



# Bureau of Justice Statistics Special Report

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# Federal Enforcement of Environmental Laws, 1997

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Numerous Federal laws have been enacted to protect the environment and wildlife. In this report, this collection of environmental laws comprises (1) *environmental protection* laws that protect the safety and well-being of communities from excessive and unnecessary emission of environmental pollutants and (2) *wildlife* laws that protect endangered or threatened species as well as migratory birds.

As part of the framework of environmental laws and regulations, the EPA has identified more than 700 substances as hazardous to the environment. Other substances — through not hazardous — may otherwise be considered environmental pollutants if discharged into the Nation's waterways. The U.S. Departments of the Interior and Commerce have identified more than 1,500 species of wildlife as endangered or threatened.

During 1997 Federal prosecutors filed in U.S. district courts 207 civil and 446 criminal enforcement actions for violations of environmental law.

## Highlights

- During 1997 U.S. attorneys initiated criminal investigations involving violations of environmental law against 952 suspects — 47% for an environmental protection offense and 53% for a wildlife offense.
- More than a quarter of the 952 suspects investigated were identified as organizations.
- Overall, U.S. attorneys declined to prosecute about half of those investigated — 70% of organizations and 46% of individuals.
- Because many environmental statutes contain civil penalties, U.S. attorneys can dispose of an environmental matter through civil litigation. Eleven percent of criminal referrals were declined for prosecution in favor of a civil action.

### Criminal enforcement

- During 1997, 446 defendants were charged with a criminal environmental violation — 47% for the unlawful emission of a hazardous substance or other pollutant and 53% for a wildlife violation.

- About a quarter of the individuals convicted were sentenced to a term of imprisonment. The average term imposed was 21.5 months with half sentenced to a year or less.
- The courts ordered 64% of those convicted to pay a fine. The average fine imposed was \$67,416. Fines for environmental protection offenses (\$124,035) were higher on average than for wildlife offenses (\$2,710).

### Civil enforcement

- During 1997, 207 cases were filed by the Federal government charging a civil violation of environmental laws. Almost all involved environmental protection violations.
- 73% of civil enforcement actions were concluded following a settlement (27%) or a consent agreement (46%). Few (4%) cases went to trial.
- As a result of civil litigation, the Federal government was awarded an average of \$2.5 million in the 74 cases with a reported monetary award or settlement.

About half of defendants charged by U.S. attorneys with an environmental protection offense violated the Clean Water Act; 15% violated the Clean Air Act (table 1). Of the civil cases filed by U.S. attorneys, a third involved a Clean Water Act violation and a fifth, a Clean Air Act violation. Of EPA administrative actions, about 50% involved the Clean Water Act and 11% the Clean Air Act.

For wildlife offenses 57% of criminal filings were Lacey Act violations, offenses that apply to trade in exotic plants or animals. The same proportion was charged with migratory bird violations as were charged with endangered species (including eagle) violations.

Federal environmental laws provide U.S. attorneys the discretion to initiate criminal or civil enforcement actions. Of the 456 environmental cases declined prosecution, 11% were declined in favor of a civil action. U.S. attorneys often declined to prosecute organizational defendants for criminal violations in favor of civil sanctions.

U.S. attorneys initiated 182 civil enforcement actions involving organizations in U.S. district courts. The average monetary penalty imposed or settlement reached following the concluded civil actions was almost \$2.5 million. The average criminal fine imposed on organizations was about \$308,000.

State environmental agencies and private citizens may also enforce Federal environmental protection standards. State environmental agencies initiated 10,515 administrative actions involving environmental protection violations and made 379 judicial referrals. Private citizens filed 642 suits in U.S. district court alleging environmental violations — 86% of these suits concerned the emission of hazardous substances or other environmental pollutants.

## Administrative enforcement actions

The U.S. Environmental Protection Agency (EPA) initiates the majority of Federal enforcement actions. Through administrative enforcement actions, the EPA may (1) require that the violator comply with Federal environmental standards, (2) suspend the violator's permit to discharge, and/or (3) assess a penalty for noncompliance. During 1997 the EPA initiated 3,427 administrative enforcement actions.

About half of administrative actions involved a violation of the Clean Water Act; 12%, involved RCRA; 11%, the Clean Air Act; and 28%, violations of other statutes.

