



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF ENFORCEMENT

MEMORANDUM

SUBJECT: FY 1991 National Penalty Report

FROM: Herbert H. Tate, Jr.  
Assistant Administrator

TO: Deputy Administrator  
General Counsel  
Inspector General  
Assistant Administrators  
Associate Administrators  
Regional Administrators

Attached please find a copy of the finalized FY 1991 National Penalty Report. This year the National Penalty Report is also being published as a part of the FY 1991 Enforcement Accomplishments Report. Fiscal Year 1991 brought in the highest penalty dollars in EPA's history, with \$73.1 million in civil penalties and \$14.1 million in criminal fines. This represents a 21 percent increase in civil penalties and a 250 percent increase in criminal fines over FY 1990. Fifty three percent of all civil penalty dollars in EPA's history have been assessed in the last three years. In FY 1991 alone, 23 percent of all civil penalty dollars were imposed.

We can all take pride in this very strong performance in one of several measures we use to gauge the strength of our national enforcement program. The Office of Enforcement greatly appreciates the considerable assistance of the program offices and the Regions that contributed data and analyses, reviewed drafts and maintained accurate penalty records throughout the year.

Attachment

cc: Headquarters Compliance Office Directors  
Deputy Regional Administrators  
Regional Counsels  
Regional Division Directors  
Steering Committee on the State/Federal Enforcement Relationship  
OE Division Directors  
Enforcement Counsels.

**NATIONAL PENALTY REPORT**  
**OVERVIEW OF EPA FEDERAL PENALTY PRACTICES**  
**FY 1991**

**March 1992**

**Compliance Policy and Planning Branch**  
**Office of Enforcement**

## **ACKNOWLEDGEMENTS**

This report was coordinated by the Compliance Policy and Planning Branch of the Office of Enforcement. Ann DeLong was the project manager and principal author. Robert Banks provided the graphs. The following contributed the program-specific data:

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UTC	Peter Bahor, ODW
PWSS	Anne Jaffe Murray, ODW
Wetlands Protection	John Goodin, OWOW
Marine and Estuarine Protection	Catherine Crane, OW
Stationary Source Air	Jerry MacLaughlin, OE
Mobile Source Air	Marcia S. Ginley, OMS
RCRA	
Judicial	James Chen, OE
Administrative	Robert Small, OWPE.
EPCRA § 302-312 and CERCLA § 103	Joe Schive, OWPE
Toxics Release Inventory, TSCA and FIFRA	Jerry Stubbs, OCM

These authors and their colleagues devoted many long hours to the collection, verification, analysis and display of these data. Questions and comments concerning this report should be addressed to Ann DeLong, (202) 260-8870.

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## **I. EXECUTIVE SUMMARY**

### **General Findings**

- Overall, this Administration has assessed some 55% of all civil penalties and criminal fines, combined, assessed in EPA history (\$200.7 million for FY 1989-1991 compared with \$166.1 million for FY 1972-1988).
- Fiscal Year 1991 brought the highest penalty dollars in EPA's history, with \$73.1 million in civil penalties. This represents a 21 percent increase over FY 1990. There was only a slight increase in the number of cases from FY 1990 to FY 1991, indicating that this increase in penalty dollars was due primarily to an increase in penalty amounts per case. Program offices are making effective and forceful use of EPA's penalty authorities.
- EPA has obtained almost \$320 million in cash civil penalties from FY 1974 through FY 1991 in some 12,530 civil judicial and administrative cases.
- In FY 1991 alone, 23 percent of all civil penalty dollars in EPA's history were obtained.
- In the last three years, 53 percent of all civil penalty dollars in EPA's history were assessed.
- The FY 1991 total includes a civil judicial penalty for \$220,000 assessed under the Lead Control Contamination Act. This Act, designed to prevent excessive lead from drinking water coolers was a 1988 amendment to the Safe Drinking Water Act. This penalty reflects the first case brought by the Agency under this Act.
- Criminal fines totaled \$14.1 million in FY 1991 (before deducting suspended sentences). This represents a two and a half fold increase from FY 1990 and is the highest amount ever assessed by EPA for criminal cases. Seventy-five years of incarceration were imposed (before suspension).
- In the five years EPA's criminal enforcement program has been tracking penalty data, \$43.8 million in criminal fines and 298 years of incarceration have been imposed before deduction of suspended sentences. One third of all criminal fines in EPA's history were assessed in FY 1991.
- Penalties were obtained in 85 percent of the cases concluded in FY 1991.

### **Program Highlights**

- Most programs set new records for total civil judicial and administrative penalty dollars.

In descending order of total penalties assessed, these programs were the following: CWA, RCRA, Stationary Source Air, EPCRA §313, UIC, FIFRA, EPCRA §302-§312 and Marine and Estuarine Protection. The increases for these programs over last year's totals ranged from 22% for Stationary Air to 214% for UIC.

Medians reached record highs for both judicial and administrative cases in the CWA and UIC, and for administrative cases alone in Wetlands\*.

