

The Other Environmental Regulators

How States Unevenly
Enforce Pollution Laws



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EXECUTIVE SUMMARY

Over the past two decades, state regulatory agencies and attorneys general have brought more than 50,000 enforcement actions against private sector entities for violations of clean air, clean water and other environmental laws--collecting more than \$20 billion in fines, settlements and other payments. Enforcement activity diverges widely from one state to another, with some surprises.

Texas, which has a reputation for being anti-regulation, has reported far more environmental penalty cases than any other state. Mississippi is first in total penalty dollars, mainly because of a single settlement with BP stemming from the 2010 Deepwater Horizon disaster in the Gulf of Mexico.

These are among the findings from a compilation of state environmental data by the Corporate Research Project of Good Jobs First from agency websites and some 90 open records requests. This is the first time such data has been compiled and published online; the 52,000 records come from a total of 104 state agencies and attorney general offices.

Along with this report, the data is being incorporated into our Violation Tracker database, which has included cases from the U.S. Environmental Protection Agency and other federal agencies since its first iteration in 2015. The addition of the new data is meant to highlight the fact that environmental enforcement is a responsibility shared by federal and state agencies.

Compiling cases since January 1, 2000 with penalties of \$5,000 or more that could be accessed through agency websites or open records requests, we find that:

- Nineteen states have handled 1,000 or more cases since 2000, led by Texas (9,509), Pennsylvania (4,294), California (3,571), New Jersey (3,002), Florida (2,432) and Kentucky (2,091). By contrast, fewer than 100 cases could be found for Arkansas, Kansas, Nevada and Oklahoma.
- Mississippi ranks first in total environmental penalties at \$1.5 billion. It is followed by California (\$1.1 billion), New Jersey (\$993 million), North Carolina (\$959 million), Minnesota (\$895 million) and Texas (\$810 million).
- More than half of the \$21 billion collected by the states came via lawsuits brought by groups of attorneys general targeting individual large corporations such as BP, Volkswagen, and American Electric Power.
- The oil and gas industry accounts for far more in penalties than any other sector of the economy, with \$8.2 billion in fines and

settlements since 2000. Utilities and other power generation firms rank second among industries with a total of \$6 billion. The motor vehicles sector comes in third with \$1.2 billion.

- The industry amounts reflect the result massive penalty totals for various mega-corporations in those sectors. The most penalized company is BP at \$6.6 billion, followed by American Electric Power (\$4.7 billion), Volkswagen (\$1 billion), and Duke Energy (\$895 million).
- The worst repeat offender is Exxon Mobil, with 272 cases, more than that of any other parent company. It is followed by pipeline company Energy Transfer (172), chemical producer LyondellBasell Industries (168), coal company James C. Justice Companies (155), petroleum producer Valero Energy (152), and the diversified Koch Industries (150).
- Exxon Mobil has paid penalties in 24 different states, as has Berkshire Hathaway through its numerous subsidiaries. They are surpassed only by the waste management company Clean Harbors Inc., which has paid penalties in 37 states.

Congress long ago decided that states should share in the responsibility of enforcing laws such as the Clean Air Act and the Clean Water Act. Under that arrangement, variations in enforcement caseloads and penalty totals should reflect only the relative level and nature of business activity in the various states. Instead, it now appears that some states are not taking their enforcement responsibilities seriously.

Evaluating relative state performance is made more difficult by the utter lack of consistency in the ways the states report on their enforcement activity. Numerous states do not provide comprehensive case data on their agency websites. Most of these did provide the information in response to our open records requests, but two state agencies failed to provide either form of disclosure: the Kansas Department of Health and Environment and the Oklahoma Department of Environmental Quality.

We recommend that states be required to employ a standard form of online disclosure. Absent that, transparency should be provided by the EPA.

INTRODUCTION: THE EVOLUTION OF ENVIRONMENTAL FEDERALISM

In nearly all debates over environmental regulation, the entity that tends to be the center of attention is the federal government's Environmental Protection Agency. Frequently overlooked is the fact that the country's enforcement system is actually divided between the EPA and the states. This shared responsibility, which in the academic literature is known as environmental federalism, dates back decades and has at times been a source of tension between levels of government.¹

Prior to the late 1940s, the federal government played a limited role in protecting the environment. There was a long tradition of federal involvement in the protection of public lands and the creation of the National Park System, but the regulation of pollution—to the extent that such oversight existed—was assumed to be the province of local and state governments.

Federal involvement started to emerge with the passage of the Federal Water Pollution Act of 1948, though it was limited to doing research and providing grants to state water programs. The assumption that states would take the lead was also incorporated in 1955 legislation that authorized federal research on air pollution.

By the 1960s there was growing concern at the federal level that states were not doing enough. That decade saw the passage of a series of laws such as the Water Quality Act of 1965 and the Air Quality Act of 1967 that began to set federal standards for state enforcement activities.

The federal government assumed a much more significant role with the creation of the EPA in 1970. Congress then passed a series of laws—including the Clean Air Act, the Clean Water Act and the Toxic Substances Control Act—in which the new agency was given primary responsibility for meeting the anti-pollution goals but allowed it to delegate enforcement authority to state agencies.