EPA imposed administrative penalties in 1,350 actions concluded during 1997.<sup>1</sup> The total value of administrative penalties assessed was \$49.2 million.

<sup>1</sup>U.S. Environmental Protection Agency, *Enforcement and Compliance Assurance Accomplishments Report, Fiscal Year 1997*, July 1998, p. 2.3.

## Federal environmental and wildlife protection acts

### Environmental protection acts

*Clean Air Act* — to prevent the deterioration of air quality. (42 U.S.C. §§ 7401-7491)

*Clean Water Act* — to regulate the sources of water pollution. (33 U.S.C. §§ 1251-1376)

*Comprehensive Environmental Response, Compensation, and Liability (CERCLA)* — to address the problem of abandoned hazardous waste sites. (42 U.S.C. §§ 9601-9675)

*Resource Conservation and Recovery Act (RCRA)* — to protect human health and the environment from dangers associated with waste management. (42 U.S.C. §§ 6901-6992)

*Toxic Substances Control Act (TSCA)* — to regulate chemical substances in which the public or environment may become exposed. (15 U.S.C. §§ 2601-2671)  
*Act to Prevent Pollution by Ships (APPS)* — to address the discharge

of harmful substances into the oceans. (33 U.S.C. §§ 1901-1950)

*Emergency Planning and Community Right to Know Act (EPCRA)* — to protect the environment from pollution. (42 U.S.C. §§ 11001-11050)

### Wildlife acts

*Endangered Species Act (ESA)* — to conserve the various species of fish, wildlife, and plants facing extinction. (16 U.S.C. §§ 1531(b))

*Bald and Golden Eagle Protection Act (BGEPA)* — to provide a program for the conservation of bald and golden eagles. (16 U.S.C. §§ 668)

*Migratory Bird Treaty Act (MBTA)* — to protect migratory birds during their nesting season. (16 U.S.C. §§ 707)

*Lacey Act* — to control the trade in of exotic fish, wildlife, and plants into the United States. (16 U.S.C. §§ 3372)

Note: For more detailed descriptions, see *Appendix A*, page 9.

**Table 1. Federal environmental enforcement actions initiated, by type of violation and enforcement action, 1997**

Type of violation	Type of enforcement action			
	Total	Administrative	Civil <sup>a</sup>	Criminal <sup>b</sup>
Total	4,129	3,427	207	446
<b>Environmental protection</b>	3,842	3,427	204	211
Clean Air Act	457	391	35	31
Clean Water Act	1,812	1,642	62	108
RCRA	505	423	23	59
CERCLA	391	305	82	4
TSCA	191	185	0	6
Other	486	481	2	3
<b>Wildlife</b>	287	--	3	235

--Statistics not available.

<sup>a</sup>Represents filing by U.S. Attorneys in U.S. district court only. Statistics describing administrative actions for wildlife and conservation offenses were not available.

<sup>b</sup>Criminal actions include only those offenses classified as felonies or Class A misdemeanors. Source: *Administrative: U.S. Environmental Protection Agency, Enforcement and Compliance Assurance Accomplishments Report, Fiscal Year 1997* (July 1998); *Civil and Criminal: Administrative Office of the U.S. Courts, court docket data files, fiscal year 1997.*

In addition to administrative penalty orders, two other elements of EPA's enforcement policy are injunctive relief and supplemental environmental projects. Injunctive relief is action required by EPA to eliminate noncompliance, correct environmental damage, and restore the environment to its original condition. In 1997 EPA concluded 3,735 enforcement actions that included injunctive relief (table 2).<sup>2</sup> The total estimated value of injunctive relief orders was \$1.9 billion.

Supplemental environmental projects are extra actions taken by a violator to benefit the public or the environment. In 1997 violators in 266 enforcement actions agreed to undertake environmental projects with a total value of \$85.4 million.<sup>3</sup>

Many Federal environmental protection laws permit delegation of enforcement to States that have environmental laws and regulations at least equivalent to Federal law. In 1997 State environmental agencies initiated 10,515 administrative actions and made 379 referrals to State courts involving environmental protection violations.<sup>4</sup>

### Investigations by U.S. attorneys

During 1997 U.S. attorneys and attorneys from the Environment and Natural Resources Division of the U.S. Department of Justice initiated investigations of 952 individuals and organizations suspected of an environmental offense (table 3). About equal proportions were investigated for environmental protection violations as for wildlife violations. About half the investigations of the environmental protection offenses dealt with a violation of the Clean Water Act, and a third, the Resource Conservation and Recovery Act (RCRA). About half of wildlife offenses involved a violation of the Lacey Act, and a third, the Migratory Bird Treaty Act.