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\* Throughout the report, Wetlands actions refer to CWA §404. CWA §402 and pretreatment actions are referred to as CWA actions.

- Many programs set records for highest penalties within program offices.

The largest penalty assessed in FY 1991 was \$6,184,220 obtained in a CWA judicial case. The second largest penalty was assessed in a RCRA judicial case which settled for \$5,405,000\*. Both penalties were higher than the second highest penalty assessed in FY 1990 (\$3,750,000)\*\*. Additional programs with highest penalties greater than \$1 million included Stationary Air judicial, RCRA administrative and TSCA administrative.

- Federal penalty dollars were dominated by CWA with 36% of the total. RCRA was second with 24%, followed by TSCA (15%), Stationary Air (10%) and EPCRA 313 (5%).
- Numbers of cases were dominated by five programs. TSCA had the highest number of cases with 20% followed by Mobile Source Air (16%), CWA (15%), FIFRA (13%) and EPCRA 313 (12.7%). All five programs rely heavily on administrative enforcement.

## **II. Purpose, Scope, and Limitations of this Report**

This overview report summarizes the penalty practices of EPA in FY 1991 in civil judicial, administrative, and criminal enforcement actions. Except where specifically noted, the term "penalties" is used in this overview to refer only to civil (administrative and judicial) penalties, not criminal fines.

This report does not attempt to portray a complete picture on penalties obtained during enforcement of federal environmental laws, because it does not reflect penalties obtained by state or local governments, either directly or through court actions with EPA. States conduct the vast majority of enforcement actions under these laws, working through programs approved by EPA to carry out federal requirements.

### **Programs Covered**

Thirteen EPA penalty programs are addressed in this report. Table 1 gives their names, the types of enforcement cases each used in FY 1990, and any acronyms by which they are cited in this report.

### **Cases Covered**

The penalties discussed in this report are cash amounts assessed in EPA enforcement cases that were concluded in FY 1991. They include final judgments by court settlements in consent decrees and consent orders and final administrative orders.

This report 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 (cases seeking to invoke sanctions for a failure to comply with a prior court order, decree, or administrative order) are not included.\*\*\* "Stipulated penalties" and "deferred penalties" also are not included in this report; they are penalties stipulated in an administrative or court order that are due only if the violator fails to carry out certain other requirements of the order. Nor does the report include the use of other sanctions, such as contractor listing, sewer moratoriums, or the suspension or revocation of permits.

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\* The RCRA judicial penalty contains \$5 million in contempt actions.

\*\* The highest penalty in FY 1990 was \$15 million assessed under TSCA and RCRA in the Texas Eastern Pipeline case. This was the single highest penalty in the Agency's history.

\*\*\* With the exception of a RCRA judicial case in Region V which includes \$5,000,000 in contempt actions.

**Table 1**  
**Penalty Programs Covered in this Report**

<u>Program</u>	<u>Types of Cases</u>
Criminal Enforcement	Judicial
Clean Water - NPDES (CWA)	Judicial Administrative
Safe Drinking Water Act (SDWA)	Judicial Administrative
Wetlands Protection	Judicial Administrative
Marine and Estuarine Protection	Administrative
Stationary Source Air	Judicial Administrative
Mobile Source Air	Judicial Administrative
Resource Conservation and Recovery Act (RCRA)	Judicial Administrative
Emergency Planning and Community Right-to-Know Act (EPCRA §302-§312)	Administrative
Comprehensive Environmental Response, Compensation and Liability Act (CERCLA §103, or Superfund §103)	Administrative
Toxics Release Inventory (TRI, or EPCRA §313)	Administrative
Toxic Substances Control Act (TSCA)	Judicial Administrative
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)	Administrative

Credits, benefit projects, or non-monetary actions which parties in enforcement cases often agree to carry out as part of a settlement are also not included in this report. Such actions may yield large environmental benefits of substantial dollar value. Narrative description of specific cases can be found in the FY 1991 Enforcement Accomplishments Report.

As in past reports, the FY 1991 Federal Penalty Report does not include penalties assessed in the Underground Storage Tank program (UST). The reason for this exclusion was because UST is primarily a state delegated program.

One element of this report is an analysis of the extent to which EPA used penalties in its enforcement cases. Some cases did not obtain penalties. The cases without penalties included in this report are enforcement

actions in which a penalty is authorized by the statutes and regulations on which the case is based. If Congress did not authorize EPA to assess a penalty for a given type of violation, an enforcement action for such a violation would not be counted as a case in this report.

Penalties are counted in this report as assessed in a final administrative action or in a court order; appeals and collection of penalties are not considered here. The word "obtained" is used in this report as a general term referring to penalties that were assessed by a court or by EPA administrative orders. Its meaning is the same as "assessed" or "imposed."

### **Purposes and Limitations**

This overview report is not an evaluation of practices by EPA programs, and it should be viewed in the context of the total enforcement effort. The report may illuminate individual characteristics of programs and provide a helpful comparison among programs. Identifying differences may stimulate further thinking about penalties in general, advancing the goal of more effective use of penalties as part of an overall enforcement program.

