



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
CRIMINAL INVESTIGATION DIVISION
HOUSTON AREA OFFICE**



**T. Craig Carlton
Special Agent-in-Charge**

Why Does Protecting The Environment Matter?

- The Hartford Courant, August 18, 2004.
- Taxpayers to Pay \$9.6 Million to Dispose of Houston Company's Nuclear Waste - The Houston Chronicle, August 21, 2002
- Rental Manager Sentenced in Manchester Lead Poisoning Death – The Concord Monitor, March 27, 2002
- It's A New World: Polluters Go To Prison – USA Today; April 21, 2000
- Idaho Businessman Is Jailed For Endangering Employees – The Washington Post; April 30, 2000
- Charges Claim Chief Dumped Raw Sewage Into Souhegan – The Union Leader; February 10, 2001

Why Protecting the Environment Matters

- One corporate manager for a Fortune 100 company said “The EPA shouldn’t be so eager to punish inadvertent and often harmless violations of the regulations.”
- According to defense lawyers, another injustice is : A person doesn’t have to knowingly break the law to be prosecuted for an environmental crime.
- **BOTH STATEMENTS ARE TRUE!**

POINT SOURCE

Direct discharge into water

NON-POINT SOURCE

Indirect discharge into water

Sewage
Treatment
Plants

Dumping
Toxins

Industrial
Facilities

Urban
Runoff

Agricultural
Runoff



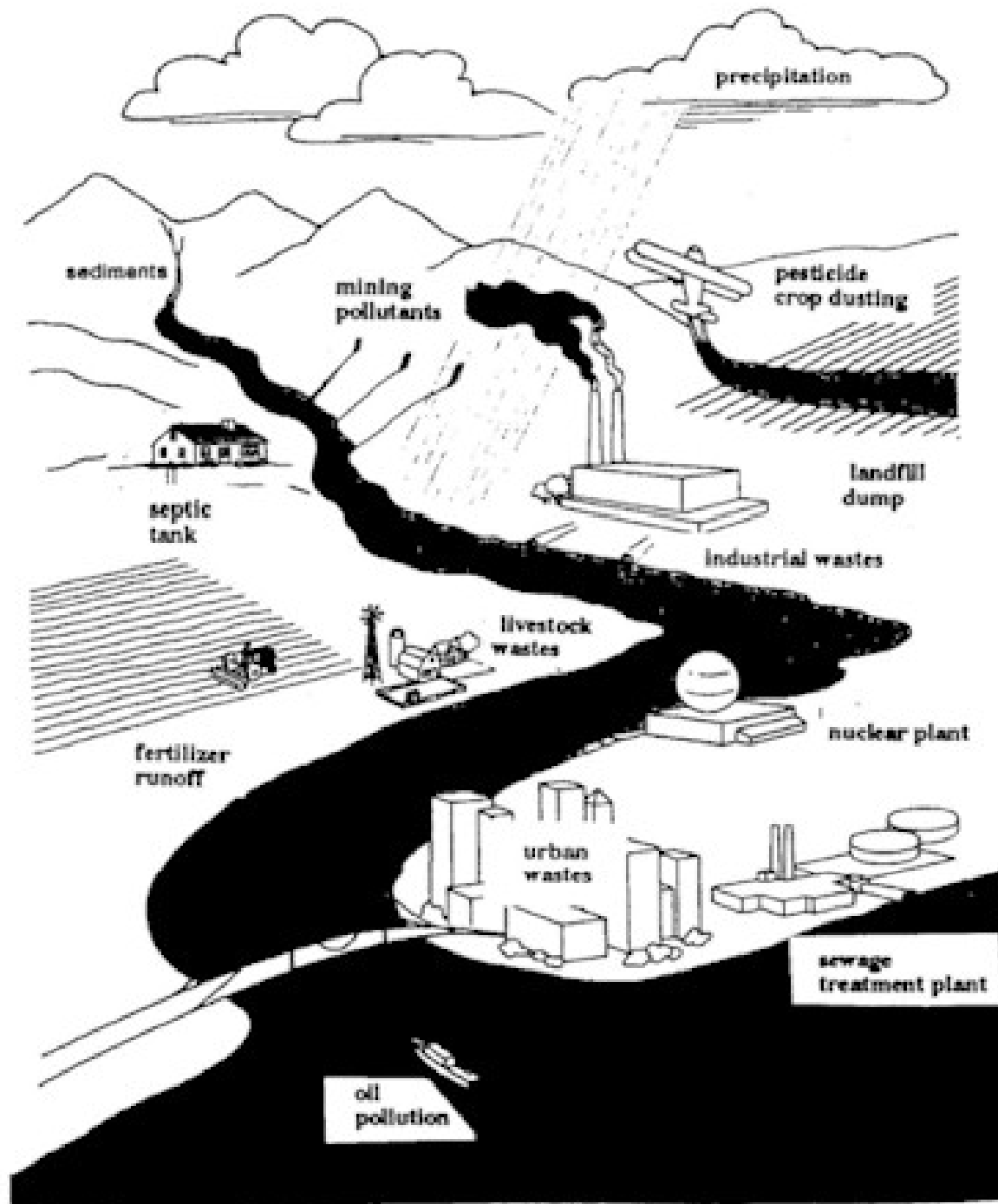


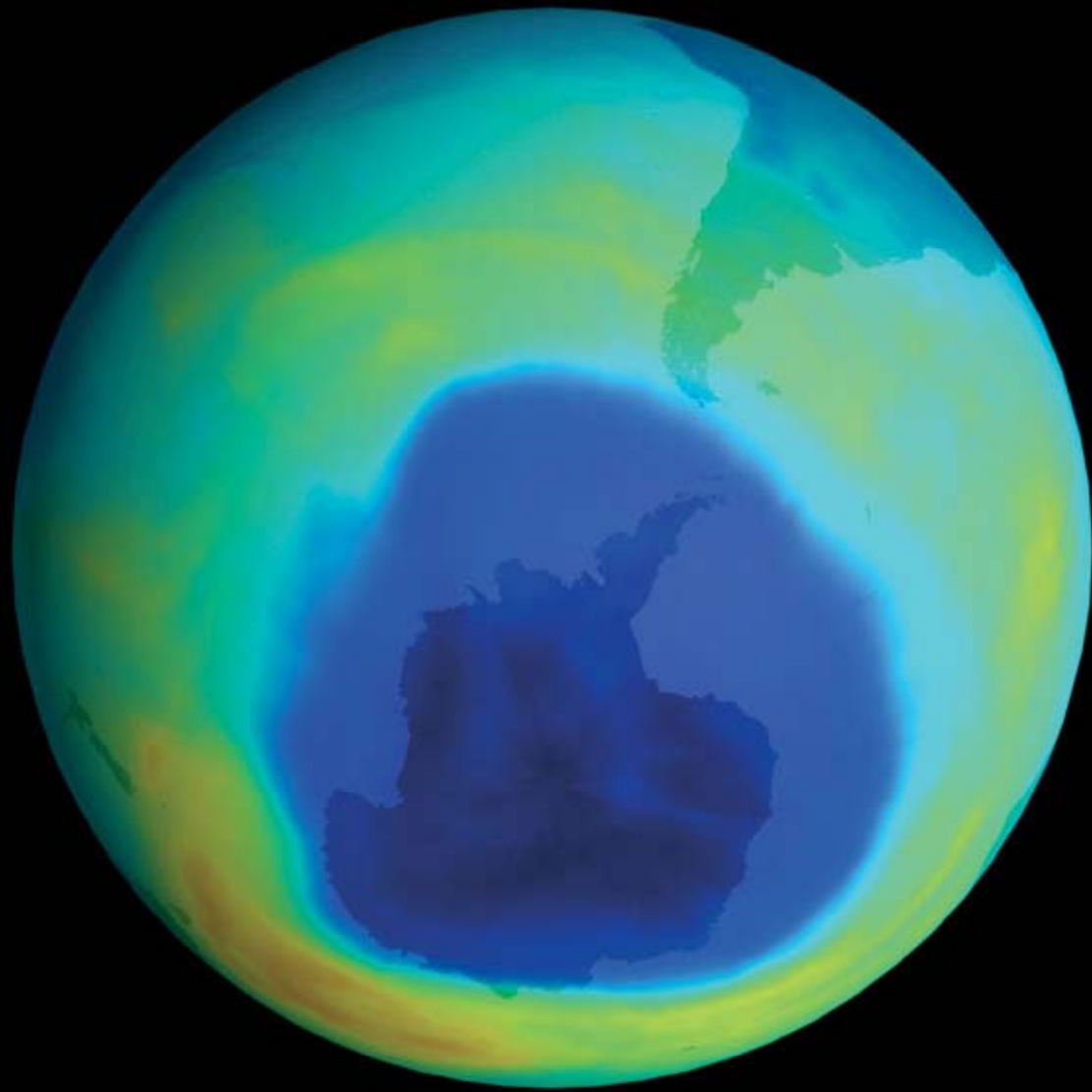
















Courtesy NREL









HAZARDOUS WASTE

FEDERAL LAW PROHIBITS IMPROPER DISPOSAL.
IF FOUND, CONTACT THE NEAREST POLICE OR PUBLIC SAFETY
AUTHORITY OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

GENERATOR INFORMATION:

NAME _____

ADDRESS _____ PHONE _____

CITY _____ STATE _____ ZIP _____

EPA / MANIFEST
ID NO. / DOCUMENT NO. _____ / _____

ACCUMULATION / EPA
START DATE _____ WASTE NO. _____

[

_____]

D.O.T. PROPER SHIPPING NAME AND UN OR NA NO. WITH PREFIX

HANDLE WITH CARE!