<sup>2</sup>*Enforcement Compliance Assurance*, p. 2.7.

<sup>3</sup>*Enforcement Compliance Assurance*, p. 2.8.

<sup>4</sup>*Enforcement Compliance Assurance*, p. 2.6.

**Table 2. Administrative enforcement actions initiated by the U.S. Environmental Protection Agency, by type of violation, 1994-97**

Type of violation	1994	1995	1996	1997
Total	3,544	2,969	2,171	3,427
Clean Air Act	435	232	242	391
Clean Water Act	1,841	1,774	998	1,642
RCRA	115	92	238	423
CERCLA	264	280	234	305
FIFRA	249	160	83	181
TSCA	333	187	178	185
EPCRA	307	244	198	300

Data source: *Administrative: U.S. Environmental Protection Agency, Enforcement and Compliance Assurance Accomplishments Report, Fiscal Year 1997, July 1998.*

**Table 3. New matters involving violations of Federal environmental law referred to U.S. attorneys for investigation, by type of violation, 1994-97**

Type of violation	1994	1995	1996	1997
Total*	936	986	909	952
<b>Environmental protection</b>	455	493	493	445
Act to Prevent Pollution by Ships	3	0	8	0
Clean Air Act	40	56	59	58
Clean Water Act	201	230	261	227
RCRA	160	172	136	143
CERCLA	20	15	12	5
TSCA	14	5	8	7
Other	17	15	9	5
<b>Wildlife</b>	481	493	416	507
Bald and Golden Eagle Protection Act	43	44	29	18
Endangered Species Act	49	74	44	63
Lacey Act	241	241	158	251
Migratory Bird Treaty Act	132	113	175	168
Other	16	21	10	7

\*Criminal actions include only those offenses classified as felonies or Class A misdemeanors. Data source: Executive Office for U.S. Attorneys, central system data file, annual.

Pursuant to Federal law, organizations can be held liable and prosecuted for the actions of their employees and agents.<sup>5</sup> During 1997 U.S. attorneys initiated investigations involving possible violations of Federal environmental law against 260 organizational defendants (not shown in a table).

About three-quarters of organizational defendants were investigated for an environmental protection violation. More than half of the 200 organizations investigated were suspected of violating the Clean Water Act; a fourth were suspected of a RCRA violation.

Of the 60 organizations investigated for a wildlife offense, half were suspected of violating the Lacey Act and a third the Endangered Species Act.

About half of the 871 investigations concluded by U.S. attorneys during 1997 that involved a possible environmental offense were declined for criminal prosecution (not shown in a table). Environmental protection violations were declined prosecution more often — 61% declined — than wildlife violations (41%).

<sup>5</sup>See 33 U.S.C. § 1362(5).

In matters involving both environmental and wildlife violations, U.S. attorneys declined to prosecute organizations more often than individuals. U.S. attorneys declined to prosecute 70% of organizations investigated for an environmental protection offense and 67% of those investigated for a wildlife offense. By contrast, U.S. attorneys declined to prosecute 55% of individuals investigated for an environmental protection offense and 38% for a wildlife offense.

In a quarter of the cases declined for prosecution, the U.S. attorneys concluded that either no Federal offense had been committed (9%) or the suspect lacked culpability (16%) (table 4). The U.S. attorney referred the matter to other authorities in 14% of the cases, transferred the case to another U.S. attorney (11%), or prosecuted the suspect on other charges (3%). In 11% of the cases U.S. attorneys declined criminal prosecution in favor of a civil or administrative action.

## Criminal enforcement actions

### *Defendants charged*

Between 1994 and 1997 the number of defendants charged with a criminal environmental offense ranged from a low of 343 during 1994 to a high of 546 during 1995 (table 5). This rise was primarily attributable to defendants charged with environmental protection offenses whose number increased from 127 to more than 200 during 1995-97.

By contrast, the number of defendants charged with a wildlife offense decreased from a high of 312 during 1995 to 235 during 1997.

During 1997 about half were charged with an environmental protection offense and about half with a wildlife offense.

