

Environmental Enforcement Under Trump

Records Show 60 Percent Drop in Civil Penalties Against Polluters During President Trump's First Six Months



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THE ENVIRONMENTAL INTEGRITY PROJECT

The Environmental Integrity Project (<http://www.environmentalintegrity.org>) is a nonpartisan, nonprofit organization established in March of 2002 by former EPA enforcement attorneys to advocate for effective enforcement of environmental laws. EIP has three goals: 1) to provide objective analyses of how the failure to enforce or implement environmental laws increases pollution and affects public health; 2) to hold federal and state agencies, as well as individual corporations, accountable for failing to enforce or comply with environmental laws; and 3) to help local communities obtain the protection of environmental laws.

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When it comes to enforcing environmental law, the Trump Administration is off to a very slow start. So far, the Justice Department has collected 60 percent less in civil penalties than polluters had paid on average by this time in the first year of Presidents Barack Obama, George W. Bush and Bill Clinton. The cases this year are smaller, requiring much less spending on cleanup, and resulting in fewer measurable reductions in pollutants that end up in our air or water. While the early news is neither encouraging nor surprising, enforcement results may vary over the short term. The actions that EPA and the Justice Department take over the next year will indicate whether the disappointing results so far are all we can expect.

The analysis below reviews the consent decrees lodged by the Justice Department from January 21 (President Trump's first day) through July 31, 2017, looking at three factors: penalties paid, the amount violators will spend on pollution controls and, where available, how much pollution these enforcement actions are expected to eliminate. We compare these results to similar data reported for environmental consent decrees lodged under Presidents Obama, Bush, and Clinton between Inauguration Day and July 31 of each President's first year in office. The analysis is limited to civil cases, and does not include Superfund actions related to cleanup of abandoned waste dumps.

President Trump's Justice Department lodged 26 civil cases resolving violations of the Clean Air Act, the Clean Water Act, and other environmental laws (not including Superfund) that collected a combined total of \$12 million in penalties from violators. Government records show that Presidents Obama, George W. Bush, and Clinton lodged more cases and collected significantly more – an average of \$30 million -- in civil penalties by July 31 of each administration's first year.

TABLE 1. TOTAL ENVIRONMENTAL CASES LODGED (CIVIL) AND PENALTIES PAID

Administration	Total Number of Cases Lodged	Penalties
Clinton	45	\$25 million
Bush	31	\$30 million
Obama	34	\$36 million
Trump	26	\$12 million

Note: Civil cases lodged from first day in office through July 31 of first year

About twenty years ago, EPA began estimating the value of “injunctive relief,” i.e., how much violators will spend to install and maintain the control equipment needed to clean up pollution and comply with environmental standards. These pollution control devices include scrubbers to remove sulfur dioxide from smokestacks or treatment systems that decontaminate wastewater before it is released to a river. EPA reports on the total value of injunctive relief for cases that require a significant investment in pollution controls, although actual costs may be spread over a number of years.

Through July 31, the Trump Administration estimated that the injunctive relief required in the 10 cases reporting such data would total \$197 million, compared to \$710 million in 16

cases in President George W. Bush's first half year and more than \$1.2 billion in 22 cases under the same period for President Obama. EPA did not begin compiling this data until the late 1990's, so comparable estimates are not available for the Clinton Administration's first year.

TABLE 2. ESTIMATED VALUE OF INJUNCTIVE RELIEF FOR CIVIL CASES

Administration	Cases Estimating Injunctive Relief Value	Injunctive Relief
Clinton	NA	NA
Bush	16	\$710 million
Obama	22	\$1.201 million
Trump	11	\$197 million

Note: Civil cases lodged from first day in office through July 31 of first year.

For some Clean Air Act cases, EPA also estimates the amount of pollution that will be reduced once consent decree requirements take full effect. For example, in March 2001, the U.S. Department of Justice and EPA signed consent decrees with oil refining companies Motiva and Shell that were expected to reduce sulfur dioxide emissions by nearly 50,000 tons. Sulfur dioxide is a major contributor to the formation of fine particles known to cause premature death, primarily from heart disease, and to worsen asthma and other lung ailments. EPA has estimated that, on average, eliminating 1,000 tons of sulfur dioxide emissions from refineries would avoid between 7.7 and 17 premature deaths per year. The chart below includes the reductions in sulfur dioxide, nitrogen oxides, and particulates under consent decrees lodged through July 31, and the corresponding reductions in premature deaths from fine particle exposure.