STYLE CPWM67









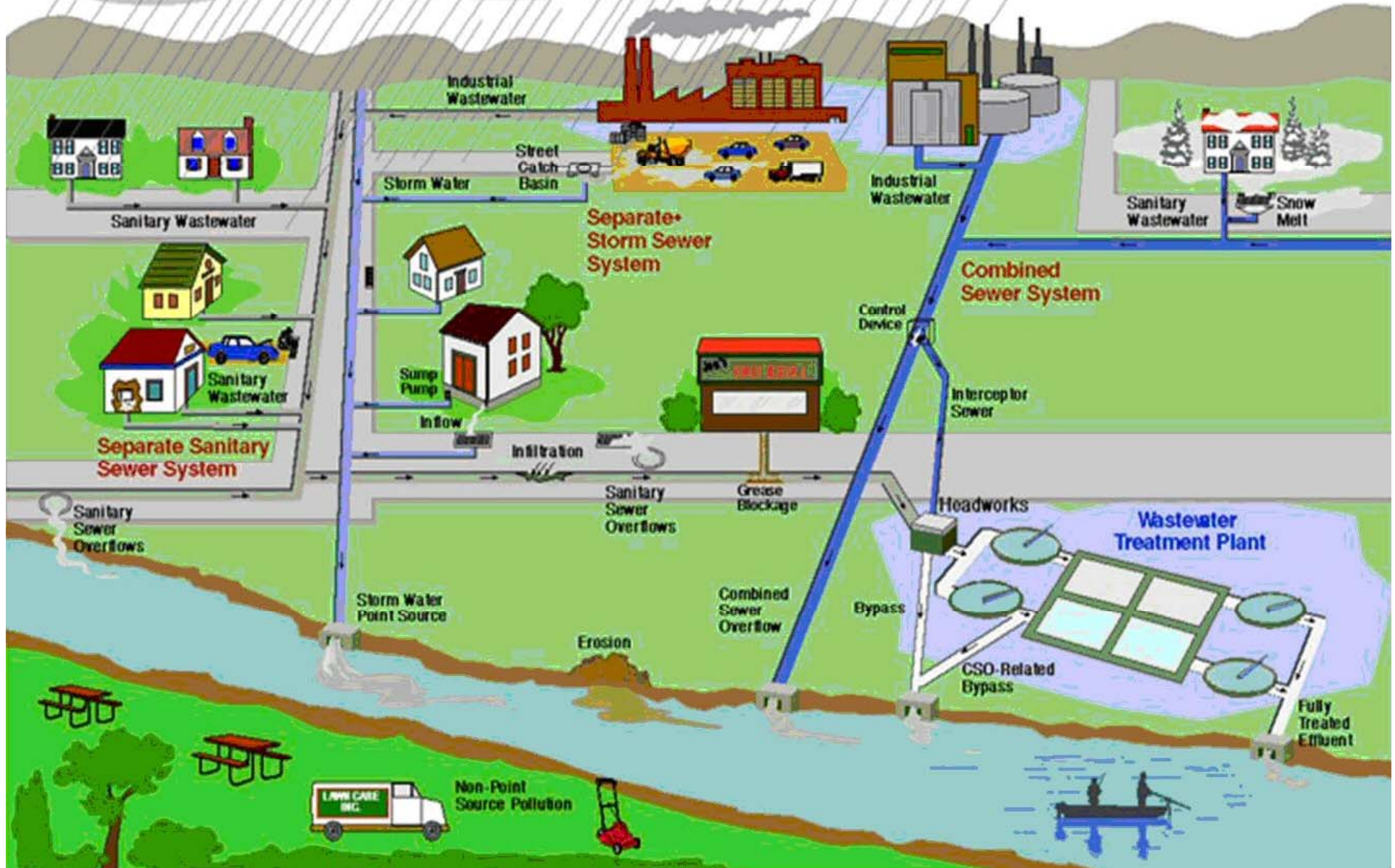








Urban Wet Weather Flows





Protecting the Environment

- One defense attorney* advises on his firm's website the following:

“A perception exists that following recent election results there has been a lessening in enforcement of environmental laws. Nothing could be further from the truth, at least with respect to criminal enforcement. The same laws that were written during the time when elected officials were hearing from concerned voters about midnight dumpers and corporate polluters remain today as written then.”

*James W. Glassen, Esq. of Scarinci & Hollenbeck, LLC

Protecting the Environment

- He goes on to say:

“However, law enforcement authorities have become more aware and experienced in using these tools against suspected polluters. And, there is little interest in repealing these criminal offenses since the public remains interested in prosecuting criminals to the fullest extent of the law. Therefore, it is the wise businessman who keeps an eye on how his actions with regard to environmental compliance are viewed.

Protecting the Environment

- He further continues:

“Be aware that these environmental offenses are criminal charges which carry the potential for imprisonment or a substantial fine, upon conviction. Violators are subject to every investigative technique available under the Constitution including the execution of search warrants and seizure of records at your place of business or home, interviewing your employees about operating practices, surveillance and arrest. Often, those who violate environmental laws mistakenly, discover that their actions will come under close scrutiny and feel the full weight of the law. They will come to realize that in retrospect, ignoring environmental compliance efforts will have cost them in the long run.”

Why Does Protecting The Environment Matter?

- What does man need in order to survive?
 - Food
 - Water
 - Air
 - Social interaction
 - Other

Why Does Protecting The Environment Matter?

- If we don't have clean water to drink and bathe in and clean air to breathe, our quality of life will diminish rapidly...and we will die sooner than necessary.
- If we don't have clean rivers and lakes and ponds and streams and oceans to use for recreation and industry, we endanger our existence.