More than half of the environmental protection offenses involved a violation of the Clean Water Act; 28% a violation associated with waste management (RCRA); 15% a violation of the Clean Air Act; and the remainder, violations of other statutes.

More than half of wildlife offenses involved a violation of the Lacey Act; 21% a violation of the Migratory Bird Act (MBTA); 20% a violation of Endangered Species Act or Bald and Golden Eagle Protection Act; and the remainder involved other wildlife statutes.

Seventeen percent of those charged were identified as organizational defendants (not shown in a table). Most organizations (87%) were charged with an environmental protection violation.

**Table 4. Reason for declined criminal prosecution of environmental violations, by U.S. attorneys, 1994-97**

Reason for declination	Number	Percent
Total*	1,949	100.0%
<b>No crime</b>	521	26.7%
No Federal offense	177	9.1
No culpability	344	17.7
<b>Referred or handled in other prosecution</b>	320	16.4%
Transferred	12	0.6
Prosecuted by other authorities	220	11.3
Prosecuted on other charges	88	4.5
<b>Alternative resolution</b>	206	10.6%
Civil or administrative	170	8.7
Pretrial diversion	36	1.8
<b>Case-related reasons</b>	432	22.2%
Stale case	22	1.1
Weak evidence	390	20.0
Jurisdiction or venue problems	20	1.0
<b>All other reasons</b>	469	24.1%
Minimal Federal interest	85	4.4
Agency request	107	5.5
Lack of resources	110	5.6
U.S. attorney policy	29	1.5
Suspect-related reasons	46	2.4
Other	92	4.7

\*Criminal actions include only those offenses classified as felonies or Class A misdemeanors. Data source: Executive Office for U.S. Attorneys, central system data file, annual.

### Outcome of criminal proceedings

Eighty-five percent of defendants charged with a criminal environmental offense and whose cases were concluded during 1997 were convicted (not shown in a table). Most (91%) of those convicted pleaded guilty. The court dismissed charges against 16% of defendants charged with a wildlife offense.

Sixty-four percent of defendants convicted of an environmental offense were ordered to pay a fine — either alone (14%) or with a sentence of imprisonment (9%) or probation (41%) (table 6). The average fine imposed was \$67,416; half were ordered to pay a fine of \$1,000 or less.

About 68% of defendants convicted of an environmental protection offense and 60% of those convicted of a wildlife offense were ordered to pay a fine. Fines imposed for environmental protection offenses were \$124,035 on average, compared to \$2,700 for wildlife offenses.

Ninety-four percent of organizational defendants and 59% of individual defendants were ordered to pay a fine (not shown in a table). Fines imposed on organizations were \$308,000 on average, compared to \$8,000 for individuals.

**Table 5. Defendants charged with criminal violations of Federal environmental law in U.S. district courts, by type of offense, 1994-97**

Type of offense	Defendants charged			
	1994	1995	1996	1997
Total*	343	546	511	446
<b>Environmental protection</b>	127	234	203	211
Act to Prevent Pollution by Ships	0	12	8	2
Clean Air Act	19	36	40	31
Clean Water Act	52	88	97	108
RCRA	31	34	37	59
CERCLA	11	15	4	4
TSCA	6	6	12	6
Other	8	43	5	1
<b>Wildlife</b>	216	312	308	235
Bald and Golden Eagle Protection Act	30	25	28	22
Endangered Species Act	30	48	43	25
Lacey Act	101	174	123	134
Migratory Bird Treaty Act	47	58	97	50
Other	8	7	17	4

\*Criminal actions include only those offenses classified as felonies or Class A misdemeanors. Data source: Administrative Office of the U.S. Courts, criminal master file, annual.

**Table 6. Fines imposed on defendants convicted of a criminal violation of Federal environmental law in U.S. district courts, by type of offense, 1997**

Type of violation	Fines imposed		
	Total	Mean	Median
Total*	225	\$67,416	\$1,000
<b>Environmental protection</b>	120	124,035	2,500
Clean Air Act	20	2,734	243
Clean Water Act	61	183,681	5,000
RCRA	29	123,849	3,000
Other	10	3,335	2,000
<b>Wildlife</b>	105	\$2,710	\$1,000
Bald and Golden Eagle Protection Act	11	928	500
Endangered Species Act	8	--	--
Lacey Act	66	2,773	1,000
Migratory Bird Treaty Act	18	1,155	625
Other	2	--	--

\*Criminal actions include only those offenses classified as felonies or Class A misdemeanors. --Not calculated, too few cases.