Currently, 44 states have been given implementation authority for all three major enforcement areas: air, water and hazardous waste. The six other states and the District of Columbia have authority in two of the three areas.²

The enforcement authority of the states is not exclusive. EPA headquarters and the agency's ten regional offices can and do bring enforcement actions themselves.

These overlapping responsibilities have often been a source of tension between the EPA and state agencies. Those at the federal level often complain about lax and inconsistent efforts by the states. For example, a 2011 report by the EPA's Office of Inspector General concluded that "state enforcement programs frequently do not meet national goals, and states do not always take necessary enforcement actions... As a result, EPA's enforcement program cannot assure equal and sufficient protection of human health and the environment to all U.S. citizens or consistent enforcement of regulated entities."³

States have their own complaints. Some maintain that the EPA's policies are too rigid and have sought more flexibility in how they carry out their enforcement activities. Others such as California have often argued that federal standards are not strict enough and have pushed more aggressive policies.

In 1993, states agencies created the non-partisan Environmental Council of the States to defend their interests in dealings with the EPA, including the State Review Framework through which the performance of the agencies is periodically evaluated.⁴

The relationship between the EPA and the states is complicated by changes in federal administrations. During the Trump years, the EPA shifted its emphasis from enforcement (penalizing parties found to be in violation) to compliance (helping those parties avoid violations). The pendulum is expected to swing back under President Biden.

The purpose of the current report is to examine the relative performance of the states with regard to their enforcement activities—specifically, their caseloads and the penalties they collect. This analysis is based on what we believe to be the first comprehensive collection of case information from all 50 states and the District of Columbia.

FINDINGS

Over the past two decades, state regulatory agencies and attorneys general have brought more than 50,000 successful enforcement actions against private sector entities for violations of clean air, clean water and other environmental laws. Looking at cases with penalties of \$5,000 or more, the states have collected about \$21 billion in fines, settlements and other payments.

These figures come from a compilation of individual case details produced by the Corporate Research Project of Good Jobs First for our Violation Tracker database. The information is taken from the websites of the enforcement agencies themselves or, when it was not available online, via open records requests submitted to the agencies. See the Methodology section below for more on our data collection effort.

Each state has an entity with a name such as Department of Environmental Quality or Department of Environmental Conservation. Some have an additional agency covering a particular sector, such as the Illinois Office of Mines and Minerals or the Colorado Oil & Gas Conservation Commission. California has five agencies -- the California Air Resources Board, California Water Boards, California Department of Toxic Substances Control, California Department of Pesticide Regulation,

and CalRecycle – under the umbrella of the California Environmental Protection Agency. We collected data from a total of 65 environmental agencies that oversee private sector activity and that penalize companies for violations (see the Appendix for a full list).

State attorneys general are also involved in environmental enforcement to varying degrees. Some participate only in major multistate lawsuits such as those brought against Volkswagen for emissions cheating. Others also bring environmental cases on their own, often on behalf of state agencies. We collected details on a total of 1,404 successful cases announced by AGs.⁵ Combining the state agencies and the AGs that have brought cases on their own brings the number of enforcement entities whose cases are included in this report to 104.

State Caseloads

Looking only at actions with a fine or settlement of \$5,000 or more – the minimum for inclusion in Violation Tracker and this study – we see that state governments vary enormously in the extent to which they engage in environmental enforcement.⁶

As shown in Table 1, four states – Arkansas, Kansas, Oklahoma, and Nevada -- have handled fewer than 100 disclosed environmental cases since the beginning of 2000, while 19 states have handled 1,000 or more during the same period.

The median number of cases per state is 500, while the average jumps to 1,022, largely because of the enormous volume handled by Texas. Without Texas, the state average is 853.

The Lone Star State's 9,000-plus caseload comes from both the Texas Commission on Environmental Quality and the Railroad Commission of Texas. The latter, despite its name, no longer regulates railroads and instead oversees activities such as petroleum pipelines and surface mining.

The Railroad Commission has a reputation for being too cozy with the oil and gas industry, but it still engages in basic enforcement, imposing more than 2,000 penalties over the past two decades.⁷ The TCEQ has also been criticized for enforcement deficiencies, but it manages to bring a large volume of cases.⁸

By contrast, we were able to document fewer than one dozen cases handled by the Department of Environmental Quality in the neighboring state of Oklahoma. These came mostly from secondary sources we consulted

after finding that the agency posts almost no enforcement details online and it denied our open records request for a list of cases. Oklahoma's less-than-aggressive approach to environmental enforcement came to national attention in December 2016 when Donald Trump chose the state's attorney general Scott Pruitt as his first director of the EPA. Pruitt had repeatedly sued the agency to try to block initiatives on issues such as climate change.

Differences in state caseloads are to be expected, given variations in state population size and the number of business entities. Yet the divergences go far beyond that. The state with the most identified cases, Texas, comes in at more than 800 times that of Oklahoma, the state with the fewest. The population of Texas is only seven times that of Oklahoma.⁹ The number of firms in Texas is six times the number in Oklahoma.¹⁰

The ten states with the most cases handled a total of 31,583 enforcement actions, which is 39 times the total of the ten states with the fewest. By contrast, the total number of businesses in the ten states with the most firms is only 15 times the total in the ten states with the fewest.