The reader should bear in mind that the data presented here are historical in nature, and do not necessarily represent present penalty practices. Nothing in this report may be used as a defense or guide to future settlements of federal cases involving penalties.

The specific penalty data used in this report were obtained from several federal data systems. The data have been approved by the responsible program offices, but the quality and completeness of the data may vary.

## **III. GENERAL OVERVIEW**

### **Highlights**

- Fiscal Year 1991 brought the highest penalty dollars in EPA's history, with \$73.1 million in civil penalties. This represents an 21 percent increase over FY 1990. There was only a slight increase in the number of cases from FY 1990 to FY 1991, indicating that this increase in penalty dollars was due primarily to an increase in penalty amounts per case. Program offices are making effective and forceful use of EPA's penalty authorities.
- EPA has obtained almost \$320 million in cash civil penalties from FY 1974 through FY 1991 in some 12,530 civil judicial and administrative cases.
- In FY 1991 alone, 23 percent of all civil penalty dollars in EPA's history were obtained.
- In the last three years, 53 percent of all civil penalty dollars in EPA's history were assessed.
- The FY 1991 total includes a civil judicial penalty for \$220,000 assessed under the Lead Control Contamination Act. This Act, designed to prevent excessive lead from drinking water coolers, was a 1988 amendment to the Safe Drinking Water Act. This penalty reflects the first case brought by the Agency under this Act.
- Criminal fines totaled \$14.1 million in FY 1991 (before deducting suspended sentences). This represents a two and a half fold increase from FY 1990 and is the highest amount ever assessed by EPA for criminal cases. Seventy-five years of incarceration were imposed (before suspension).
- In the five years EPA's criminal enforcement program has been tracking penalty data, \$43.8 million in criminal fines and 298 years of incarceration have been imposed before deduction of suspended sentences. One third of all criminal fines in EPA's history were assessed in FY 1991.
- Penalties were obtained in 85 percent of the cases concluded in FY 1991.

The total amounts of civil penalties for each program in FY 1991 are shown in Table 2. Criminal penalties are shown in Table 4. The historical picture is shown in Figures 1 and 2, displaying total penalties by fiscal year. The relative contributions of the different EPA programs to the FY 1991 totals of civil penalty dollars and number of cases with penalties are shown in Figures 3 and 4.

Seven programs set new records for total civil judicial or administrative penalty dollars. These programs were CWA, Marine, Stationary Air, RCRA, EPCRA §302-§312, EPCRA §313 and FIFRA. The penalties ranged from the high for FIFRA of \$932,925 to a high for CWA of \$26.6 million. The percent increases for these programs over last year's totals ranged from 22% for Stationary Air to a 214% increase for UIC.

A comprehensive summary of the programs' civil penalty data appears in Table 3.

**Table 2**  
**Total Amount of Civil Judicial and Administrative Penalties in FY 1991**

	<u>Total dollars (%)</u>	<u>No. All Cases*(%)</u>
Clean Water Act	\$ 26,623,930 (36%)	205 (12%)
Judicial	23,109,832	57
Administrative	3,514,098	148
Safe Drinking Water Act	\$ 2,035,734 (3%)	161 (10%)
Judicial	570,514	8
Administrative	1,465,220	153
Wetlands Protection	\$ 504,200 (1%)	23 (1%)
Judicial	172,500	8
Administrative	331,700	15
Marine and Estuarine Protection		
Administrative	\$ 264,200 (<1%)	5 (<1%)
Stationary Source Air - Judicial	\$ 7,346,481 (10%)	65 (4%)
Mobile Source Air	\$ 2,334,008 (3%)	212 (13%)
Judicial	9,800	3
Administrative	2,324,208	209
RCRA	\$17,671,457 (24%)	142 (8%)
Judicial	10,026,594	18
Administrative	7,644,863	124
EPCRA §302-§312 - Administrative	\$ 631,218 (<1%)	23 (1%)
CERCLA §103 - Administrative	\$ 258,450 (<1%)	20 (<1%)
Toxics Release Inventory - Administrative	\$ 3,910,210 (5%)	194 (12%)
TSCA - Administrative	\$10,591,315 (15%)	336 (20%)
FIFRA - Administrative	\$ 932,925 (1%)	278 (17%)
<b>TOTAL</b>	<b>\$ 73,104,128</b>	<b>1,664</b>

\* "Number of all cases" includes all cases with or without penalties. Percentages shown here will differ from analyses presented elsewhere in this report which are based on only those cases with cash penalties.

\*\* The total RCRA judicial amount includes \$5,000,000 in contempt actions.

