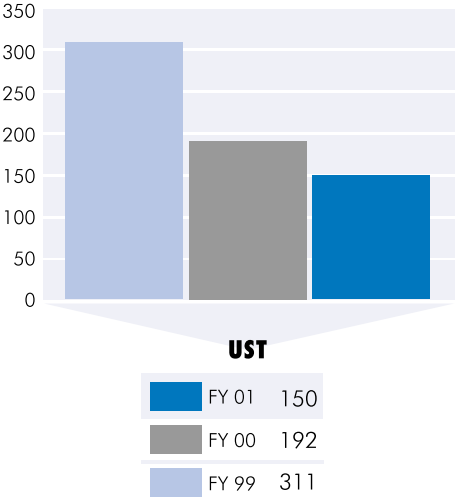
Audit Policy Notices of Determination

Notices of Determination are used to resolve audit disclosures under which the disclosing company has returned to compliance and does not pay a penalty. EPA's compliance incentive programs are intended to encourage the regulated community to self-audit their facilities and correct violations.

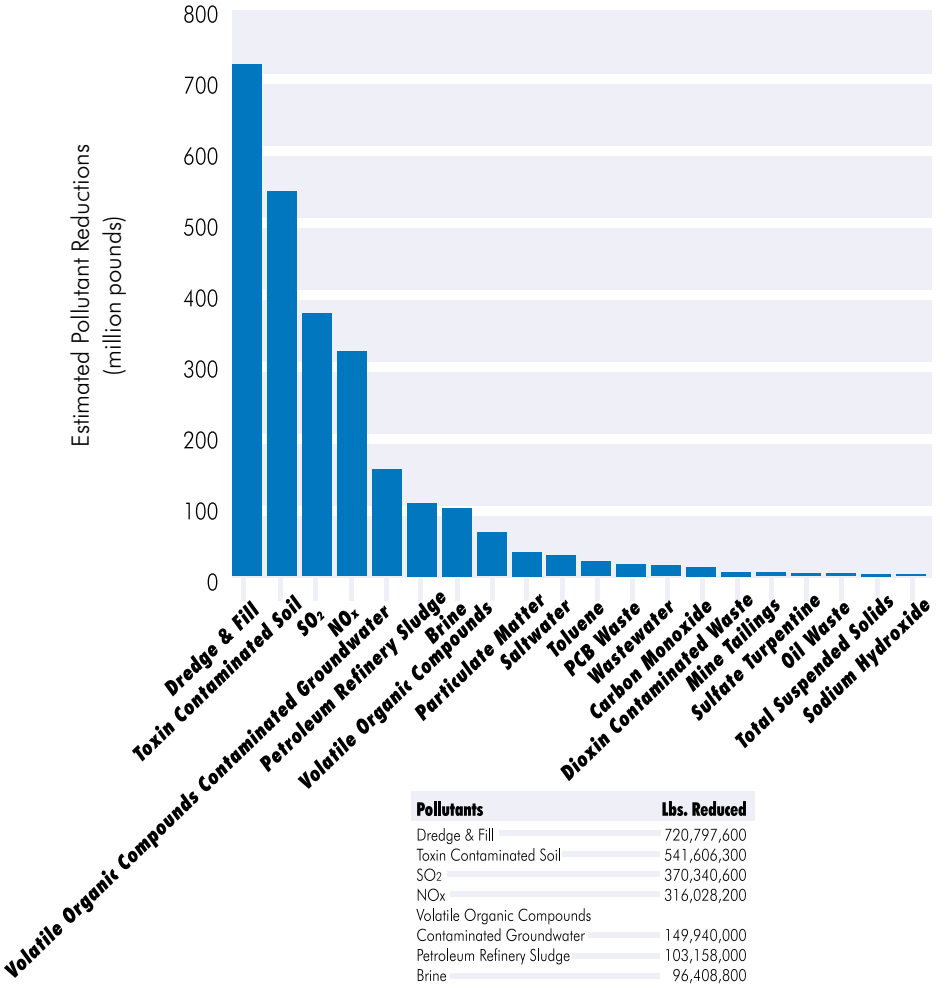


EPA Field Citations

EPA may issue field citations for minor violations of certain regulations. In FY2001, EPA issued 3,228 field citations and administrative orders involving violations of a single statute or multiple statutes.