Data source: Administrative Office of the U.S. courts, criminal master file, annual.

About a quarter of the individuals convicted of an environmental offense were sentenced to a prison term (table 7). Those convicted of an environmental protection offense were sentenced to prison almost twice (36%) as often as those convicted of a wildlife offense (19%). Half of each received a sentence of a year or less in prison. However, because the average

sentence for Lacey Act offenses was almost 3 years, the average prison term for wildlife offenses (30 months) was greater than for environmental protection offenses (18 months).

Sixty-two percent of those convicted — including 54% of organizations — were sentenced to a term of probation (not shown in a table).

## Civil enforcement actions

### Cases filed

During 1997, U.S. attorneys filed 207 cases charging a civil violation of environmental law (table 8). Almost all (99%) involved the emission of environmental pollutants: 40% a Comprehensive Environmental Response, Compensation, and Liability (CERCLA) violation; 30% a Clean Water Act violation; 17% a Clean Air Act violation; and 12% other statutory provisions.

The number of cases involving civil violations of environmental law has remained stable between 1994 and 1997 — averaging about 210 case filings per year (table 9). The types of violations charged by U.S. attorneys continue to be primarily Clean Air, Clean Water, and CERCLA violations.

### Outcome of civil proceedings

During 1997, 198 civil enforcement actions were concluded in U.S. district courts. About half these actions followed a consent decree between the U.S. attorney, the defendant(s), and the district court. About 27% of the cases were settled out of court; 13% were dismissed; in 4% a summary judgment was filed; 4% were disposed of following a trial; and 7% were disposed of by other means.

A majority of the cases were disposed of in favor of the Government. Of the 115 cases for which a judgment was reported by the courts, the Government prevailed in 77% of the cases; the defendant prevailed in less than 3%; and in 20% both prevailed in part (not shown in a table).

**Table 7. Prison sentences imposed on defendants convicted of criminal violations of Federal environmental law in U.S. district court, by type of offense, 1997**

Type of offense	Sentence to prison		
	Total	Mean	Median
Total*	78	22 mo	12 mo
<b>Environmental protection</b>	54	18 mo	12 mo
Clean Air Act	8	--	--
Clean Water Act	22	16	12
RCRA	17	27	15
Other	7	--	--
<b>Wildlife</b>	24	30 mo	11 mo
Bald and Golden Eagle Protection Act	4	--	--
Endangered Species Act	0	--	--
Lacey Act	18	35	12
Migratory Bird Treaty Act	1	--	--
Other	1	--	--

\*Criminal actions include only those offenses classified as felonies or Class A misdemeanors.

--Not calculated, too few cases.

Data source: Administrative Office of the U.S. Courts, criminal master file, annual.

**Table 8. Cases filed in U.S. district court charging a civil violation of Federal environmental law, 1994-97**

Type of violation	Filed cases charging a civil violation			
	1994	1995	1996	1997
Total	209	207	220	207
<b>Environmental protection</b>	199	200	211	204
Clean Air Act	45	35	56	35
Clean Water Act	80	74	72	62
CERCLA	60	66	61	82
RCRA	13	25	21	23
Other	1	--	1	2
<b>Wildlife</b>	10	7	6	3
<b>National Environmental Policy</b>	--	--	3	--

--Not calculated, too few cases.

Data source: Administrative Office of the U.S. Courts, civil master file, annual.

**Table 9. Disposition of cases concluded in U.S. district court charging a civil violation of Federal environmental law, 1997**

Method of disposition	Concluded cases charging a civil violation, 1997	
	Number	Percent
Total	198	100.0%
Consent decree	91	46.0%
Settlement	53	26.8
Dismissal	25	12.6
Summary judgment	8	4.0
Trial	8	4.0
Other	13	6.6

Data source: Administrative Office of the U.S. courts, civil master file, annual.

In 65% of the 83 cases for which a judgment was not reported, a settlement was reached or a consent decree was entered into while the remainder were dismissed.

A monetary award or settlement was reported for 74 cases (table 10). The average monetary award was about \$2.5 million; the median award was \$287,500. Cases involving RCRA violations resulted in the largest monetary awards — \$5.4 million, on average.