- If we don't have land free of hazardous pollutants, we expose our bodies to carcinogens or other debilitating agents; sometimes through the food chain.
- So, it really is about quality of life!

August 24, 2004

EPA: U.S. Waterways Contain Polluted Fish

By THE ASSOCIATED PRESS

WASHINGTON (AP) -- **More than one-third of the nation's lakes and nearly one-fourth of its rivers contain fish that may be contaminated with mercury, dioxin, PCB and pesticide pollution**, the Environmental Protection Agency says.

The EPA released a list of advisories issued by states that monitor lakes and rivers for pollution levels affecting fish caught during recreational and sport fishing but not deep-sea commercial fishing.

"It's about trout, not tuna. It's about what you catch on the shore, not what you buy off the shelf," Mike Leavitt, the administrator of EPA, said Tuesday. "This is about the health of pregnant mothers and small children, that's the primary focus of our concern."

Leavitt emphasized that monitoring by state officials is increasing, while pollution levels, particularly from mercury, are dropping.

But he also said that nearly every time state officials check for pollution, they find it, meaning that eventually almost the entire United States could have fish advisories.

Leavitt said emissions of mercury from human activities dropped about 45 percent from 1990 to 1999, but he did not provide more recent figures. Pollution from mercury comes from industry such as coal-fired power plants, the burning of hazardous and medical waste and production of chlorine. It also is naturally occurring in the environment.

"I want to make clear that this agency views mercury as a toxin. Manmade emissions need to be reduced and regulated. There has been an appropriate, heightened public concern," Leavitt told reporters in his office.

This year, 44 states had a fish advisory for mercury, a persistent substance that affects the nervous system. Two more states, Montana and Washington, added statewide advisories to warn of the potential for widespread contamination of fish.

The EPA national list for 2003 shows 48 states issued 3,094 advisories -- up from 2,800 the previous year -- because of polluted fish. Two states, Wyoming and Alaska, had no such monitoring.