Pollutants with the Largest Reductions Reported for EPA Enforcement Settlements



Pollutants	Lbs. Reduced
Dredge & Fill	720,797,600
Toxin Contaminated Soil	541,606,300
SO_2	370,340,600
NOx	316,028,200
Volatile Organic Compounds Contaminated Groundwater	149,940,000
Petroleum Refinery Sludge	103,158,000
Brine	96,408,800
Volatile Organic Compounds	61,213,300
Particulate Matter	34,589,400
Saltwater	28,991,300
Toluene	21,126,200
PCB Waste	17,226,500
Wastewater	14,715,100
Carbon Monoxide	12,896,000
Dioxin Contaminated Waste	5,663,500
Mine Tailings	4,719,600
Sulfate Turpentine	4,326,000
Oil Waste	4,075,400
Total Suspended Solids	2,563,850
Sodium Hydroxide	2,034,000

Reducing pollution is a primary goal for EPA's enforcement and compliance program. Last year, EPA and its partners prevented millions of pounds of harmful pollutants from being released into the environment.

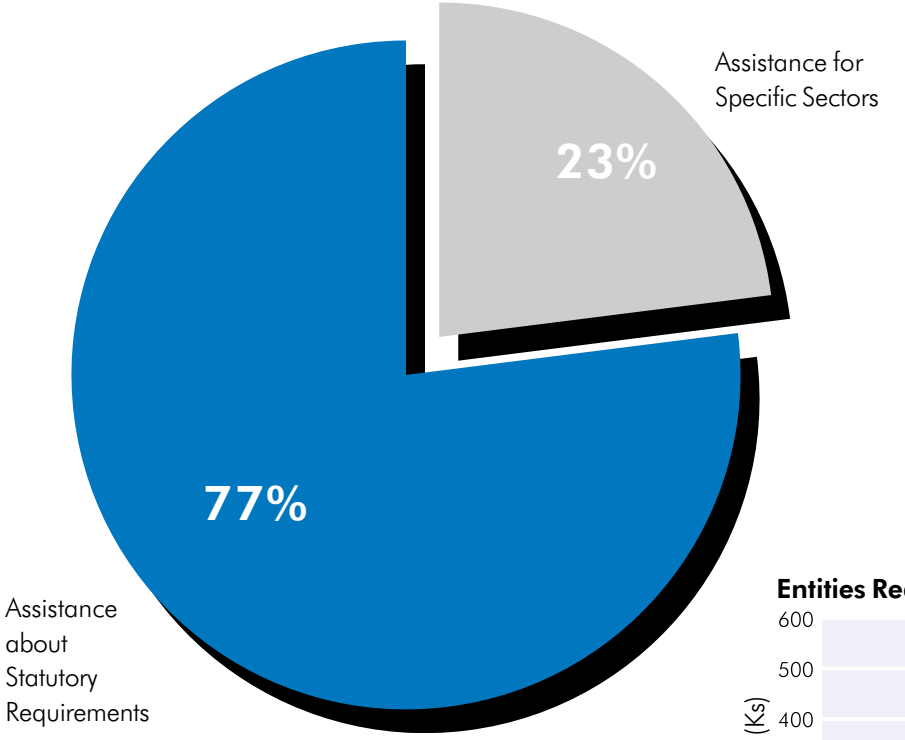
Dollar Value of FY2001 EPA Enforcement Actions (by Statute)

	CRIMINAL PENALTIES ASSESSED	CIVIL JUDICIAL PENALTIES ASSESSED	ADMINISTRATIVE PENALTIES ASSESSED	$ VALUE OF JUD. INJUNCTIVE RELIEF	$ VALUE OF ADM. INJUNCTIVE RELIEF	$ VALUE OF SEPs
CAA	$25,315,683	$55,015,441	$4,006,848	$2,702,366,701	$4,467,971	$33,825,273
CERCLA*	$16,742,004	$2,220,000	$143,170	$1,067,948,700	$154,235,133	$830,957
CWA	$38,216,603	$17,984,220	$5,353,442	$97,662,082	$60,925,238	$3,390,528
EPCRA	$15,000	$12,957	$3,515,780	$0	$834,689	$3,711,428
FIFRA	$128,505	$0	$1,600,081	$0	$1,109,965	$107,000
RCRA	$1,611,479	$25,981,539	$5,554,194	$89,567,501	$210,800,317	$44,393,575
SDWA	$8,000	$469,000	$582,766	$100,000	$5,558,975	$2,290,419
TSCA	$357,336	$0	$3,025,983	$0	$441,095	$585,776
**** TITLE 18/OTHER**	$12,331,673	$0	$0	$0	$0	$0
TOTALS	**$94,726,283**	**$101,683,157**	**$23,782,264**	**$3,957,644,984**	**$438,373,383**	**$89,134,956**

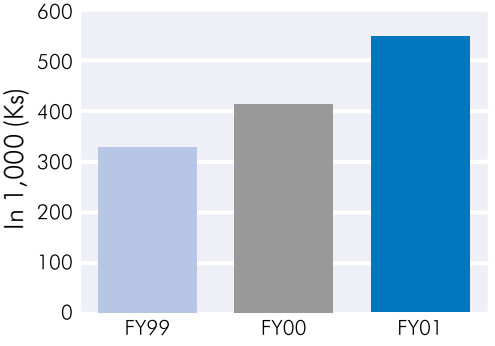
* This includes PRP cash out settlement for future work. Cost recovery dollars were $414 million.
** Criminal cases with U.S. Code - Title 18 or other violations.

