



Note to Correspondents

WEDNESDAY, AUGUST 16, 1989

EPA set a record in fiscal year 1988 for penalties obtained against violators of environmental laws (summary data attached). The agency obtained \$36.8 million in civil penalties in federal courts and in administrative proceedings. EPA's criminal enforcement effort also got results in 1988. Fifty defendants were convicted of environmental crimes. Fines totaling \$8.6 million were assessed in criminal cases, with \$1.4 million ordered after suspension. Environmental criminals were sentenced to 30 years of jail time in 1988, with eight years ordered after suspension.

EPA Administrator William K. Reilly said, "I am pleased to see these record enforcement numbers. They show EPA and the federal government generally are getting tougher on enforcement, which is the cornerstone of EPA's environmental programs. We expect to see even more activity in the future as we improve compliance with the nation's environmental laws."

EPA's analysis indicates that few violators got away without a penalty. Penalties were assessed in 92 percent of those enforcement cases filed by EPA under statutory provisions that provide for penalties.

A typical civil violator paid thousands of dollars in penalties last year. EPA has analyzed penalties in terms of median and average figures for each program.

The highest civil penalty was \$2 million in a Clean Water Act case, one of four cases over \$1 million in that program. Penalties over \$1 million were also obtained in court cases by the stationary-source air program (three cases over \$1 million) and hazardous waste control program (one case over \$1 million). Administrative cases obtained penalties over \$1 million in the mobile-source air and toxic-chemicals control programs.

Some of EPA's newer programs also chalked up penalties in 1988. EPA used its new authority for the first time in 1988 to challenge Clean Water Act violations administratively and assessed more than \$500,000 in 40 cases. In addition, underground injection control cases under the Safe Drinking Water Act went from about \$19,000 in 1987 to \$422,000 in the second full year of this effort.

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FACT SHEET ON FY 1988 PENALTY ANALYSIS

Cases covered

The penalties analyzed in the analysis are cash amounts assessed in EPA enforcement cases concluded in Fiscal Year 1988. They reflect final judgments by a court, consent decrees and consent orders reflecting settlements, and final administrative orders. The analysis does not include "proposed penalties" or other amounts under discussion prior to the conclusion of a case, and it does not include penalties paid to entities other than the Federal Government. Contempt enforcement actions are not included, nor are "benefit projects" or other non-monetary actions.

Types of cases

In most EPA programs, the Agency has authority to bring civil enforcement actions either in the U.S. Court system, in which case they are called judicial cases, or in EPA's own administrative judicial system, in which case they are called administrative cases. Criminal cases are brought only through the U.S. Court system.

The majority of EPA's civil cases are administrative; some 87 percent of those concluded in FY 1988 were administrative cases. Such cases are less costly for the government to pursue than judicial ones. But judicial cases generally result in higher penalties; 68 percent of all EPA federal penalty dollars in FY 1988 were in judicial cases.

