

EPA Announces Enforcement Results for Fiscal Year 2016

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On December 19, 2016, U.S. EPA announced its enforcement and compliance results for fiscal year 2016 (FY 2016). Although enforcement totals in the areas of administrative and judicial penalties, hazardous waste treatment, and injunctive relief are up from FY 2015 totals, these increases are largely attributable to a limited number of significant enforcement actions.

Nearly \$5.8 billion in federal administrative and civil judicial penalties were assessed by EPA in FY 2016. While that is up substantially from FY 2015's total of \$207 million, \$5.6 billion of FY 2016's total is attributed to the record-setting Clean Water Act penalty issued against BP Exploration and Production Inc. for the Deepwater Horizon oil release.

According to EPA, its enforcement actions in FY 2016 involved approximately 62 billion pounds of hazardous waste requiring proper treatment, waste minimization, or proper disposal, up from 535 million pounds in FY 2015. One case, however, with IMC Phosphates Co. (Mosaic Fertilizer) accounted for over 99% of this total.

EPA also noted that, in FY 2016, enforcement actions required companies to invest more than \$13.7 billion in actions and equipment to control pollution, up from FY 2015's total of \$7.64 billion. This increase is apparently not attributable by one individual case, and the report notes that this total does not incorporate the Agency's \$14.7 billion partial settlement with Volkswagen, which was entered into in early FY 2017.

Interestingly, EPA advised that it conducted less than 15,000 inspections/evaluations in FY 2016, representing a continued downward trend in the number of inspections conducted by the Agency annually. The announcement notes that as EPA's budget has declined, the total number of inspections conducted by the Agency has also declined.

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