**Table 10. Monetary award/settlement in cases concluded in U.S. district court charging a civil violation of Federal environmental law, 1997**

Type of violation	Cases with a monetary award/settlement		
	Total	Mean	Median
Total	74	\$2,454,447	\$287,500
<b>Environmental protection</b>	74	2,454,447	287,500
Clean Air Act	15	520,039	275,000
Clean Water Act	24	2,877,190	98,927
CERCLA	22	1,815,722	440,000
RCRA	12	5,402,087	279,800
Other	1	--	--
<b>Wildlife</b>	0	--	--

--Not calculated, too few cases.

Data source: Composite, See *Methodology*.

### Citizen suits

In addition to criminal and civil enforcement actions by the Federal Government, private parties may bring environmental suits in U.S. district courts. Private suits may be brought against violators of the Clean Air Act, the Clean Water Act, CERCLA, and RCRA. (33 U.S.C. § 1365; 42 U.S.C. § 6991e, 7604, 9659, and 11046.) Under RCRA and CERCLA, suits may be brought against owners or operators of treatment, storage, or disposal facilities or contributors to the storage, treatment, transportation, or disposal of any solid or hazardous waste that may present an imminent and substantial danger to health or the environment.

The number of private suits involving environmental issues increased from 576 cases in 1994 to 642 cases in 1997 (table). Most (86%) of the private environmental cases brought between 1994 and 1997 involved the emission of hazardous substances or other environmental pollutants. Few involved wildlife. Filing of cases that involved the National Environmental Policy Act began during 1996.

Forty-six percent of the environmental protection cases litigated between 1994 and 1997 involved the Clean Water Act; 27% CERCLA; and 23% RCRA. Few cases (4%) involved the Clean Air Act.

### Citizen suits filed in U.S. district court charging civil violations of environmental laws, 1994-97

Type of violation	1994	1995	1996	1997
Total	576	584	658	642
<b>Environmental Protection</b>	540	548	536	496
Clean Air Act	19	21	16	28
Clean Water Act	223	254	249	242
CERCLA	157	142	132	130
RCRA	133	127	136	94
Other	8	4	3	2
<b>Wildlife</b>	36	36	24	27
<b>National Environmental Policy Act</b>	--	--	98	119

--Not calculated, too few cases.

Source: Administrative Office of the U.S. Courts, criminal master file, annual.

In about a third of the private suits filed during 1997, the U.S. Government was named as a defendant (not shown in a table). In 44% of the cases with the Federal Government as the defendant, the statutory provision litigated was the National Environmental Policy Act; in 25%, the Clean Water Act.

During 1997, 649 private environmental suits were concluded in U.S. district courts. About 33% of the suits concluded were settled out of court; 15% were disposed of by the court following a consent decree between the parties; 17% resulted in a summary judgment; 29% were dismissed; 2% were disposed of following a trial; and 5% were disposed of by other means (not shown in a table).

In the 243 cases for which a judgment was reported by the courts, the plaintiff and the defendant prevailed at nearly equal rates: in 38% of the cases the plaintiff prevailed; in 42% the defendant; and in 20% both prevailed (not shown in a table). In the 406 cases for which a judgment was not reported, 52% were settled out of court, 46% were dismissed, and 2% were concluded by other means.

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## Methodology

The source of data for tables presented in this report is the BJS Federal Justice Statistics Program (FJSP) database. The FJSP database is comprised of data provided by the Administrative Office of the U.S. Courts, the Executive Office for U.S. Attorneys, the U.S. Sentencing Commission, and the Federal Bureau of Prisons.

The unit of analysis in tables describing criminal actions is a suspect or defendant, where applicable. Each defendant in each case is presented. The unit of analysis in tables describing civil actions is the case. Multiple parties may be represented in each civil case. Records of environmental offenses were identified using a set of 102 statutory provisions describing civil and criminal environmental violations. A record was included in the analysis if any of the statutes charged was one of the environmental offenses identified.