TABLE 3. ESTIMATED ANNUAL POLLUTION REDUCTIONS AND PREMATURE DEATHS AVOIDED¹

Administration	Cases	Sulfur Dioxide		Nitrogen Oxide		Particulates PM2.5	
		Tons	Premature Deaths Avoided	Tons	Premature Deaths Avoided	Tons	Premature Deaths Avoided
Bush	4	68,620	528-1,167	28,239	21-48	1,929	69-160
Obama	8	39,260	178-397	9,378	6-15	1,918	45-104
Trump	5	627	4-10	4,331	3-7	264	15-34

Note: From civil cases for which pollution reduction information was available lodged first day in office through July 31 of first year.

Readers should note that these results are based on a small handful of cases, and that one or two cases requiring cleanup of a power plant, refinery, auto company or other large emission source can significantly affect totals from one year to the next.

For a full listing of all civil environmental enforcement cases filed during the first six months of the Trump, Obama, Bush, and Clinton administrations, see appendices A through D at the end of this report.

Largest Cases Filed During First Six Months of Trump Presidency vs Past Administrations

The fines imposed by the Trump Administration against big polluters from Inauguration Day through July 31 were relatively modest, by historical standards. The largest civil penalty imposed so far by the administration came on May 17, when EPA and Texas imposed a \$2.5 million penalty on the owner of a Houston area chemical storage tank facility, Vopak Terminals North America Inc., after suing the company for air pollution violations near the Houston Ship Channel.² The company's Deer Park facility failed to comply with Clean Air Act requirements to properly manage equipment, which resulted in excess emissions of benzene (a carcinogen) and volatile organic compounds, according to EPA. These compounds contribute to smog and causes asthma attacks and eye, nose and throat irritation, as well as headaches, nausea and damage to liver, kidney and the central nervous system. The consent decree to settle the lawsuit also included \$5 million in injunctive relief, which includes requirements for the company to implement an inspection and repair program for the tank terminal and control air pollution by operating flares in a way that more completely burns pollutants.

The largest civil penalty imposed by the Obama Administration during its first six months was a \$12 million fine imposed on the owner of the third largest oil refinery in the U.S., BP Texas City, on February 19, 2009.³ The lawsuit grew out of a series of fires and explosions at the plant on March 23, 2005, that killed 15 workers and injured more than 170 people. In addition to the civil penalty, the federal government also forced BP to pay \$161 million to install pollution control equipment and spend \$6 million on a supplemental project to reduce air pollution in Texas City.

The biggest penalty imposed during the first six months of the George W. Bush Administration was a \$9.5 million fine -- along with \$400 million in pollution control work (injunctive relief) and \$5.5 million in supplemental environmental projects -- imposed on the petroleum refining companies Motiva, Equilon and Shell on March 21, 2001 for air pollution violations.⁴ Consent decrees filed in federal court in Houston required the companies to install modern pollution-control equipment and significantly reduce emissions from leaking valves, vents and flares throughout their refineries. The companies were required to cut nitrogen oxide and sulfur dioxide emissions from nine refineries by more than 60,000 tons a year by using innovative technologies. Improved leak detection and repair practices and other pollution-control upgrades also reduced emissions of smog-causing volatile organic compounds and benzene, a known carcinogen.

During the first six months of the Clinton Administration, the largest civil penalty was a \$11.1 million fine imposed on Louisiana Pacific and Kirby Forest Industries, Inc., on May 24, 1993 for air pollution violations at 14 of its wood product plants.⁵ The company either failed to obtain required air permits for the plants or got them by using misleading information, according to EPA. Under a consent decree, the company was required to install \$70 million worth of modern air pollution control equipment, which was expected to reduce air pollution by more than 90 percent.

Methodology

The data in this report are based on consent decrees lodged in federal court that resolve violation of environmental law that EPA has referred to the Justice Department for civil prosecution. Once lodged, these consent decrees are announced in the Federal Register and the public is given thirty days to comment on its terms. After any comments are reviewed by the court and Justice Department, the consent decree will be “entered” as a final judgment. Although lodged settlements may be revised in response to public input before they are entered, that rarely happens in practice.

Most EPA civil enforcement actions are resolved through consent decrees, although the outcome may be shaped by earlier decisions by the court, e.g., that determine the scope of the defendant’s liability for the violations that EPA has alleged. These settlements may come after a year or more of negotiations, so any consent decrees lodged within the first few months of a President’s first year in office will reflect work done in a prior Administration. But the number and quality of these cases may indicate whether enforcement is on track, or whether the new Administration and his team are more directly involved in reviewing settlements and taking longer to approve them.