Environmentalist groups described the latest figures as troubling.

"From Maine to Montana, from Florida to Washington, people can't eat the fish they catch without risk," said Felice Stadler of the National Wildlife Federation.

On the Net: EPA: <http://www.epa.gov/waterscience/fish>

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

In 1980 the EPA recognized that environmental criminal enforcement required the use of experienced federal criminal investigators. In October 1982, 23 experienced investigators, mostly from other federal law enforcement agencies, were hired as the nucleus of a newly established OFFICE OF CRIMINAL ENFORCEMENT (OCE).

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

During the years 1981-1983, there was great public controversy involving the management of EPA. To safeguard the independence and integrity of the program, OCE was made part of EPA's National Enforcement Investigations Center (NEIC) in Denver Colorado. While this location served as the H.Q. for OCE, the majority of the agents were located in each of EPA's 10 regional offices.

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

During the years 1983 to 1988 agents assigned to OCE were designated as Special Deputies of the U.S. Marshal Service and were required to obtain their designation on a yearly basis from the U.S. Attorney General

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

In 1988, *Title 18 U.S.C. §3063*, provided Powers of the Environmental Protection Agency.

Specifically,

“Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the EPA with responsibility for the investigation of criminal violations of a law administered by the EPA, may -

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

- **(1) *carry firearms;***
- ↓ **(2) *execute and serve any warrant or other processes issued under the authority of the United States; and***

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

- (3) make arrests without warrant for -
 - (A) *any offense* against the United States committed in such officer's presence; or
 - (B) *any felony offense* against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.”

HISTORY OF THE CRIMINAL ENFORCEMENT PROGRAM

With the enactment of the POLLUTION PROSECUTION ACT on November 16, 1990, the EPA Office of Criminal Enforcement was directed to increase the number of Special Agents to at least 200 by FY 1995. Accordingly, EPA has increased the number of Special Agents assigned to each regional office so that there is a real criminal enforcement presence in each region of the country.

THE MISSION OF

THE ENVIRONMENTAL PROTECTION AGENCY'S
CRIMINAL INVESTIGATION DIVISION IS:

**TO SERVE AS THE LEAD FEDERAL AGENCY
IN THE INVESTIGATION OF THE MOST
SIGNIFICANT AND EGREGIOUS VIOLATORS
OF ENVIRONMENTAL LAWS THAT POSE
THE GREATEST *THREAT TO HUMAN HEALTH
AND THE ENVIRONMENT*; AND TO PROVIDE
WORLD CLASS TRAINING TO OUR
EMPLOYEES AND OUR PARTNERS IN
INTERNATIONAL, FEDERAL, TRIBAL,
STATE AND LOCAL LAW ENFORCEMENT.**

Statistics for FY2003

IN FISCAL YEAR 2003, CID AGENTS INITIATED 551 CASES, REFERRED 278 CASES TO THE DEPARTMENT OF JUSTICE AND VARIOUS STATE COURTS FOR CRIMINAL PROSECUTION, HAD 322 DEFENDANTS, JAIL TIME TOTALING 196 YEARS AND 169.3 MILLION DOLLARS IN CRIMINAL FINES.

CRIMINAL INVESTIGATION DIVISION

CID TODAY

EPA CID PARTICIPATES NATIONWIDE IN A MULTITUDE OF ENVIRONMENTAL TASK FORCES. OUR PARTNERS IN THESE TASK FORCES CONSIST OF OTHER FEDERAL LAW ENFORCEMENT AGENCIES, THE UNITED STATES ATTORNEY'S OFFICE, DISTRICT ATTORNEY'S OFFICES, AND STATE AND LOCAL LAW ENFORCEMENT AND ENVIRONMENTAL AGENCIES.

EPA CID Working Relationships

- **CID will always strive to work with a state or local agency in support of an environmental investigation.**

It is EPA's goal to provide assistance, as needed and requested, to foster the autonomy of state and local agencies in the environmental crimes investigation arena.