FIGURE 1

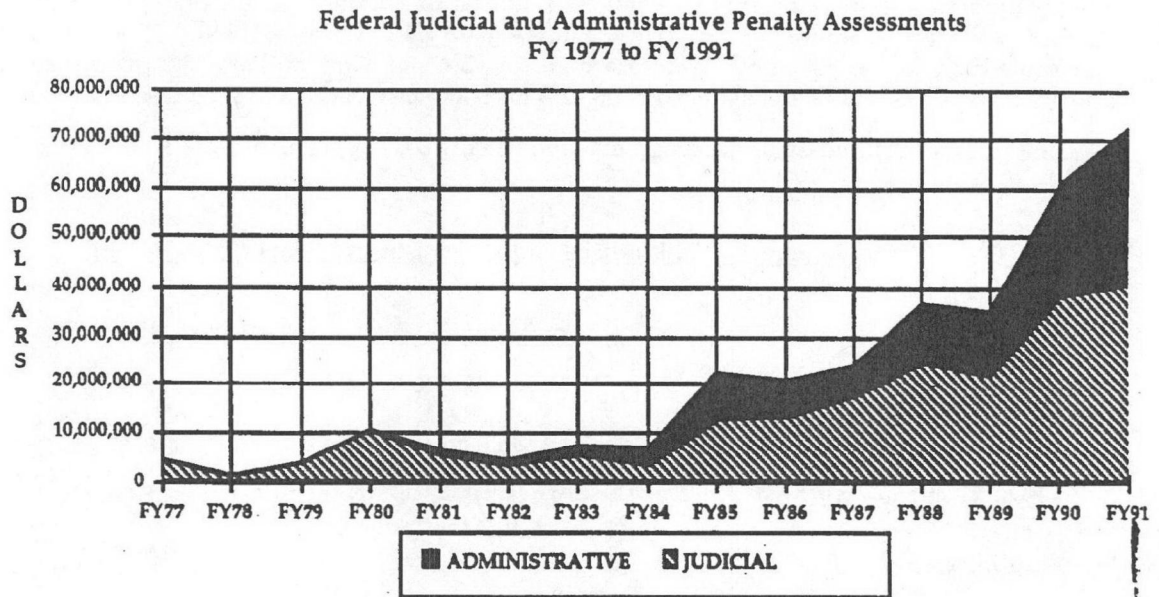


FIGURE 2

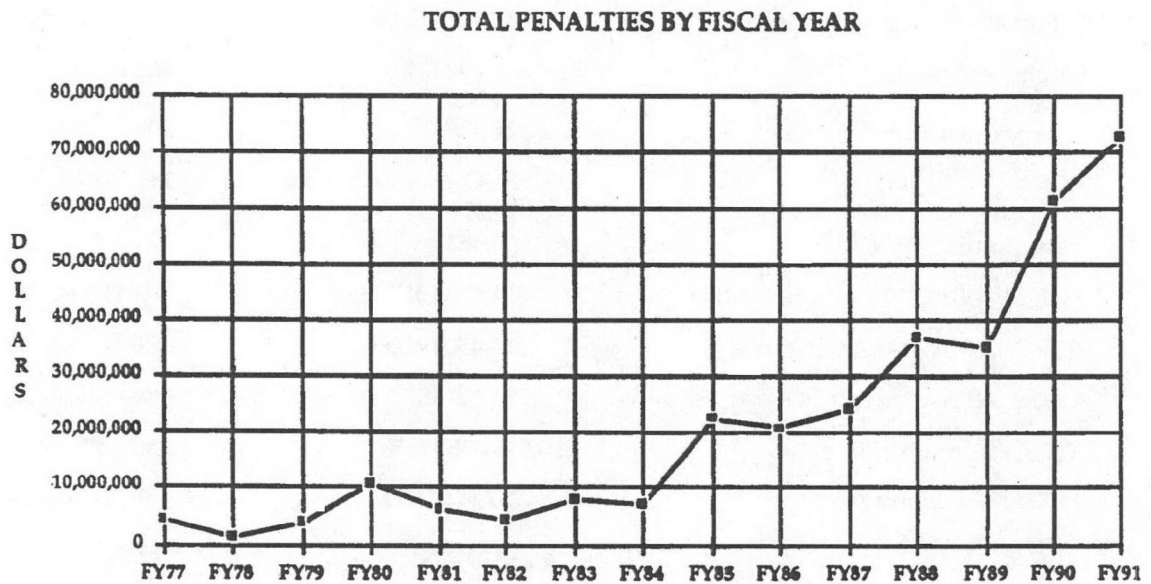


TABLE 3

## SUMMARY OF CIVIL PENALTIES BY PROGRAM IN FY 1991

Program	Total Dollars	Cases with Penalty	Cases w/o Penalty	Total Cases	Percent w/ Penalty	Average Penalty	Avg All Cases	Median Penalty	Med All Cases	Highest Penalty
CWA ADM	3,514,088	147	1	148	99%	23,905	23,744	12,000	12,000	125,000
CWA JUD	23,109,832	57	0	57	100%	405,436	405,436	63,000	63,000	6,184,220
CWA ADM+JUD	26,623,920	204	1	205	100%	130,509	129,873			6,184,220
UIC ADM	1,432,568	67	73	140	48%	21,381	10,233	6,000	0	125,000
UIC JUD	104,614	4	0	4	100%	26,104	26,104	14,000	0	74,874
UIC ADM+JUD	1,536,974	71	73	144	49%	21,648	10,673			125,000
PWS ADM	32,440	11	2	13	85%	3,378	2,512	4,000	5,000	5,000
PWS JUD	246,100	4	0	4	100%	61,525	61,525	11,250	11,250	220,000
PWS ADM+JUD	278,760	15	2	17	88%	18,584	14,398			220,000
SDWA ADM	1,448,220	78	75	153	51%	18,785	9,577	4,000	400	125,000
SDWA JUD	570,514	8	0	8	100%	43,814	43,814	8,500	0	200,000
SDWA ADM+JUD	2,005,734	86	75	161	53%	23,671	12,644			200,000
WETLD ADM	331,700	15	0	15	100%	22,113	22,113	5,000	5,000	100,000
WETLD JUD	172,500	6	2	8	75%	28,750	21,563	0	0	50,000
WETLD ADM+JUD	504,200	21	2	23	91%	24,010	21,922			100,000