Excluded from this analysis are — (1) environmental offenses prosecuted under general statutes such as 18 USC §§ 1001 (false statements) and 1341 (mail fraud); and (2) offenses charging Class B and C misdemeanors. Among Class B and C misdemeanors excluded are those offenses involving the unlawful harvesting of timber on government lands and the unlawful hunting of migratory birds. Because these offenses involve lesser penalties, many of the defendants charged with these offenses were adjudicated before a U.S. magistrate and were ordered to pay fines. Limited information describing cases adjudicated by U.S. magistrates is available from the Federal judiciary and the U.S. attorneys. During 1997 U.S. attorneys investigated more than 300 persons for a timber violation and more than 2,000 were charged with a “hunting, fishing, or camping” violation.

In its report *Judicial Business of the U.S. Courts*, the Administrative Office of the U.S. Courts reports that 1,120, 1,081, 1,131, and 958 civil cases involving environmental issues were commenced during 1994, 1995, 1996, and 1997, respectively. Of the 4,290 total cases reported by the Administrative Office as environmental matters from 1994 to 1997, 282 (or 6.6%) did not have a statutory citation and were excluded from the analysis.

Cases in which the statutory citation recorded did not identify a substantive violation, such as the Clean Water Act, were also excluded. These cases were primarily private suits.

The monetary awards or settlements in table 10 were generated using a composite of data provided by the Administrative Office of the U.S. Courts and the Executive Office for U.S. Attorneys.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Special Reports address a specific topic in depth from one or more data sets that cover many topics.

John Scalia wrote this report. Carol DeFrances and Marika Litras of the Bureau of Justice Statistics provided statistical review. Raymond Mushal, Senior Counsel in the DOJ Environmental Crimes Unit, and John T. Webb, Assistant Chief of the Wildlife and Marine Resources Section, provided substantive comments. Tom Hester and Tina Dorsey produced and edited the report. Jayne Robinson prepared the report for publication.

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## Appendix A: Federal legislation protecting the environment

The **Clean Air Act** was enacted to prevent the deterioration of air quality. (42 U.S.C. §§ 7401-7491.) The Clean Air Act vests the EPA with the authority to control the emissions of pollutants from sources that cause or contribute to air pollution or could endanger human health. Substances identified as air pollutants include ozone, lead, sulfur dioxide, carbon monoxide, nitrogen dioxide, and particulate matter. Offenses include violating performance standards, violating emissions standards, releasing hazardous air pollutants in disregard of emission standards, making false statements in required documents, and tampering with required monitoring devices. (42 U.S.C. §§ 7413, 7414, 7420, and 7524.)

The **Clean Water Act** was enacted to restore and maintain the integrity of the Nation's waters and to regulate the sources of water pollution. (33 U.S.C. §§ 1251-1376.) Pursuant to the Clean Water Act, the discharging of pollutants into the navigable waters of the United States — including filling wetlands — requires a permit. Offenses include the unpermitted discharge of any pollutant into a waterway, discharging pollutants into a public waste water treatment facility in violation of pretreatment standards, failing to report the discharge of a reportable quantity of a hazardous substance, making false statements in required documents, and tampering with required monitoring devices. (33 U.S.C. §§ 1319 and 1321.)

The **Comprehensive Environmental Response, Compensation, and Liability Act** (CERCLA) addresses the problem of abandoned hazardous waste sites — specifically the clean-up of these waste sites. CERCLA also contains provisions that regulate uncontrolled releases of hazardous substances into the environment. (42 U.S.C. §§ 9601-9675.) CERCLA requires the notification of the Federal National Response Center when there has been a release of a reportable quantity of a hazardous substance. Offenses include failing to notify of the

release of a reportable quantity of a hazardous substance, destroying or making false statements on required documents. (42 U.S.C. § 9603.)

The **Resource Conservation and Recovery Act** (RCRA) was enacted to protect human health and the environment from the dangers associated with waste management and disposal and to encourage the conservation and recovery of natural resources through reuse, recycling, and waste minimization. (42 U.S.C. § 6902.) RCRA requires cradle-to-grave management of hazardous waste by imposing requirements on generators and transporters of hazardous waste as well as storage, treatment, and disposal facilities (42 U.S.C. §§ 6901-6987.) Offenses include knowingly transporting hazardous waste to an unpermitted facility, transporting hazardous waste without the required manifest, treating, storing or disposing of hazardous waste without a permit or in violation of a permit, making false statements in required documents, exporting hazardous waste to another country without its consent or in violation of an international agreement. (42 U.S.C. § 6928.)