All lodged cases were identified through Federal Register announcements, which also indicated the amounts paid in civil penalties⁶ for all but a few cases. Where necessary, EIP reviewed press announcements by the Department of Justice or data posted on EPA’s webpage⁷ to identify the government’s estimates of injunctive relief and reductions in emissions, as well as any civil penalty data not provided in Federal Register notices.

APPENDIX A: CIVIL ENFORCEMENT CASES FILED UNDER THE FIRST SIX MONTHS OF THE CLINTON ADMINISTRATION

Case	Final Order Lodged	Federal Penalty (\$1,000)	Administration
Dana Corporation, Perfect Circle Division	1/21/1993	1,300	Clinton
New York City	1/22/1993	200	Clinton
Consolidated Edison	1/25/1993	220	Clinton
GNB, Inc.	2/4/1993	135	Clinton
City of New Albany, IN	2/9/1993	175	Clinton
U.S. Oil Company	2/10/1993	470	Clinton
Texaco Refining and Marketing, Inc.	2/10/1993	500	Clinton
USX	2/19/1993	1,800	Clinton
Leslie Salt Company	2/28/1993	50	Clinton
MSA Manufacturing, Inc.	3/1/1993	29	Clinton
Eastern Environmental Services of the Southeast	3/4/1993	28	Clinton
Port of Portland	3/5/1993	92	Clinton
International Crane Company	3/5/1993	25	Clinton
City of Niagara Falls, NY	3/8/1993		Clinton
New Boston Coke Corporation	3/9/1993	250	Clinton
Alpha Cellulose Corp.	3/9/1993	850	Clinton
Fina Oil and Chemical Company	3/10/1993	450	Clinton
Windward Properties, Inc.	3/16/1993	75	Clinton
Puerto Rico Industrial Development Company	3/22/1993	1,000	Clinton
Easton Area Joint Sewer Authority	3/28/1993	435	Clinton
IMC Fertilizer, Inc.	3/29/1993	100	Clinton
Texas Tank Car	3/31/1993	60	Clinton
Shenango, Inc.	4/12/1993	540	Clinton
Leith Jeep-Eagle, Inc.	4/26/1993	15	Clinton
Cressona Aluminum	5/4/1993	200	Clinton
Richard Nelson	5/7/1993	5	Clinton
El Paso Natural Gas	5/13/1993	10	Clinton
Group Dekko, Inc.	5/13/1993	550	Clinton
Grumman St. Augustine Corp.	5/13/1993	1,500	Clinton
Town of Hastings	5/13/1993	5	Clinton
Masco Corporation	5/14/1993	10	Clinton
American Felt & Filter	5/19/1993	13	Clinton
Louisiana Pacific, Inc., and Kirby Forest Industries	5/24/1993	11,100	Clinton
US v. Modine Manufacturing	5/28/1993	750	Clinton
Elliott Drywall and Asbestos, Inc.	6/10/1993	22	Clinton
Global, Inc.	6/18/1993	50	Clinton

Boliden Intertrade, A.G.	6/25/1993	25	Clinton
MTD Products Inc. and Columbia Manufacturing	6/28/1993	100	Clinton
Pacific Coast Producers, Inc.	6/28/1993	101	Clinton
Union Tank Car	7/6/1993	350	Clinton
Bethlehem Steel	7/14/1993	545	Clinton
Donald E. Buchs and Lorain Properties Company	7/14/1993	20	Clinton
Florida Tile	7/26/1993	493	Clinton
Amelia Associates and Joey's Excavating, Inc.	7/29/1993	125	Clinton

APPENDIX B: CIVIL ENFORCEMENT CASES FILED UNDER THE FIRST SIX MONTHS OF THE GEORGE W. BUSH ADMINISTRATION

Case	Final Order Lodged	Federal Penalty (\$1,000)	SEP/Mitigation (\$1,000)	Injunctive Relief (\$1,000)	Administration
Michael's Furniture Company	1/25/2001	186			Bush
Natural Gas Pipeline Company	2/1/2001	215	100		Bush
Preston Engravers Inc.	2/5/2001	245		1	Bush
Forsch Polymer Corporation	2/8/2001	32			Bush
Gillette	2/9/2001				Bush
J.L. Land Development, Inc.	2/15/2001	100			Bush
Chevron USA Inc.	2/19/2001	650	150	748	Bush
Viktron, L.P.	3/20/2001	150			Bush
Motiva, Equilon, and Shell	3/21/2001	9,500	5,500	400,000	Bush
University of Rhode Island	4/5/2001	195	550		Bush
Black Mesa Pipeline	4/7/2001	128			Bush
MIT	4/18/2001	155	405	2,000	Bush
Shell Oil Company and Motiva Enterprises LLC	4/27/2001	390			Bush
V-I Oil Company	5/2/2001	478			Bush
Raymond T. James, et al.	5/7/2001	6		15	Bush
Marathon Ashland Petroleum, Inc.	5/11/2001	3,800	5,900	263,000	Bush
A&S Tribal Industries	5/14/2001	40		112	Bush
Fort Lewis, US Army	5/18/2001	60	200		Bush
Wal-Mart Stores, Inc.	6/7/2001	1,000		4,500	Bush
Hartz Construction	6/15/2001	80		80	Bush
Cenex Harvest States Cooperatives	6/15/2001	56	300		Bush