These numbers suggest that some states are simply more inclined to bring actions than others; they have stronger cultures of enforcement. The disposition toward enforcement does not necessarily correspond to the usual left-right divisions. Among the states with the highest enforcement activity are both red Texas and Florida and blue California and New Jersey. Those with the lowest levels of enforcement are mainly conservative, but they also include liberal-trending Nevada.

Table 1. Penalty Data Since 2000 by State, Ranked by Total Cases

Rank	State	Cases	Penalty Total
1	Texas	9509	\$809,621,213
2	Pennsylvania	4294	\$343,258,501
3	California	3571	\$1,127,704,103
4	New Jersey	3002	\$992,964,687
5	Florida	2432	\$48,177,876
6	Kentucky	2091	\$47,974,667
7	Tennessee	1844	\$71,350,048
8	Indiana	1731	\$57,943,682
9	Colorado	1613	\$196,792,203
10	North Carolina	1496	\$959,207,753
11	Oregon	1477	\$39,697,609
12	South Carolina	1379	\$24,984,579
13	Massachusetts	1372	\$476,902,677
14	Georgia	1346	\$23,704,492
15	Illinois	1279	\$150,716,130
16	Alabama	1226	\$52,921,660
17	Minnesota	1172	\$895,443,551
18	Ohio	1148	\$192,955,971
19	Virginia	1078	\$84,894,067
20	Louisiana	733	\$77,494,765
21	Washington	697	\$136,174,555
22	Connecticut	647	\$75,941,832
23	Arkansas	607	\$11,019,649
24	Maryland	586	\$65,712,408
25	New York	548	\$121,835,750
26	Rhode Island	500	\$26,059,007

Rank	State	Cases	Penalty Total
27	Iowa	454	\$48,558,761
28	Wyoming	422	\$43,300,053
29	Mississippi	371	\$1,513,691,105
30	Wisconsin	333	\$34,161,459
31	Michigan	318	\$223,121,727
32	West Virginia	288	\$18,811,573
33	Maine	279	\$9,260,448
34	New Hampshire	271	\$286,166,772
35	New Mexico	238	\$130,680,865
36	Arizona	212	\$169,101,653
37	Vermont	208	\$35,231,119
38	Idaho	162	\$3,489,720
39	Montana	152	\$197,904,699
40	Missouri	149	\$378,846,239
41	Utah	135	\$14,777,109
42	District of Columbia	123	\$58,002,778
43	Delaware	121	\$18,773,649
44	Nebraska	111	\$4,883,706
45	South Dakota	106	\$2,340,551
46	Hawaii	101	\$19,516,484
47	North Dakota	100	\$37,084,401
48	Nevada	65	\$3,566,738
49	Alaska	43	\$11,333,055
50	Kansas	16	\$602,440
51	Oklahoma	11	\$11,849,757

Table 2. Penalty Data Since 2000 by State, Ranked by Total Penalties

Rank	State	Penalty Total	Cases
1	Mississippi	\$1,513,691,105	371
2	California	\$1,127,704,103	3571
3	New Jersey	\$992,964,687	3002
4	North Carolina	\$959,207,753	1496
5	Minnesota	\$895,443,551	1172
6	Texas	\$809,621,213	9509
7	Massachusetts	\$476,902,677	1372
8	Missouri	\$378,846,239	149
9	Pennsylvania	\$343,258,501	4294
10	New Hampshire	\$286,166,772	271
11	Michigan	\$223,121,727	318
12	Montana	\$197,904,699	152
13	Colorado	\$196,792,203	1613
14	Ohio	\$192,955,971	1148
15	Arizona	\$169,101,653	212
16	Illinois	\$150,716,130	1279
17	Washington	\$136,174,555	697
18	New Mexico	\$130,680,865	238
19	New York	\$121,835,750	548
20	Virginia	\$84,894,067	1078
21	Louisiana	\$77,494,765	733
22	Connecticut	\$75,941,832	647
23	Tennessee	\$71,350,048	1844
24	Maryland	\$65,712,408	586
25	District of Columbia	\$58,002,778	123
26	Indiana	\$57,943,682	1731

Rank	State	Penalty Total	Cases
27	Alabama	\$52,921,660	1226
28	Iowa	\$48,558,761	454
29	Florida	\$48,177,876	2432
30	Kentucky	\$47,974,667	2091
31	Wyoming	\$43,300,053	422
32	Oregon	\$39,697,609	1477
33	North Dakota	\$37,084,401	100
34	Vermont	\$35,231,119	208
35	Wisconsin	\$34,161,459	333
36	Rhode Island	\$26,059,007	500
37	South Carolina	\$24,984,579	1379
38	Georgia	\$23,704,492	1346
39	Hawaii	\$19,516,484	101
40	West Virginia	\$18,811,573	288
41	Delaware	\$18,773,649	121
42	Utah	\$14,777,109	135
43	Oklahoma	\$11,849,757	11
44	Alaska	\$11,333,055	43
45	Arkansas	\$11,019,649	607
46	Maine	\$9,260,448	279
47	Nebraska	\$4,883,706	111
48	Nevada	\$3,566,738	65
49	Idaho	\$3,489,720	162
50	South Dakota	\$2,340,551	106
51	Kansas	\$602,440	16

Note: Does not include 72 multistate AG cases with total penalties of \$11.2 billion

State Penalty Totals

There is also a great deal of variation in the amounts collected by states in environmental fines and settlements. It is worth noting that more than half of the \$21 billion in penalties collected by states over the past two decades came from just 72 cases: the multistate attorney general actions brought against large corporations such as BP, Volkswagen, and American Electric Power.