SUMMARY OF EPA FEDERAL PENALTIES IN FY 1988

General Findings

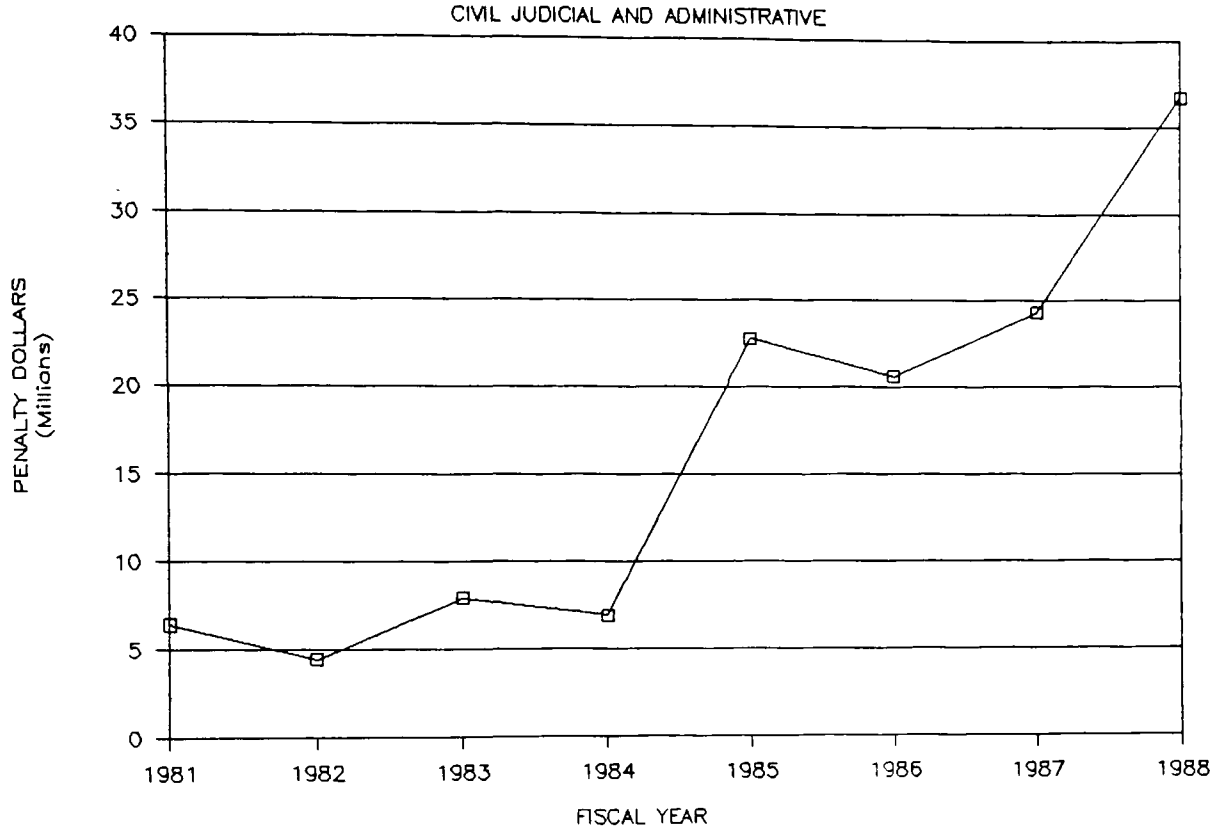
- o EPA has obtained over \$151 million in civil penalties through FY 1988.
- o A new record was set in FY 1988, with \$36.8 million in civil penalties -- a 51 percent increase over FY 1987.¹
- o Criminal fines of over \$8.6 million were assessed in FY 1988, and 30 years of incarceration were imposed (before deducting suspended sentences). After suspension, fines of over \$1.4 million and incarceration of almost eight years were ordered by the courts.
- o Seventy-four percent of all EPA's civil penalties to date were imposed in the last five years, from FY 1984 through FY 1988. Some 24 percent of all penalties were imposed in FY 1988 alone.
- o The 51 percent growth in penalty dollars in FY 1988 can be attributed to three changes from the previous year. First, relatively new enforcement initiatives resulted in substantial penalties in FY 1988, specifically RCRA interim status judicial cases and implementation of administrative penalty authorities under the Clean Water Act and Safe Drinking Water Act (Underground Injection Control). Second, four well established programs showed major increases in penalties (the Clean Water Act, Stationary Source Air, RCRA and TSCA programs). Third, a larger percentage of the cases were in programs which obtain traditionally high-dollar penalties (most notably the Clean Water Act program).
- o Penalties were obtained in 92 percent of the cases concluded in FY 1988.

¹ This does not include the \$15-million penalty in the lodged, but not yet filed, consent decree in the Texas Eastern Pipeline case, which was still pending early in FY 1989.

Program Highlights

- o The penalty dollars were dominated by Clean Water Act (34%) and Stationary Source Air (25%) cases. These were followed by RCRA (17%), TSCA (14%) and Mobile Source Air (7%) cases.
- o The numbers of cases were dominated by four penalty programs that heavily use administrative enforcement cases -- TSCA (42%), Mobile Source Air (17%), FIFRA (13%) and RCRA (11%).
- o Four programs set new records for total dollars and number of cases -- Clean Water Act, Safe Drinking Water Act, Stationary Source Air and RCRA.
- o Two programs obtained their first penalties through administrative cases in FY 1988 -- Clean Water Act and Wetlands Protection.