Guide Corporation and Crown EG, Ind.	6/18/2001	2,000	6,000	2,025	Bush
Charles T. Cannada	6/20/2001	50			Bush
Air Liquide America Corporation	6/21/2001	4,500	500	12,000	Bush
Macalloy Group	6/26/2001	1,200		1,800	Bush
National Railroad Passenger Corp.	6/28/2001	500	900		Bush
Gulf Oil L.P. and Catamount Management Co.	7/5/2001	40	421	10	Bush
Murphy Family Farms	7/10/2001	72		17	Bush
Premcor Refining Group, Inc. (formerly Clark Refining and Marketing)	7/12/2001	2,000		22,000	Bush
Texaco	7/16/2001	568		1,700	Bush
Diamond Shamrock Refining Co., LP	7/25/2001	1,200			Bush

APPENDIX C: CIVIL ENFORCEMENT CASES FILED UNDER THE FIRST SIX MONTHS OF THE OBAMA ADMINISTRATION

Case	Final Order Lodged	Federal Penalty (\$1,000)	SEP/Mitigation (\$1,000)	Injunctive Relief (\$1,000)	Administration
Anderson-Wilcox Corporation	2/3/2009	300			Obama
Kentucky Utilities – E.W. Brown	2/3/2009	1,400	3,000	147,000	Obama
Patriot Coal Corporation	2/5/2009	6,500		6,000	Obama
Frontier El Dorado Refining Company	2/10/2009	1,230	1,307	127,000	Obama
Wyoming Refining Company	2/10/2009	150		14,000	Obama
BP Texas City	2/19/2009	12,000	6,000	161,000	Obama
The Port of Astoria, Oregon	3/20/2009	125			Obama
City of Independence	3/31/2009	255	450	35,000	Obama
INVISTA S.a.r.l. (National Case)	4/13/2009	1,700		500,000	Obama
Dominion Exploration - Kings Canyon	4/17/2009	250		6,100	Obama
Miller Dyer & Company	4/17/2009	142		90	Obama
North Carolina DOT Ferry Division, et al.	4/17/2009				Obama
North Hill Creek Compressor Station/Bill Barrett/Wind River	4/17/2009	240	200	372	Obama
Lucite International & E.I. Dupont deNemours	4/20/2009	2,000			Obama
Anadarko Petroleum Corporation	5/7/2009	1,050		8,718	Obama
Alaska Gold Company, Rock Creek Mine	5/12/2009	884		8,177	Obama
J.T. Walker Industries, Inc. / MI Metals	5/20/2009	105		100	Obama
Zelmer, Inc./Spencer Heights, Inc.	5/21/2009	25	445		Obama
Lebanon WWTF	5/27/2009			30,200	Obama

Friction Holdings LLC	5/29/2009	338		55	Obama
City of West Point, et al.	6/12/2009	150			Obama
American Laboratories Incorporated	6/16/2009	440		181	Obama
Wallside, Inc.	6/16/2009	100	350	695	Obama
Carmen Neapolitan	6/18/2009	2			Obama
City of Duluth/Western Lake Superior	6/23/2009	400		130,000	Obama
JLG Enterprises	6/23/2009	50		195	Obama
Holcim (US) Inc.	6/25/2009	160			Obama
Citygas Gasoline Corporation, et al.	7/6/2009	1,400			Obama
Skull Valley Band of Goshute Indians	7/13/2009	1	4	1	Obama
Delek/ La Gloria - Crown Central Petroleum Corporation (d.b.a. La Gloria Oil and Gas Company)	7/20/2009	624		25,000	Obama
Colorado Interstate Gas Co.	7/23/2009	1,020			Obama
Sierra Properties I, LLC	7/28/2009	276			Obama
City of St. Martinville	7/30/2009	50			Obama
INEOS ABS (USA) Corporation, et al.	7/31/2009	3,100		2,000	Obama