Shares of the remaining \$10 billion in penalties range from less than \$1 million in the case of Kansas to more than \$1 billion each for California and Mississippi. California reached that total both through its heavy caseload of more than 3,500 and large individual cases such as one in which it collected \$119 million from Southern California Gas Company in connection with a major natural gas well leak.

Mississippi's \$1.5 billion penalty total, higher than that of any other state, is overwhelmingly derived from a single settlement with BP stemming from the 2010 Deepwater Horizon disaster in the Gulf of Mexico.¹¹

As shown in Table 2, six states collected less than \$10 million each while 19 collected more than \$100 million apiece. The median penalty total is about \$58 million while the average is raised to \$204 million by the especially high sums in Mississippi and California as well as those in New Jersey, North Carolina, Minnesota and Texas.

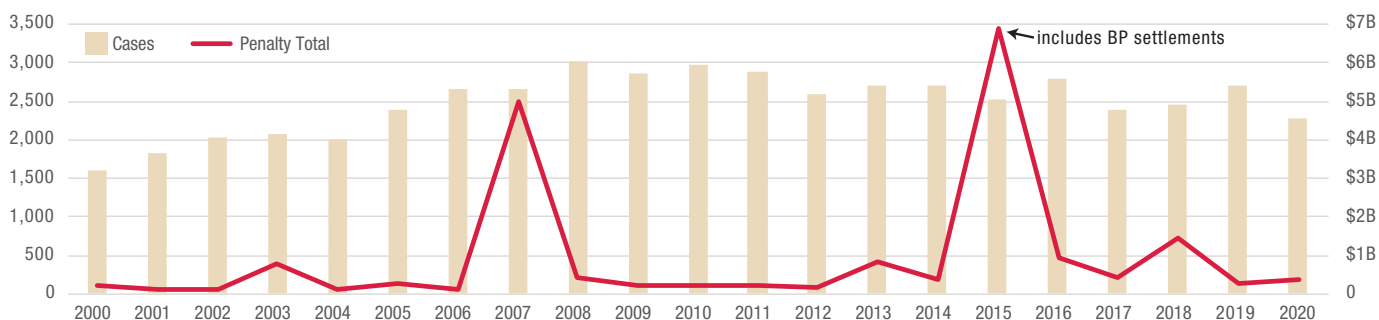
States also diverge in the amount they collect in individual cases, especially those handled by the administrative agencies. Average penalties above our threshold range from less than \$20,000 in Georgia, South Carolina, Arkansas and Florida to more than \$2 million in Mississippi and Missouri. The typical (median) state penalty average is \$112,000.

Trends Over Time

The aggregate caseload of state environmental regulators has remained remarkably steady during the past two decades. As shown in Table 3, the number of enforcement actions carried out across the country has been in a range from around 2,000 to 3,000 from 2002 to 2020.

There has been more variation in the annual penalty dollar totals. Since 2000 those totals have been as low as \$161 million and in most years have been in a range from \$180 million to \$500 million, but in three years penalties surpassed \$1 billion. In each case this was largely the result of one or two mega-cases. In 2007 it was a \$4.7 billion multistate settlement with American Electric Power.¹² In 2015 it was the result of two settlements with BP adding up to \$6.4 billion.¹³ In 2018 it was an \$850 million settlement between Minnesota and 3M.¹⁴

Table 3. Penalty Totals by Year



Year	Cases	Penalty Total
2000	1592	\$268,700,948
2001	1822	\$183,964,292
2002	2026	\$168,687,295
2003	2071	\$852,546,311
2004	2011	\$161,092,514
2005	2388	\$306,806,987
2006	2655	\$187,190,859
2007	2649	\$5,074,612,605
2008	3018	\$476,760,890
2009	2860	\$270,028,240
2010	2963	\$249,627,433

Year	Cases	Penalty Total
2011	2888	\$277,076,980
2012	2582	\$219,919,051
2013	2696	\$878,780,162
2014	2706	\$434,046,779
2015	2529	\$6,933,214,918
2016	2793	\$969,067,065
2017	2389	\$459,290,337
2018	2465	\$1,492,624,839
2019	2712	\$347,676,979
2020	2282	\$448,695,319

Violation Categories

State environmental agencies engage in enforcement actions of numerous types. These include common categories such as air, water and hazardous waste cases as well as less frequent violations such as those involving x-ray equipment.

Wherever possible, we sought to obtain agency case lists that included category information, but that information was not always readily available. Of the 52,000 entries we assembled, we were able to obtain these designations for about 32,000 cases.

As shown in Table 4, air pollution accounts for the largest share of the known cases, followed

by water pollution and hazardous waste. When it comes to penalty amounts, air pollution still leads, with 38 percent of the total. Yet it is closely followed by spills and accidents, which account for 33 percent. That is largely because the spill category includes the two massive settlements reached with BP for the Deepwater Horizon disaster.