MARINE ADM	264,200	5	0	5	100%	64,050	64,050	19,594	19,594	150,000
STATAIR ADM	0	0	0	0				4,300	4,300	0
STATAIR JUD	7,346,481	64	1	65	98%	114,789	113,023	48,250	46,500	1,500,000
STAT ADM+JUD	7,346,481	64	1	65	98%	114,789	113,023			1,500,000
MOBAIR ADM	2,324,208	208	1	209	100%	11,174	11,121	1,200	1,200	875,000
MOBAIR JUD	9,800	2	1	3	67%	4,900	3,267	4,900	4,800	5,000
MOB ADM+JUD	2,334,008	210	2	212	99%	11,114	11,009			875,000
RCRA ADM	7,644,863	116	8	124	94%	65,904	61,652	21,475	20,000	3,375,000
RCRA JUD	10,026,594	15	3	18	83%	668,440	527,245	157,942	55,047	2
RCRA ADM+JUD	17,671,457	131	11	142	92%	134,897	124,447			3,375,000
EPCRA 302-312	631,218	21	2	23	91%	30,058	27,444	20,600	20,600	82,250
CERCLA 100	258,450	14	6	20	70%	18,461	12,923	13,900	13,900	60,000
TRI	3,857,435	186	8	194	96%	20,739	19,884	12,000	12,750	142,800
TSCA ADM	10,591,315	285	49	334	85%	37,163	31,711	7,775	12,500	2,220,000
TSCA JUD	0	0	2	2	0%		0	0	0	0
TSCA ADM+JUD	10,591,315	285	51	336	85%	37,163	31,522			2,220,000
FIFRA	836,823	192	86	278	69%	4,879	3,370	450	1,920	287,920
TOTAL	72,835,251	1,419	245	1,664						

FIGURE 3

FY 1991  
PERCENT PENALTY DOLLARS BY PROGRAM

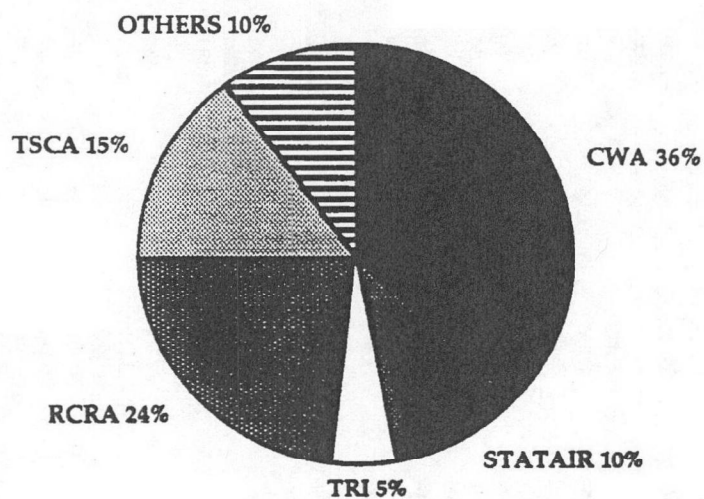
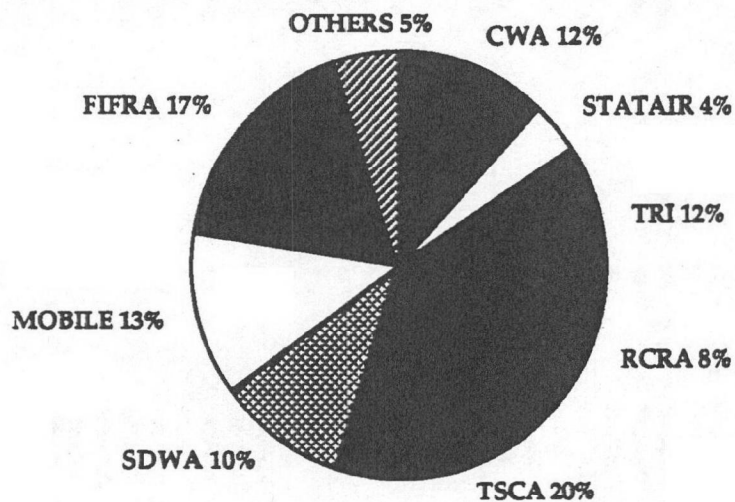