EPA CID Working Relationships (continued)

- **Due to limited resources and time constraints, if assistance is requested, the information provided will be evaluated against EPA CID's *harm and conduct* factors and resource availability before a determination is made as to EPA's presence and participation in a particular investigation.**

CRIMINAL INVESTIGATION DIVISION

CID TODAY

- **TODAY EPA CID IS REPRESENTED BY APPROXIMATELY 250 SPECIAL AGENTS LOCATED IN APPROXIMATELY 44 AREA, RESIDENT AND DOMICILE OFFICES THROUGHOUT THE COUNTRY.**

CRIMINAL INVESTIGATION DIVISION

REGIONAL OFFICES

- ✓ REGION I - BOSTON AREA OFFICE
- ✓ REGION II - NEW YORK AREA OFFICE
- ✓ REGION III - PHILADELPHIA AREA OFFICE
- ✓ REGION IV - ATLANTA AREA OFFICE
 - ✓ JACKSONVILLE AREA OFFICE
- ✓ REGION V - CHICAGO AREA OFFICE
- ✓ REGION VI - DALLAS AREA OFFICE
 - ✓ HOUSTON AREA OFFICE
 - ✓ NEW ORLEANS AREA OFFICE
- ✓ REGION VII - ST. LOUIS AREA OFFICE
- ✓ REGION VIII - DENVER AREA OFFICE
- ✓ REGION IX - SAN FRANCISCO AREA OFFICE
 - ✓ LOS ANGELES AREA OFFICE
- ✓ REGION X – PORTLAND AREA OFFICE

CRIMINAL INVESTIGATION DIVISION

RESIDENT OFFICES

- ✦ **REGION I –New Haven, CT**
- ✦ **REGION II –Buffalo, Syracuse, NY; & Edison, NJ**
- ✦ **REGION III –Charleston, WV ; Herndon, VA; Annapolis, MD**
- ✦ **REGION IV – Nashville, TN; Charleston , SC; Louisville, KY; and Charlotte, NC**
 - ✦ **JACKSONVILLE AREA OFFICE - Miami, Tampa; Jackson, MS.**
- ✦ **REGION V - Minneapolis , MN; & Indianapolis, IN; Cleveland, OH; Detroit, MI;**
- ✦ **REGION VI – El Paso, TX; Albuquerque, NM**
 - ✦ **HOUSTON AREA OFFICE**
 - ✦ **NEW ORLEANS AREA OFFICE - Baton Rouge, LA**
- ✦ **REGION VII - Kansas City, KS**
- ✦ **REGION VIII - Helena, MT & Salt Lake City, UT**
- ✦ **REGION IX - Sacramento, CA; Honolulu, Hawaii**
 - ✦ **LOS ANGELES AREA OFFICE - Phoenix, AZ & San Diego, CA**
- ✦ **REGION X – Seattle, WA & Anchorage, AK**

**44 TOTAL REGIONAL, AREA, AND RESIDENT
OFFICES**



CONDUCT OF A CRIMINAL INVESTIGATION BY CID

Why Protecting the Environment Matters

- One corporate manager for a Fortune 100 company said “The EPA shouldn’t be so eager to punish inadvertent and often harmless violations of the regulations.”
- According to defense lawyers, another injustice is : A person doesn’t have to knowingly break the law to be prosecuted for an environmental crime.
- **BOTH STATEMENTS ARE TRUE!**

Case Selection Criteria

- *There is an unlimited universe of potential environmental criminal investigations and a limited universe of highly skilled investigators.*

Harm and Conduct Factors

- Memorandum on Exercise of Investigative Discretion issued January 12, 1994.
- Based on *significant environmental harm and culpable conduct*.

Significant Environmental Harm

- Actual harm
- Threat of significant harm
- Failure to report an actual discharge
- Certain illegal conduct appears to represent a trend or common attitude within the regulated community

Culpable Conduct

- History of repeated violations
- Deliberate misconduct resulting in violation
- Concealment of misconduct or falsification of required records
- Tampering with monitoring or control equipment
- Business operation of pollution-related activities without a permit, license, manifest, or other required documentation

CRIMINAL INVESTIGATION DIVISION PRIMARY AREAS OF INVESTIGATIVE RESPONSIBILITY

- ↳ **RESOURCE CONSERVATION AND RECOVERY ACT**
- ↳ **CLEAN WATER ACT**
- ↳ **OIL POLLUTION ACT**
- ↳ **OCEAN DUMPING ACT (MPRSA)**
- ↳ **RIVERS AND HARBORS ACT OF 1899**
- ↳ **CLEAN AIR ACT**
- ↳ **COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (SUPERFUND)**
- ↳ **TOXIC SUBSTANCES CONTROL ACT**
- ↳ **FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE
ACT**
- ↳ **SAFE DRINKING WATER ACT**
- ↳ **MIGRATORY BIRD TREATY ACT**
- ↳ **THE ENDANGERED SPECIES ACT**
- ↳ **TITLE 18 U.S.C.**