The spill cases have an average penalty of \$32 million, far above that of any other category. (Leaving out those BP settlements, the average drops to \$2 million.) Next are the air pollution cases, whose average of more than \$786,000 reflects the fact that the category includes many actions against large power plants and industrial facilities.

Table 4. Violations By Category

Violation Type	Cases	Percent of Total	Penalty Total	Percent of Total	Average Penalty
air pollution	10131	32	\$7,697,670,037	37	\$786,464
hazardous waste, including asbestos and lead paint	4805	15	\$1,926,465,042	9	\$400,929
pesticides	840	3	\$54,199,896	<1	\$64,524
radiation	112	<1	\$3,265,530	<1	\$29,157
solid waste, including landfills	1688	5	\$134,252,661	<1	\$79,534
spills and accidents	218	<1	\$6,909,053,874	33	\$31,692,908
storage tanks	2065	6	\$228,466,618	1	\$110,638
water pollution, including erosion and sediment cases	6649	21	\$2,776,703,396	13	\$417,612
miscellaneous	5564	17	\$945,472,620	5	\$169,927

Largest Cases

Among the more than 50,000 successful enforcement actions we identified, the average penalty is about \$413,000. There are 37 with penalties of \$50 million or more; 115 with penalties of \$10 million or more; and over 500 in excess of \$1 million.

As shown in Table 5, four of the ten largest penalties—including the \$4.9 billion

Deepwater Horizon settlement with BP that tops the list—come from multistate AG lawsuits. Another five are single-state AG cases. The largest penalty collected by a regulatory agency is the \$306 million resolution of a case brought by the Texas Commission on Environmental Quality against Bell Point Refining in 2003.

Table 5. Ten Largest State Environmental Penalties Since 2000

Agency	Year	Company	Penalty
Multistate Attorneys General Case	2015	BP	\$4,900,000,000
Multistate Attorneys General Case	2007	American Electric Power	\$4,675,000,000
Mississippi Attorney General	2015	BP	\$1,500,000,000
North Carolina Attorney General	2021	Duke Energy	\$855,000,000
Minnesota Attorney General	2018	3M	\$850,000,000
Multistate Attorneys General Case	2016	Volkswagen	\$570,000,000
Massachusetts Attorney General	2013	AVX Corp.	\$366,250,000
Multistate Attorneys General Case	2003	Archer Daniels Midland Company	\$350,900,000
Texas Commission on Environmental Quality	2003	Bell Point Refining LLC	\$306,640,000
New Hampshire Attorney General	2013	ExxonMobil	\$236,000,000

Largest Parent Penalty Totals

One of the benefits of a long-term, 50-state analysis is to reveal the extent of corporate environmental recidivism. We enhance that capability through the parent-subsidary matching system used for our Violation Tracker database. It enables us to see which ultimate corporate parents have the most violations and the largest penalty totals.

Exxon Mobil's case total, at 272, is higher than that of any other parent company, making it the worst repeat offender. As shown in Table 6, it is followed by pipeline company Energy Transfer (172), chemical producer LyondellBasell Industries (168), coal producer James C. Justice Companies (155), petroleum producer Valero Energy (152), and the diversified Koch Industries (150).

As shown in Table 7, there are three companies with totals of \$1 billion or more and 18 in excess of \$100 million. Firms such as American Electric Power, Volkswagen and 3M show up high on the list largely by virtue of one or two of the mega-cases cited above. But others, such as BP and Exxon Mobil, have both mega-cases and many smaller penalties.

Table 6. Parent Companies with the Most Environmental Penalty Cases Since 2000

Parent	Cases	Penalty Total
Exxon Mobil	272	\$576,704,877
Energy Transfer	172	\$174,100,800
LyondellBasell Industries	168	\$14,718,276
James C. Justice Companies	155	\$3,799,784
Valero Energy	152	\$113,282,980
Koch Industries	150	\$23,291,837
Royal Dutch Shell	143	\$182,376,574
Chevron	142	\$60,358,051
Clean Harbors Inc.	138	\$8,007,378
HeidelbergCement	137	\$89,419,475

Table 7. Parent Companies with the Largest State Environmental Penalty Totals Since 2000

Parent	Penalty Total	Cases
BP	\$6,566,084,678	98
American Electric Power	\$4,687,889,714	14
Volkswagen	\$1,000,039,969	13
Duke Energy	\$895,563,688	49
3M Company	\$850,515,979	20
Exxon Mobil	\$576,704,877	272
Kyocera	\$366,267,499	3
Archer Daniels Midland	\$356,754,561	31
Grupo Mexico	\$262,076,802	12
Occidental Petroleum	\$214,284,294	128

Parents with Far-Flung Violations

Just as the penalty totals of some parents are spread out over many cases, some cover a variety of locations in different parts of the country. There are 62 parents with penalties in ten or more states. As shown in Table 8, there are ten parents with penalties from 20 or more states, led by the waste management company Clean Harbors Inc. at 37.