The **Toxic Substances Control Act** (TSCA) regulates chemical substances to which the public or environment may become exposed. TSCA authorizes the EPA to prohibit the manufacture, processing, or distribution of a substance, prohibit certain uses of a substance, or regulate the disposal of certain substances. (15 U.S.C. §§ 2601-2671.) Offenses include failing to place warning labels on products containing certain hazardous substances or mixtures, improper storage or disposal of certain hazardous substances, and failing to maintain proper records regarding the removal, storage, or disposal of certain hazardous substances. (15 U.S.C. §§ 2614-2615.)

The **Act to Prevent Pollution by Ships** (APPS) implements the International Convention for the Prevention of Pollution of Ships. (33 U.S.C. §§ 1901-1950)

The international convention addresses the discharge of oil, noxious liquids, harmful substances carried in packaged form, sewage, and garbage into the oceans. Pursuant to APPS, seagoing ships are prohibited from disposing of plastics anywhere in the oceans, disposing of dunnage and other packing material within 25 miles of nearest land, and disposing of food materials within 12 miles. (33 U.S.C. §§ 1907-1908.)

**Emergency Planning and Community Right to Know Act** (EPCRA) was enacted to ensure that emergency response officials are cognizant of hazardous substances in communities (42 U.S.C. §§ 11001-11050). EPCRA requires facilities handling hazardous substances to submit a chemical inventory to State and local emergency planning units. In the case of accidental releases, EPCRA requires operators to notify emergency planning units. Failure to notify officials of hazardous substances may result in civil penalties. Failure to notify of a release of involving an "extremely hazardous substance" is a felony offense. Extremely hazardous substances are identified at 40 CFR Part 355.

Other laws enacted to protect the environment from pollution include the Rivers and Harbors Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Hazardous Materials Transportation Statute, the National Environmental Policy Act and the Marine Protection Research and Sanctuary Act.

## Appendix B: Federal legislation protecting wildlife

The **Endangered Species Act** implements international agreements designed to conserve, to the extent practicable, the various species of fish, wildlife, and plants facing extinction. The ESA provides a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved and provides a program for the conservation of "endangered" and "threatened" species. (16 U.S.C. § 1531(b).) More than 1,500 species have been identified as endangered or threatened by the departments of the Interior and Commerce. (50 C.F.R. § 17.11-12, 17.95-96.) Endangered species are species that are in danger of extinction throughout all, or a significant part, of their range; threatened species are species that are likely to become endangered in the foreseeable future. (16 U.S.C. § 1532.) Pursuant to the ESA, it is unlawful for any person subject to the jurisdiction of the United States to "take," import, sell, or ship endangered or threatened wildlife. (16 U.S.C. §§ 1538 and 1540.) (Taking includes conduct other than killing such as harassing, harming, and pursuing.)

The **Bald and Golden Eagle Protection Act** (BGEPA) addresses the importance of the bald eagle as a symbol of America. (Pub. L. 86-70 § 1, 54 Stat 250 (1940).) Like the Endangered Species Act (which was enacted more than 30 years after the BGEPA), the BGEPA provides a program for the conservation of bald and golden eagles.

Pursuant to the BGEPA, it is unlawful to take, possess, or sell any bald or golden eagle or any part, nest or egg, except pursuant to a permit or regulation. (16 U.S.C. § 668.)

The **Migratory Bird Treaty Act** (MBTA) implements a 1916 treaty between the United States and Great Britain (on behalf of Canada) — and later to include Mexico, Japan, and Russia — that protects migratory birds. (16 U.S.C. § 703.) Pursuant to the MBTA, it is unlawful to take, import, export, sell, or ship any migratory bird without first receiving a permit. (16 U.S.C. § 707.) Migratory bird hunting regulations establish designated hunting seasons and place limits on the number of birds taken. Protected birds include various groups of waterfowl, cranes, rails, shorebirds, and song birds. (50 C.F.R. §§ 10.13 and 20.11.)

The **Lacey Act** is used to control the smuggling and trade in illegally taken fish and wildlife. It also regulates the transportation of live wildlife, requiring that animals be transported into the United States under humane and healthful conditions. Enacted in 1900, the Lacey Act prohibits the import, export, transportation, sale, acquisition, receipt, or purchase of wildlife taken, possessed, transported, or sold in violation of U.S., State, tribal, or foreign law. (16 U.S.C. § 3372.)