FEDERAL CRIMINAL CODE

CONSPIRACY 18 U.S.C.§371

MAIL AND WIRE FRAUD 18U.S.C.§§1341 & 1343

FALSE STATEMENTS 18U.S.C.§1001

RICO §1961 (RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS)

Money Laundering 18U.S.C. §1956-1957

Obstruction of Justice 18U.S.C.§1510

**Destruction, alteration, or falsification of records in
Federal investigations...18U.S.C. 1519**





RECOGNIZING POTENTIAL CRIMINAL VIOLATIONS

GENERALLY, CRIMINAL BEHAVIOR FALLS INTO ONE OF THESE CATEGORIES :

- ☺ KNOWING OR WILLFUL VIOLATIONS OF LAW
- ☺ NEGLIGENT ACTIONS (CWA)
- ☺ FALSE OR FRAUDULENT REPORTING
- ☺ INTENT
- ☺ KNOWLEDGE
- ☺ PRIOR CIVIL/ADMINISTRATIVE ACTIONS FOR SIMILAR ACTIVITIES
- ☺ DECEPTION
- ☺ SIGNIFICANT ACTUAL OR POTENTIAL HARM TO THE ENVIRONMENT
- ☺ SIGNIFICANT ACTUAL OR POTENTIAL HARM TO INDIVIDUALS OR ANIMALS

RED FLAGS THAT MAY INDICATE POSSIBLE CRIMINALITY

- ❏ ***CONFLICTING DATA:*** TWO SETS OF BOOKS OR INCONSISTENT MONITORING REPORTS ON THE SAME INCIDENT.
- ❏ ***CONFLICTING STORIES:*** A GOVERNMENT OFFICIAL IS LED TO BELIEVE ONE THING AND SEES SOMETHING DIFFERENT IN RECORDS OR THROUGH OBSERVATIONS.
- ❏ ***UNSUBSTANTIATED DATA:*** MONITORING AND OTHER RECORDKEEPING AND REPORTING DATA LACK CREDIBILITY.
- ❏ ***DELIBERATE ACTIONS:*** AN EMPLOYEE SAYS HE WAS TOLD TO DO SOMETHING THE GOVERNMENT OFFICIAL KNOWS IS ILLEGAL.
- ❏ ***CLAIMS OF IGNORANCE ABOUT REQUIREMENTS:*** COPIES DEMONSTRATING KNOWLEDGE ARE DISCOVERED IN THE RECORDS, OR STATEMENTS DURING INTERVIEWS DEMONSTRATE KNOWLEDGE.

**TYPICAL ACTIVITIES WHICH ARE NOT
CRIMINAL:**

ACCIDENTAL OCCURRENCES

REGULATORY OFFENSES

**CIVIL OFFENSES FOR WHICH THERE IS NO
CRIMINAL SANCTION**

CASE DEVELOPMENT

⑥ OBTAIN INFORMATION OR ALLEGATIONS

⑥ REGIONAL EPA

⑥ STATE & LOCAL REGULATORY AGENCIES

⑥ DISGRUNTLED EMPLOYEES

⑥ ANONYMOUS

⑥ BACKGROUND & REGULATORY REVIEW

⑥ ARE ALLEGATIONS REGULATED BY STATUTES

⑥ DOES IT MEET CRIMINAL REQUIREMENTS

⑥ REQUIREMENTS FOR IMMEDIATE RESPONSE

⑥ PROBABLE CAUSE EVIDENCE & ITS SOURCES

⑥ GATHER EVIDENCE USING INVESTIGATIVE METHODS

⑥ PREPARE FOR PROSECUTION

⑥ INDICTMENT OR INFORMATION

⑥ TRIAL PREPARATION

Summary

- To re-emphasize:

There is an unlimited universe of potential environmental crimes to investigate and a limited universe of trained and highly skilled investigators.

- Harm and Conduct factors
- State and local agencies – strive to develop partnership
- Other federal agencies - case by case as resources allow and harm and conduct factors apply



**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF CRIMINAL ENFORCEMENT,
FORENSICS & TRAINING**



CRIMINAL INVESTIGATION DIVISION



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