Table 8. Parent Companies with Penalties in 20 or More States

Parent	Penalty Total	Cases	States
Clean Harbors Inc.	\$8,007,378	138	37
Exxon Mobil	\$576,704,877	272	24
Berkshire Hathaway	\$34,072,571	125	24
Kinder Morgan	\$23,621,575	132	22
Republic Services	\$104,024,966	94	22
Chevron	\$60,358,051	142	21
Waste Management	\$19,556,428	126	21
BP	\$6,566,084,678	98	21
Marathon Petroleum	\$64,332,640	98	21
Koch Industries	\$23,291,837	150	20

Foreign Parents

There has long been discussion of the employment practices of foreign-based corporations operating in the United States. Their environmental performance also raises questions. Seventy-five foreign parents have accumulated more than \$1 million each for state environmental violations.

Table 9 shows the dozen companies with totals of \$50 million or more.

Well-known foreign lawbreakers BP and Volkswagen top the list, but large penalty totals have also been accumulated by less familiar parents such as Kyocera and Grupo Mexico.

Table 9. Foreign Parents with \$50 Million or More in State Environmental Penalties

Parent	Penalty total	Cases	States	HQ Country
BP	\$6,566,084,678	98	21	United Kingdom
Volkswagen	\$1,000,039,969	13	5	Germany
Kyocera	\$366,267,499	3	3	Japan
Grupo Mexico	\$262,076,802	12	3	Mexico
Royal Dutch Shell	\$182,376,574	143	19	Netherlands
Bayer	\$147,953,188	23	11	Germany
Repsol	\$130,123,074	7	2	Spain
Robert Bosch	\$99,790,553	9	4	Germany
HeidelbergCement	\$89,419,475	137	14	Germany
Stellantis (parent of Fiat Chrysler)	\$79,196,375	7	3	Netherlands
Enbridge	\$77,739,244	36	9	Canada
WH Group	\$66,658,554	19	9	China

Parent Industry Totals

Given the company names cited most frequently above, it comes as no surprise to see that the parent industry with the highest penalty total is oil and gas, with more than \$8 billion in fines and settlements. The utilities and power generation sector comes in at more than \$6 billion in penalties, while the total for motor vehicles is almost \$1.2 billion. Table 10 shows the totals for industries with \$100 million or more.

Table 10. Parent Industries with \$100 Million or More in Penalties

Industry	Penalty Total
oil and gas	\$8,204,573,823
utilities and power generation	\$6,022,175,733
motor vehicles	\$1,187,485,000
miscellaneous manufacturing	\$886,680,998
agribusiness	\$376,271,652
electrical and electronic equipment	\$374,179,310
chemicals	\$344,208,793
mining and minerals	\$334,651,970
pipelines	\$293,255,398
diversified	\$223,753,203
building materials	\$182,806,739
waste management and environmental services	\$151,416,499
automotive parts	\$123,406,435
telecommunications	\$113,081,728
food products	\$106,118,561

CONCLUSION AND POLICY RECOMMENDATIONS

As long as federalism remains a central feature of governance in the United States, there are going to be differences in state policies and procedures. When it comes to environmental enforcement, however, Congress decided decades ago that the federal government should set national standards while delegating some implementation authority to the states.

Under that arrangement, variations in enforcement caseloads and penalty totals should reflect only the relative level and nature of business activity in the various states. Instead, it now appears that some states are not taking their enforcement responsibilities seriously.

It is unclear whether the EPA's State Review Framework is doing enough to address deficiencies in some parts of the country. Now that the federal agency is once again operating as part of an administration that takes enforcement seriously, it should do more to press the laggard states to improve their performance.

Along with the enforcement procedures themselves, there should be an overhaul of the systems by which states share data with the public. To begin with, every state should be required to provide the information on its website. Ideally, there should be a standardized format for that data presentation. Currently, the states that post enforcement information do so in many different ways. Some have modern, user-friendly search tools, while others employ antiquated and cumbersome sites that seem designed to discourage users.

In theory, the state data could be incorporated into the EPA's Enforcement and Compliance History Online (ECHO) case search website. That database contains some information on cases in which a state took the lead, but the information does not cover all programs, is missing key information such as state penalty amounts, and is not up to date.¹⁵ There are also gaps in the state data included in the full ECHO dataset downloads.¹⁶

Whether it comes about by improving and standardizing the state websites or by expanding the EPA's ECHO tool, the public deserves a way to obtain clear and complete data on environmental enforcement activity throughout the country.

METHODOLOGY

This report is based on case details for more than 50,000 state environmental enforcement actions resolved from January 1, 2000 through February 2021.

The information was obtained from the agencies themselves. These included the primary environmental enforcement agencies in each state as well as additional agencies for specific sectors such as mining or petroleum. We also collected information on environmental cases brought by individual state attorneys general or by groups of AGs. All the agencies and AGs are listed in the Appendix.

With those agencies that post the data on their websites, we downloaded or scraped the data and put it in a standard format for inclusion in our Violation Tracker database. When the information was not easily retrievable – because it was contained in a large number of individual case documents – we submitted open records requests for the data in spreadsheet form. We also submitted such requests to the agencies that posted no enforcement information on their sites.

Some agencies required us to submit separate requests to different divisions—air, water, hazardous waste etc. As a result, we ended up submitting about 90 requests in total.

Most agencies provided at least some of the information we requested, though some were unable to provide data going back as far as 2000. We sought to fill in the missing years by searching in the Nexis news archive, which includes some archival press releases from state agencies as well as secondary sources.