APPENDIX D: CIVIL ENFORCEMENT CASES FILED UNDER THE FIRST SIX MONTHS OF THE TRUMP ADMINISTRATION

Case	Final Order Lodged	Federal Penalty (\$1,000)	SEP/Mitigation (\$1,000)	Injunctive Relief (\$1,000)	Administration
EMD Millipore	1/30/2017	385		3,500	Trump
Hammond Sanitary District	2/3/2017	248	555	180,000	Trump
Maynard Steel Casting Company	3/1/2017	25		350	Trump
Clean Rentals Inc.	3/13/2017	200			Trump
Sunoco Pipeline LP (Wellington OH)					
CWA 311(b)(3)	3/31/2017	990			Trump
United States v. Georgia Coastal Land Co., et al., No. 2:16-cv-00060-LGW-RSB	4/7/2017	333			Trump
Municipality of Santa Isabel	4/12/2017	20			Trump
United States and State of Alaska v. Westward Seafoods, Inc., Civil Action No. 3:17-cv-00087-TMB	4/17/2017	1,300			Trump
Valero Refining Company d/b/a Paulsboro Refining Company	4/19/2017	180			Trump
Momentive Performance Materials					
Silicones, LLC	4/21/2017	1,250			Trump
Falcon Petroleum, LLC et al.	4/25/2017	60	220	218	Trump
U.S. v. PPG Industries Ohio, Inc. (Civil Action No. 2:17-cv-00374)	5/2/2017	225			Trump
Homeca Recycling Center Co. Inc. et al.	5/12/2017	50			Trump
Nevada Cement Company	5/12/2017	550		3,000	Trump

Mesabi Nugget	5/15/2017	150		160	Trump
U.S. v. James F. Jerge, Jr., Case Number 1:17-cv-00428	5/17/2017				Trump
Vopak North America, Inc.	5/17/2017	2,500		5,000	Trump
Alon USA Big Spring Refinery	5/30/2017	456	1,500		Trump
U.S. v. Port Stewart GmbH&Co. Kg of Germany, Civil Action No. 3:17-cv-01742	6/1/2017			550	Trump
NVR, Inc. d/b/a Ryan Homes (National Case - no NLPs)	6/15/2017	425		2,008	Trump
Evergreen Power, LLC v. U.S., Civil Action No. 3:14-cv-01537-WWE	6/19/2017				
Cleveland Heights v. State of Ohio	6/19/2017	246		454	Trump
United States and State of Colorado v. Rocky Mountain Company, LLC, Civil Action No. 1:17-cv-01554	6/26/2017				Trump
U.S. v. Suez Shipping North America LLC and Hoegh LNG Fleet Management AS, Civil Action No. 3:17-cv-01741	6/28/2017	475		1,900	Trump
Harcros Chemicals, Inc	7/31/2017	950	2,500		Trump
U.S. v. Lima Refining Company, Civil Action No. 3:17-cv-01320-JZ	6/22/2017	1,000	11,750		Trump

NOTES:

¹ U.S. Environmental Protection Agency. EPA Technical Support Document. “Estimating the Benefit per Ton of Reducing PM2.5 Precursors from 17 Sectors.” January 2013.

² U.S. Department of Justice, “Notice of Lodging of Proposed Consent Decree Under the Clean Air Act: United States and State of Texas v. Vopak Terminal Deer Park Inc. and Vopak Logistics Services USA Inc., Civil Action No. 4:17-cv-1518,” May 23, 2017. Link: <https://www.federalregister.gov/documents/2017/05/23/2017-10467/notice-of-lodging-of-proposed-consent-decree-under-the-clean-air-act>

³ U.S. Department of Justice, “BP Texas City Clean Air Act Settlement,” Feb. 19, 2009, link: <https://www.epa.gov/enforcement/bp-texas-city-clean-air-act-settlement>

⁴ EPA, “Motiva Enterprises LLC Refinery Settlement,” March 21, 2001, link: <https://www.epa.gov/enforcement/motiva-enterprises-llc-refinery-settlement>.

⁵ Federal Register, “Lodging of Consent Decree in United States v. Louisiana-Pacific, Inc. and Kirby Forest Industries, Inc., Civil Action No. 93-0869,” June 28, 1993, link: <https://www.gpo.gov/fdsys/pkg/FR-1993-06-28/pdf/FR-1993-06-28.pdf>

⁶ The payments that defendants made to the “natural resource” damages trust fund in several oil spill cases were included in amounts reported as injunctive relief rather than as penalty.

⁷ U.S. Environmental Protection Agency. Enforcement: Civil Cases and Settlements, link: <https://cfpub.epa.gov/enforcement/cases/>