Figure 1
TOTAL PENALTIES BY FISCAL YEAR



TOTAL PENALTY DOLLARS BY FISCAL YEAR

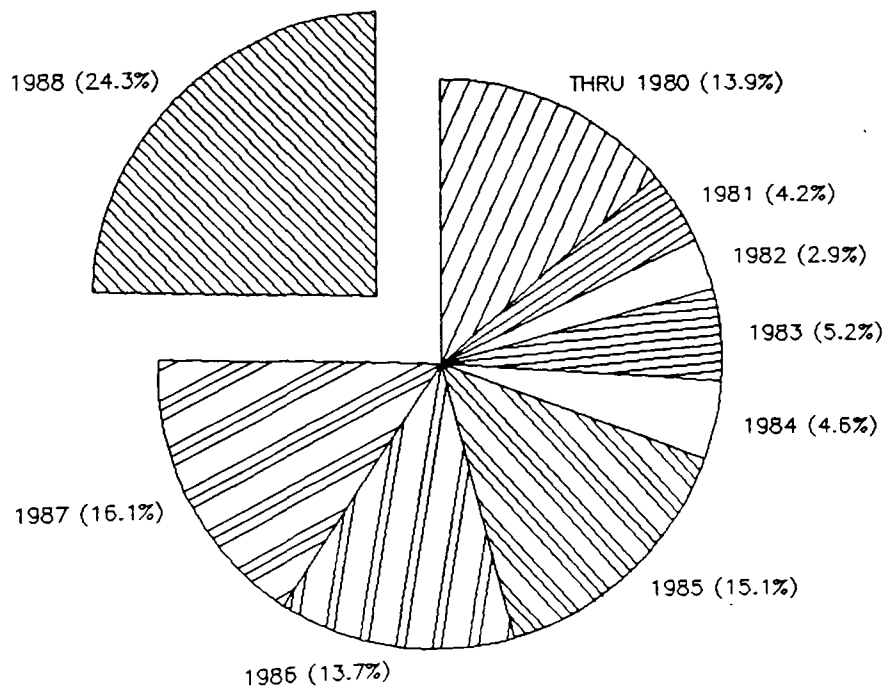


Figure 2

PERCENT PENALTY DOLLARS BY PROGRAM

FY 1988

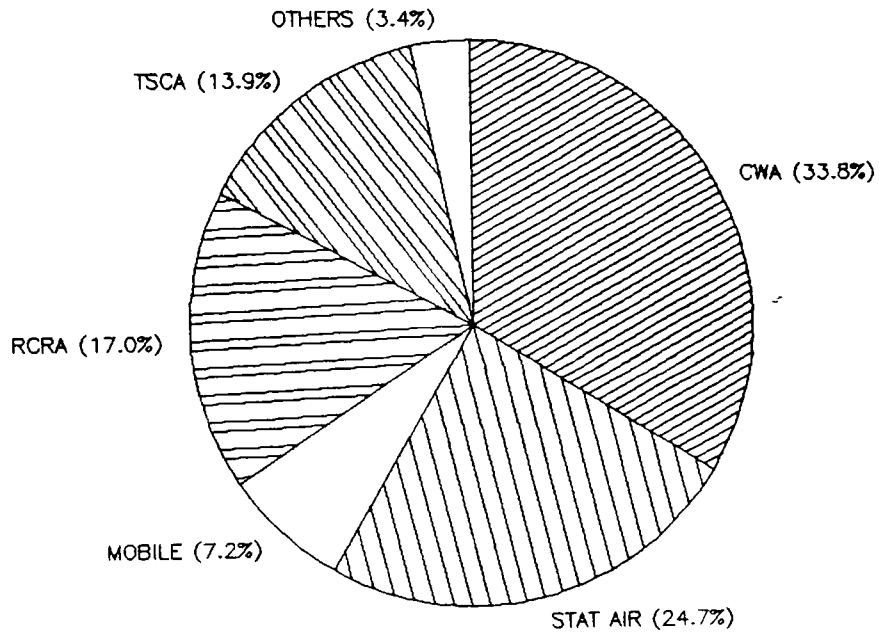


Figure 3

PERCENT PENALTY CASES BY PROGRAM

FY 1988

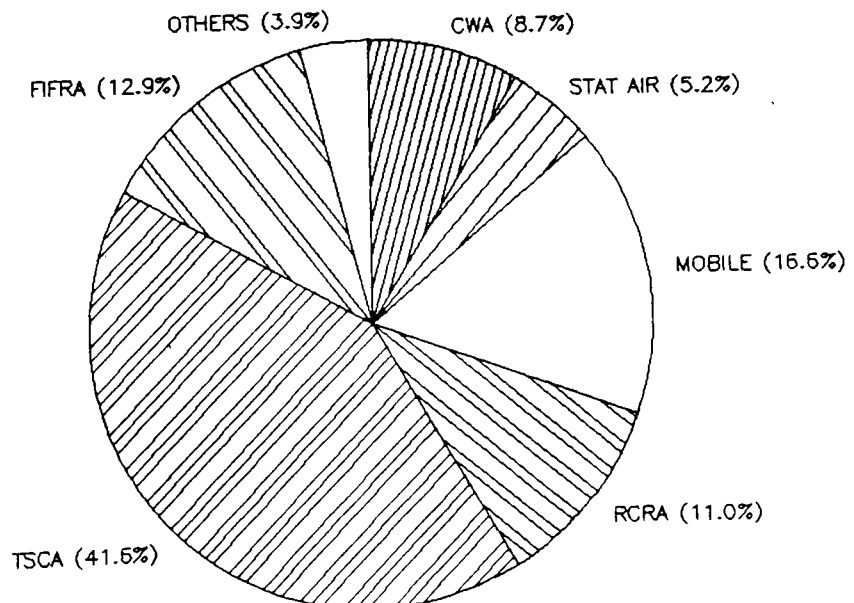


Table 1

Total Amount of Civil Judicial and Administrative Penalties
in FY 1988

	<u>Total dollars</u> <u>(percent)</u>		<u>No. All Cases*</u> <u>(percent)</u>	
Clean Water Act (NPDES) . . .	\$ 12,427,658	(34%)	127	(8%)
Judicial	11,885,858		87	
Administrative	541,800		40	
Safe Drinking Water Act	472,630	(1%)	101	(7%)
Judicial	49,740		6	
Administrative	422,890		95	
Wetlands Protection	147,000	(<1%)	10	(1%)
Judicial	25,000		5	
Administrative	122,000		5	
Stationary Source Air	9,062,497	(25%)	78	(5%)
Judicial	8,914,384		74	
Administrative	148,113		4	
Mobile Source Air	2,657,293	(7%)	238	(15%)
Judicial	10,000		1	
Administrative	2,647,293		237	
Hazardous Waste (RCRA)	6,236,892	(17%)	177	(11%)
Judicial	3,776,239		22	
Administrative	2,460,653		155	
Toxic Chemical Control (TSCA) .	5,126,057	(14%)	604	(39%)
Pesticide Control (FIFRA) . . .	317,494	(1%)	215	(14%)
Superfund (CERCLA)	315,000	(1%)	1	(<1%)
TOTAL	\$ 36,762,521	(100%)	1,551	(100%)