FIGURE 4

FY 1991  
PERCENT PENALTY CASES BY PROGRAM



**Table 4**  
Total Amount of Criminal Fines and Incarceration in FY 1991

Number of defendants convicted	72
Total fines assessed Before suspension	\$14.1 million
Total months incarceration	
Sentenced (before suspension)	963 months (80 years)
Ordered (after suspension, before parole)	610 months (51 years)

### **Median and Average Penalties**

This section of the report attempts to look beyond the aggregate figures to see what the typical penalties were for each program. Average and median penalty figures represent different aspects of the program.

The average penalty is the total dollars divided by the number of penalty cases in a given program. While an average is useful in seeing overall program accomplishments, it may give a misleading picture if the penalties within that program went to extremes. One high-penalty case and a large number of low-penalty cases could produce a mid-level average, even though no cases had a mid-level penalty.

The median is useful to gain a different perspective on a program without the heavy influence of a few extremely large or small penalties. The median penalty represents the middle number in the series of all penalties for a given program arranged in order of size. That is, there were as many penalties below the median as above it.

**Medians** - Figure 5 shows trends in medians over several years for the largest EPA penalty programs during that period. Among the programs with five years or less of penalty history, only RCRA judicial cases are shown. In the Mobile Source Air and TSCA programs, the data reflect several different penalty authorities, including some that lead to higher-dollar penalties. However, most of the cases in both these programs are in lower-dollar categories, which results in low median penalties.

Medians increased for both administrative and judicial cases in the RCRA program and remained the same for judicial cases in the Water and Stationary Source Air programs. The median for administrative cases in the Mobile Air program remained at the same level as FY 1990. Decreases were seen in the median penalties in administrative cases in both the TSCA and FIFRA programs in FY 1991.

In the foregoing discussion of change in medians, there is no mention of TSCA judicial cases or Stationary Source Air administrative cases, because there were too few cases in FY 1990 or 1991 or both years to make these categories suitable for such analysis.

• **Clean Water Act** The median judicial penalty rose from its FY 1990 level of \$63,000 to a record high of \$100,000 in FY 1991. The median administrative penalty also rose to a new high of \$12,000 from \$10,650 in FY 1990.

• **Safe Drinking Water Act** The median judicial penalty remained at \$8,500, the same level as in FY 1990. (This reflects FY 1991 medians of \$14,000 for four UIC cases and \$11,250 for two PWSS cases.) The median administrative penalty remained at \$4,000 in FY 1991, the same as in FY 1990. (The subprogram medians in FY 1991 were \$6,000 for 140 UIC cases and \$4,000 for 14 PWSS cases.)\*

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\*This does not include the \$220,000 Lead Control Contamination Act penalty.

• **Wetlands Protection:** In this fourth year of administrative penalty cases concluded by the program, the median dropped to \$5,000, compared to the FY 1990 level of \$11,000. The median judicial penalty was \$42,500, an \$5,000 increase from \$5,000 in FY 1990. (This is the fourth year Wetlands penalties have been presented separately in this report. They were included as part of Clean Water Act data in penalty reports prior to FY 1988.)

• **Marine and Estuarine Protection:** This program is in its second year for cases concluded and median administrative penalty from \$19,594 in FY 1990 to \$66,050 FY 1991.

• **Stationary Source Air:** The median judicial penalty rose slightly from \$48,000 in FY 1990 to \$48,250 in FY 1991. The record was set in FY 1987 with a median of \$65,750.

• **Mobile Source Air:** The median judicial penalty was \$4,900, reflecting only three cases. This is a slight increase from the FY 1990 level of \$4,000 for three cases. The median administrative penalty remained at 1,200 in FY 1991, the same level as FY 1990.

• **RCRA:** The median judicial penalty of \$157,942 was the highest to date in this program. The median administrative penalty continued rising for the eighth year in a row, also attaining a new record of \$21,475.

• **EPCRA § 302-312:** In the third year of concluded cases, this program surpassed its first two years median's with a penalty of \$40,500 compared to \$20,600 in FY 1990.

• **CERCLA § 103:** In the third year of concluded cases, this program's median penalty decreased from the FY 1990 level of \$25,000 to \$13,900 in FY 1991.

• **Toxics Release Inventory:** In this third year of concluded cases, this program's median penalty also decreased slightly from \$13,000 in FY 1990 to \$12,750 in FY 1991.

• **TSCA:** The median administrative penalty attained a record high of \$12,500, rising from \$8,000 in FY 1990. Prior to FY 1986, TSCA medians were not calculated on a program-wide basis.