FY2001 National Compliance Assistance

Number of Entities Reached = 550,000
The Compliance Assistance Centers were visited more than 485,000 times.



Entities Reached



Compliance Assistance Centers

The Agency has sponsored partnerships with industry, academic institutions, environmental groups, and other federal and state agencies to establish Compliance Assistance Centers for 10 industry and government sectors. Through these centers, businesses in these sectors learn their environmental obligations, improve compliance, and find cost-effective ways to comply. The Compliance Assistance Centers can be accessed at www.assistancecenters.net.

CCAR-GreenLink®: Helps the automotive service and repair community identify flexible, common sense ways to comply with environmental requirements. www.ccargreenlink.org

ChemAlliance: Provides innovative Web site features to direct chemical manufacturers to information resources and plain-language compliance assistance material. www.chemalliance.org

Local Government Environmental Assistance Network (LGEAN): Serves as a "first-stop-shop" by providing environmental management, planning, and regulatory information for local government officials, managers, and staff. www.lgean.org

National Agriculture Compliance Assistance Center (Ag Center): Serves as the "first stop" for information about environmental requirements that affect the agriculture community. www.epa.gov/agriculture (This is a government-run center).

National Metal Finishing Resource Center (NMFRC): Provides comprehensive environmental compliance, technical assistance, and pollution prevention information to the metal finishing industry. www.nmfrc.org

Paints and Coatings Resource Center: Provides regulatory compliance and pollution prevention information to organic coating facilities, industry vendors and suppliers, and others. www.paintcenter.org

Printed Wiring Board Resource Center: Provides regulatory compliance and pollution prevention information to printed wiring board manufacturers, industry vendors and suppliers, and others. www.pwbrc.org

Printers' National Environmental Assistance Center (PNEAC): Provides compliance and pollution prevention fact sheets, case studies, and training, as well as two e-mail discussion groups on technical and regulatory issues. www.pneac.org

Transportation Environmental Resource Center (TERC): Provides compliance assistance information for each mode of transportation—air, shipping and barging, rail, and trucking. www.transource.org

Federal Facility Compliance Assistance Center (FedSite): Provides information on environmental regulations, pollution prevention, and policies affecting federal agencies. www.epa.gov/fedsite

Useful Web sites:

Enforcement and Compliance Home Page: www.epa.gov/compliance

Newsroom: esdev.sdc-moses.com/oeca/newsroom/

Information Resources: www.epa.gov/compliance/resources/index.html

Tips and Complaints: www.epa.gov/compliance/complaints.html

National Compliance Assistance Clearinghouse: cfpub.epa.gov/clearinghouse/

Compliance Assistance Centers: www.assistancecenters.net/

Audit Policy: http://www.epa.gov/compliance/incentives/auditing/index.html

Small Business Policy: http://www.epa.gov/compliance/incentives/smallbusiness/index.html

Small Communities Policy: http://www.epa.gov/compliance/incentives/smallcommunity/index.html

Sector Notebooks: www.epa.gov/oeca/sector

EPA Regional Offices: www.epa.gov/epahome/whereyoulive.htm#regiontext

Laws and Regulations: http://www.epa.gov/epahome/lawregs.htm

State Environmental Agencies: http://www.epa.gov/epapages/statelocal/envrolst.htm

Useful Contact Information:

Environmental Emergencies
(To report oil spills and chemical accidents): 1-800-424-8802.

Office of Enforcement and Compliance Assurance: (202) 564-2440

Office of Compliance: (202) 564-2280

Office of Regulatory Enforcement: (202) 564-2220

Office of Site Remediation and Enforcement: (202) 564-5110

Office of Criminal Enforcement, Forensics and Training: (202) 564-2480

Office of Environmental Justice: (202) 564-2515

Office of Planning, Policy Analysis & Communications: (202) 564-2530

Federal Facilities Enforcement Office: (202) 564-2510

Office of Federal Activities: (202) 564-5400

Administration and Resources Management Support Staff: (202) 564-2455

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