There were just two agencies that do not post enforcement data in any form and that turned down our records requests: the Kansas Department of Health and Environment and the Oklahoma Department of Environmental Quality. The reason given for the denial in both cases was that state law does not require an agency to create a list of cases, since that would supposedly constitute a new rather than an existing record. For both states we searched the Nexis news archive and found small numbers of cases.

All the data we obtained through downloads, scraping and public records requests was processed using the usual method we apply for Violation Tracker. We included all cases with a monetary penalty of \$5,000 or more except for those in which the party paying the penalty was an individual or a government entity.

All the entries were run through Good Jobs First's proprietary parent-subsidary matching system, as we do for all Violation Tracker entries. This system, a combination of machine-generated suggested matches and human verification, identifies which of the entities named in the individual case announcements are owned by any corporations in our universe of more than 3,000 parents. These include large publicly traded and privately held for-profit companies (including private equity companies and their portfolio holdings) as well as major non-profits. Parent-subsidary linkages are based on current rather than historical relationships.

The research for this report was completed in late February 2021.

APPENDIX: CASE TOTALS FOR ENVIRONMENTAL AGENCIES AND STATE ATTORNEYS GENERAL

Note: Does not include state attorneys general involved only in multistate environmental cases. Agency names link to online enforcement data sources. Cases include those announced from January 2000 through February 2021 with penalties of \$5,000 or more.

Agency or Attorney General	Cases	Penalty Total
Alabama Attorney General	2	\$23,300,000
Alabama Department of Environmental Management	1224	\$29,621,660
Alaska Attorney General	15	\$8,009,023
Alaska Department of Environmental Conservation	14	\$2,401,032
Alaska Oil and Gas Conservation Commission	14	\$923,000
Arizona Attorney General	36	\$44,171,711
Arizona Department of Environmental Quality	175	\$123,049,942
Arkansas Attorney General	1	\$1,880,000
Arkansas Division of Environmental Quality	607	\$11,019,649
California Air Resources Board	2004	\$249,028,541
California Attorney General	150	\$698,166,112
California Department of Pesticide Regulation	819	\$31,351,393
California Department of Toxic Substances Control	418	\$59,418,403
California State Water Resources Control Board	105	\$82,526,249
CalRecycle	75	\$7,213,405
Colorado Attorney General	14	\$107,750,235
Colorado Department of Public Health & Environment	1213	\$36,417,519
Colorado Division of Reclamation, Mining & Safety	31	\$417,225
Colorado Oil & Gas Conservation Commission	355	\$52,207,225
Connecticut Attorney General	26	\$23,990,510
Connecticut Department of Energy & Environmental Protection	620	\$51,891,122
Delaware Attorney General	1	\$60,200
Delaware Department of Natural Resources and Environmental Control	121	\$18,773,649
District of Columbia Attorney General	5	\$55,825,000
District of Columbia Department of Energy & Environment	118	\$2,177,778
Florida Department of Environmental Protection	2432	\$48,177,876
Georgia Environmental Protection Division	1346	\$23,704,492
Hawaii Attorney General	1	\$15,400,000

Agency or Attorney General	Cases	Penalty Total
Hawaii Environmental Management Division (no online case information)	100	\$4,116,484
Idaho Department of Environmental Quality (no online case information)	162	\$3,489,720
Illinois Attorney General	155	\$73,021,586
Illinois Environmental Protection Agency	1117	\$77,075,079
Illinois Office of Mines and Minerals (no online case information)	4	\$32,950
Indiana Attorney General	5	\$16,355,979
Indiana Department of Environmental Management	1726	\$41,587,703
Iowa Attorney General	79	\$43,234,570
Iowa Department of Natural Resources	375	\$5,324,191
Kansas Department of Health and Environment (no online case information)	16	\$602,440
Kentucky Attorney General	3	\$586,515
Kentucky Department for Environmental Protection (no online case information)	2091	\$47,974,667
Louisiana Department of Environmental Quality	733	\$77,494,765
Maine Department of Environmental Protection	279	\$9,260,448
Maryland Attorney General	21	\$41,377,751
Maryland Department of the Environment	565	\$24,334,657
Massachusetts Attorney General	187	\$453,148,982
Massachusetts Executive Office of Energy and Environmental Affairs	1185	\$23,753,695
Michigan Attorney General	17	\$206,811,313
Michigan Department of Environmental Quality	301	\$16,310,414
Minnesota Attorney General	3	\$850,325,000
Minnesota Pollution Control Agency	1169	\$45,118,551
Mississippi Attorney General	1	\$1,500,000,000
Mississippi Department of Environmental Quality	370	\$13,691,105
Missouri Attorney General	55	\$375,887,668
Missouri Department of Natural Resources	94	\$2,958,571
Montana Attorney General	4	\$190,770,000
Montana Department of Environmental Quality	148	\$7,134,699
Nebraska Attorney General	14	\$2,295,700
Nebraska Department of Environmental Quality	97	\$2,588,006
Nevada Division of Environmental Protection	65	\$3,566,738
New Hampshire Attorney General	66	\$282,376,089
New Hampshire Department of Environmental Services	205	\$3,790,683
New Jersey Attorney General	15	\$783,770,000
New Jersey Department of Environmental Protection	2986	\$140,194,687
New Mexico Attorney General	5	\$7,075,000
New Mexico Department of Energy, Minerals and Natural Resources (no online case information)	10	\$219,945
New Mexico Environment Department	223	\$123,385,920
New York Attorney General	68	\$99,774,168
New York Department of Environmental Conservation	480	\$22,061,582