• **FIFRA:** The median penalty rose from \$1,056 in FY 1990 to \$1,920 in FY 1991, setting a new record for FIFRA medians.

**Averages** - Average civil judicial or administrative penalties increased in seven programs in FY 1991 as compared with twelve in FY 1990. Declines were evident in five programs. However, it should be noted that averages may be influenced by a few large cases. A year with one or two extremely large cases may have a much higher average penalty than a year without any, even though the latter may have had larger penalties in most enforcement cases.

Averages rose to record highs in the Clean Water Act in both judicial and administrative cases. For judicial cases only, averages rose to new highs in the Stationary Source Air and RCRA programs. For administrative cases, increases in the averages were seen in the Safe Drinking Water Act program, Wetlands program, RCRA, TRI and FIFRA programs.

Lower average penalties were reported in the SDWA and Wetlands programs in judicial cases and in administrative cases in the Mobile Air, EPCRA and CERCLA §103 programs.

• **Clean Water Act:** The average judicial penalty rose to a record high of \$405,258. In the fourth year of administrative penalties, the average attained a record of \$23,937.

- **Safe Drinking Water Act:** The average judicial penalty dropped to \$21,152 compared to a high of \$37,557 in FY 1990. However, the average administrative penalty rose to \$9,566 in FY 1991.
- **Wetlands Protection:** The average judicial penalty dropped to \$21,563, compared to \$49,114 in FY 1990. In the fourth year of administrative penalties, the average rose in FY 1991 to a record high of \$22,113.
- **Marine and Estuarine Protection:** In the third year of administrative penalties, the average rose to a record high of \$66,050 in FY 1991 with five cases concluded.
- **Stationary Source Air:** The average judicial penalty rose from \$100,615 in FY 1990 to \$112,217 in FY 1991.
- **Mobile Source Air:** The average administrative penalty rose for the first time in two years, from \$8,962 in FY 1990 to \$11,121 in FY 1991. The average judicial penalty dropped sharply from \$335,667 in FY 1990, to \$3,267 in FY 1991 based on only three cases.
- **RCRA:** The average judicial penalty increased from the FY 1990 average of \$325,333, to \$527,245 setting a record. The average administrative penalty rose substantially to \$37,129, compared to \$25,339 in FY 1990 (this excludes one very large penalty of \$3,375,000 from the average).
- **EPCRA § 302-312:** In this third year of concluded cases, the average penalty dropped from \$40,627 to \$29,709.
- **CERCLA § 103:** In this third year of concluded cases, the average penalty dropped sharply from \$31,400 to \$8,550.
- **Toxics Release Inventory:** In this third year of concluded cases, the average penalty rose from \$15,626 to \$20,464.
- **TSCA:** The average administrative penalty decreased slightly to \$33,867 compared to \$34,311 in FY 1990. (Averages were not calculated on a TSCA program-wide basis before FY 1986.)
- **FIFRA:** The average penalty rose to a new high of \$3,350. For the FIFRA program, this is an increase over the FY 1990 average of \$2,555.

### **Percentage of Cases Concluded with a Penalty**

A high percentage of cases were concluded with a penalty in all programs except one (UIC). Excluding this one program from the calculation, 84 percent of all FY 1991 cases were concluded with a penalty, a decrease from the FY 1990 level of 93%. (See Table 4 for each program's percentage with penalty.)

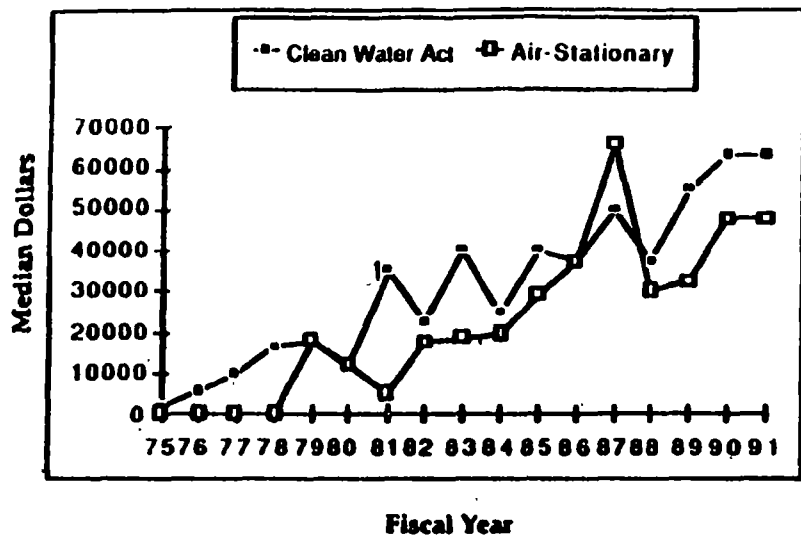
### **Range of Penalty Amounts**

This section examines how EPA's penalties in FY 1991 ranked along the scale from low dollars to high dollars. The penalty cases are sorted into eight ranges from no-penalty cases ("zero dollars") to cases of \$1 million or more.