*"Number of all cases" here includes all cases with or without penalties. Percentages shown here will differ from other analyses based on only those cases with cash penalties.

Table 2

Total Amount of Criminal Fines and Incarceration
in FY 1988

Number of defendants convicted	50
Total fines assessed	
Before suspension	\$ 8,645,050
Ordered (after suspension)	1,450,050
Total months incarceration	
Sentenced (before suspension)	369 (30 years)
Ordered (after suspension, before parole)	95 (8 years)

Table 3
Median and Average Civil Penalties
in FY 1988

<u>Program and Type of Case</u>	<u>Median</u>	<u>Average</u>	<u>Number of Cases with Penalty</u>
Clean Water Act (NPDES)			
Judicial	\$ 37,500	\$ 139,834	85
Administrative	8,500	13,545	40
Safe Drinking Water Act			
Judicial	4,900	8,290	6
Administrative	2,750	10,572	40
Wetlands Protection			
Judicial	6,250	6,250	4
Administrative	19,000	24,400	5
Stationary Source Air			
Judicial	30,000	125,555	71
Administrative	39,397	37,028	4
Mobile Source Air			
Judicial	10,000	10,000	1
Administrative	500	11,217	236
Hazardous Waste (RCRA)			
Judicial	96,479	209,791	18
Administrative	9,440	17,576	140
Toxic Chemical Control (TSCA)			
Administrative	1,500	8,615	595
Pesticide Control (FIFRA)			
Administrative	1,200	1,716	185