Agency or Attorney General	Cases	Penalty Total
North Carolina Attorney General	5	\$931,251,194
North Carolina Department of Environmental Quality	1491	\$27,956,559
North Dakota Attorney General	2	\$31,175,000
North Dakota Department of Health-Environmental Section (no online case information)	98	\$5,909,401
Ohio Attorney General	39	\$51,346,806
Ohio Department of Natural Resources (no online case information)	40	\$909,200
Ohio Environmental Protection Agency	1069	\$140,699,965
Oklahoma Attorney General	1	\$8,500,000
Oklahoma Department of Environmental Quality (no online case information)	10	\$3,349,757
Oregon Attorney General	3	\$1,224,059
Oregon Department of Environmental Quality	1474	\$38,473,550
Pennsylvania Attorney General	6	\$1,489,502
Pennsylvania Department of Environmental Protection	4288	\$341,768,999
Rhode Island Attorney General	2	\$10,875,000
Rhode Island Department of Environmental Management	498	\$15,184,007
South Carolina Department of Health and Environmental Control	1379	\$24,984,579
South Dakota Department of Environment & Natural Resources (no online case information)	106	\$2,340,551
Tennessee Department of Environment & Conservation	1844	\$71,350,048
Texas Attorney General	8	\$96,810,000
Texas Commission on Environmental Quality	7443	\$673,811,684
Texas Railroad Commission	2058	\$38,999,529
Utah Department of Environmental Quality	135	\$14,777,109
Vermont Attorney General	41	\$32,483,154
Vermont Department of Environmental Conservation	69	\$1,274,256
Vermont Natural Resources Board	98	\$1,473,709
Virginia Attorney General	5	\$6,529,500
Virginia Department of Environmental Quality	836	\$73,478,536
Virginia Department of Mines, Minerals and Energy (no online case information)	237	\$4,886,031
Washington Attorney General	4	\$95,827,500
Washington Department of Ecology	693	\$40,347,055
West Virginia Attorney General	1	\$550,000
West Virginia Department of Environmental Protection	285	\$18,194,073
West Virginia Surface Mine Board	2	\$67,500
Wisconsin Attorney General	265	\$29,120,290
Wisconsin Department of Natural Resources (no online case information)	68	\$5,041,169
Wyoming Department of Environmental Quality	422	\$43,300,053

ENDNOTES

- 1 The following section draws from: William R. Lowry, *The Dimensions of Federalism: State Governments and Pollution Control Policies* (Durham: Duke University Press, 1992) and Robert V. Percival, “Environmental Federalism: Historical Roots and Contemporary Models,” *Maryland Law Review*, vo. 54, no.4 (1995).
- 2 All states have authority with regard to the Clean Air Act. The states that do not have authority with regard to the Clean Water Act are: Idaho, Massachusetts, New Hampshire and New Mexico as well as the District of Columbia. Those that do not have authority with regard to hazardous waste are Alaska and Iowa. See: <https://www.epa.gov/compliance/state-review-framework>
- 3 U.S. Environmental Protection Agency Office of Inspector General, *EPA Must Improve Oversight of State Enforcement* (Report No. 12-P-0113, December 9, 2011), p.6.
- 4 <https://www.epa.gov/compliance/state-review-framework>
- 5 Most of the AG case information was collected during the preparation of *Bipartisan Corporate Crime Fighting by the States* (Good Jobs First, September 2019). That information has been updated for this report.
- 6 The penalty amounts also include the cost of mandated upgrades in pollution control equipment or supplementary environmental projects in the community if they are specified in the enforcement order.
- 7 On the coziness, see, for example: Naveena Sadasivam, “After Eight-Year Battle Over Reforming the Railroad Commission, Oil and Gas Industry Wins,” *Texas Observer*, May 16, 2017.
- 8 See, for example: Amal Ahmed, “Illegal Air Pollution is Skyrocketing in Texas, But State Regulators are Ignoring Complaints,” *Texas Observer*, November 5, 2020
- 9 State population figures were taken from Census Bureau data at <https://www.census.gov/search-results.html?searchType=web&cssp=SERP&q=state%20population>
- 10 State firm numbers were taken from the Statistics of U.S. Business data series at <https://www.census.gov/programs-surveys/susb/data/custom-tabulations.html>
- 11 <https://violationtracker.goodjobsfirst.org/violation-tracker/ms-bp>
- 12 <https://violationtracker.goodjobsfirst.org/violation-tracker/-american-electric-power-1>
- 13 <https://violationtracker.goodjobsfirst.org/violation-tracker/-bp-2>
<https://violationtracker.goodjobsfirst.org/violation-tracker/ms-bp>
- 14 <https://violationtracker.goodjobsfirst.org/violation-tracker/mn-3m-1>
- 15 <https://echo.epa.gov/facilities/enforcement-case-search>
- 16 <https://echo.epa.gov/tools/data-downloads/icis-fec-download-summary>

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