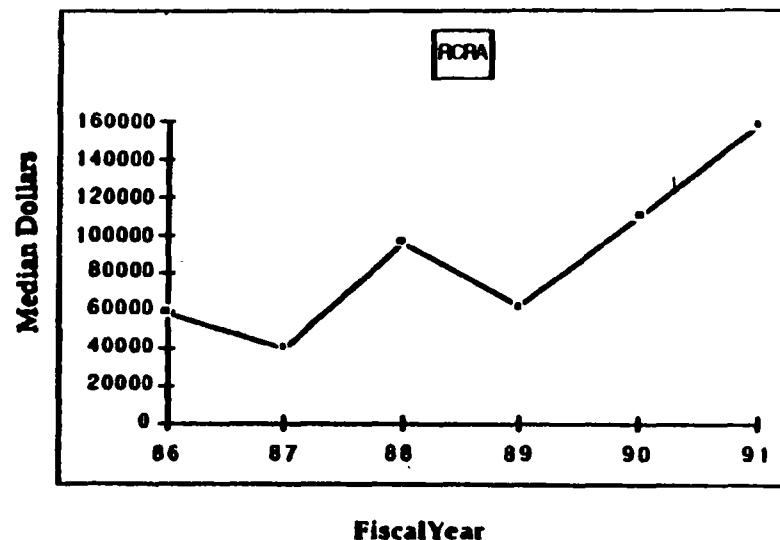
Figure 6 shows the penalty distribution of all FY 1991 cases.

\*This does not include the \$220,000 Lead Control Contamination Act penalty.

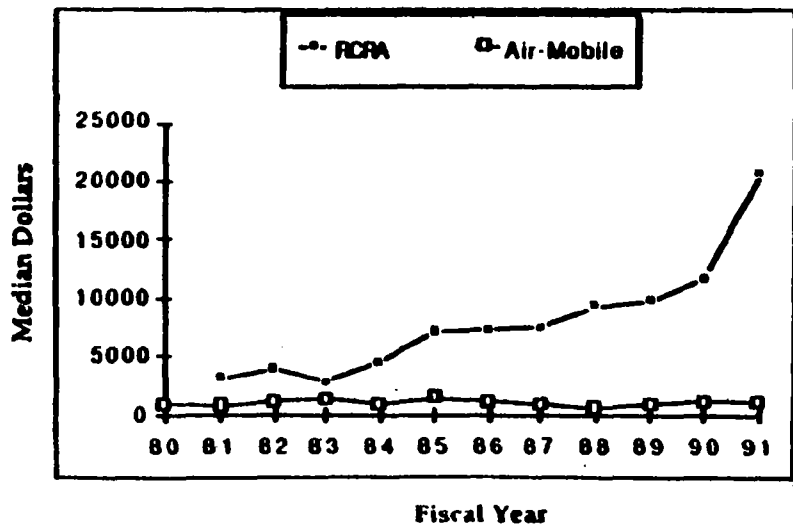
**PROGRAM MEDIANS BY FISCAL YEAR**  
**Judicial Penalties**



**PROGRAM MEDIANS BY FISCAL YEAR**  
**Judicial Penalties**



**PROGRAM MEDIANS BY FISCAL YEAR**  
**Administrative Penalties**



**PROGRAM MEDIANS BY FISCAL YEAR**  
**Administrative Penalties**

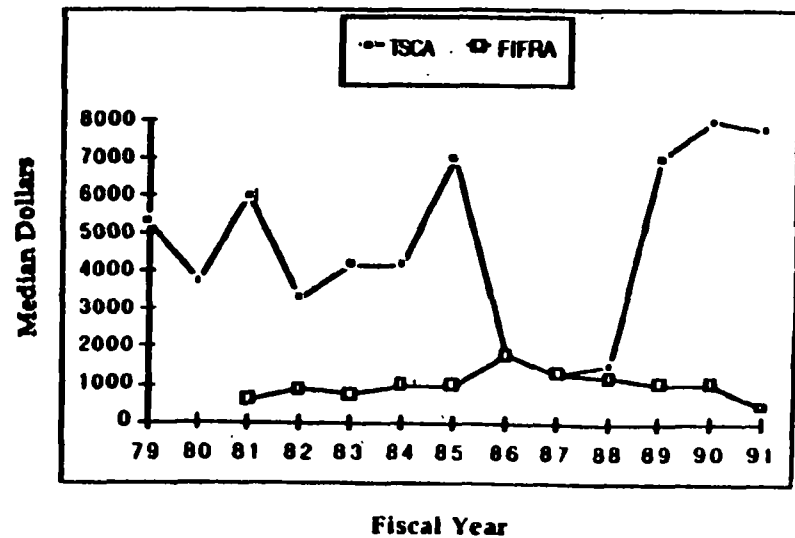


FIGURE 6

