



# It's official: Trump's policies deter EPA staff from enforcing the law

BY JOEL A. MINTZ, OPINION CONTRIBUTOR — 02/16/19 03:00 PM EST  
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

**368** SHARES

## Just In...

**Booker seeks dialogue about race as he kicks off 2020 campaign**

CAMPAIGN — 4M AGO

**Watch live: Trump delivers remarks on Venezuela**

ADMINISTRATION — 5M 57S AGO

**US, North Korea mull exchange of liaison officers: report**

INTERNATIONAL — 6M 6S AGO

**Amazon aims to cut shipment carbon footprint in half by 2030**

ENERGY & ENVIRONMENT  
— 14M 15S AGO

**Commander of US-backed Syrian forces calls for 1,500 troops to stay**

INTERNATIONAL — 16M 3S AGO

**Navy Sailor pictured kissing nurse in iconic World War II photo dies**

BLOG BRIEFING ROOM  
— 29M 53S AGO

**China accuses US of trying to block development after Pence Huawei comments**

INTERNATIONAL — 50M 56S AGO

**The Green New Deal would benefit**



© Getty Images

The Environmental Protection Agency (EPA) released [an annual report](#) Feb. 8 on its enforcement activities in fiscal 2018. After wading through a bushel full of cherry-picked case studies and a basket of bureaucratic happy talk, the report paints a dismal picture of decline in a crucially important EPA program.

[EPA's data](#) indicate that it initiated and concluded approximately 1,800 civil judicial enforcement cases in 2018 — fewer than half the number it handled in fiscal 2008, the last year of the George W. Bush administration. The agency required violators to invest \$3.95 billion to control their excessive pollution last year, a far cry from the \$21.3 billion in pollution control expenditures that resulted from EPA enforcement in 2011. Similarly, the total amount of administrative and civil penalties that EPA extracted from environmental violators was at its lowest level in the past decade, thus reducing the disincentive for companies to break the law. The same was true with regard to the number of criminal cases opened by the agency in 2018 and the number of defendants charged with federal pollution crimes — all were down to the lowest levels in ten years.

Contributing to those dismal numbers was a dramatic decline in EPA's facility inspections and plant evaluations. Those activities fell to 10,600 in 2018 — less than 50 percent of the number of plant visits conducted by the agency in 2010.

## independent family farmers

OPINION — 54M 6S AGO

VIEW ALL

View Latest Opinions >>

Related News by |



Mitch McConnell has shown the nation his...



The embarrassing return of Andrew McCabe



How To Retire On A Single Stock Pick | Alex...

Sponsored | The Oxford Club - Home | The Oxford Club



Rod Rosenstein's final insult to Congress:...

Inspections are particularly important for their deterrent effect. In addition to uncovering unreported violations, EPA plant visits are supposed to send a message to would-be violators that an environmental “cop is on the beat.” The more inspections decline, the more likely it is that some companies will attempt to cut their operating costs by cutting corners on pollution controls.

As troubling as these numbers are, they do not fully portray the extent to which EPA's enforcement efforts have been suppressed in the first two years of the Trump administration.

Against a backdrop of numerous [proposals that ignore legitimate scientific findings](#) and eliminate or water down safeguards designed to [mitigate climate change](#) and protect the nation's air and [water](#), many among the agency's career staff now perceive that [EPA's political leadership frowns upon meaningful enforcement of pollution control standards](#). This perception stems, in part, from policy directives from the agency's enforcement chief, Susan Bodine, and from the Trump administration's proposals to [significantly cut the budget](#) for EPA's enforcement and compliance programs. In addition, some politically appointed regional administrators have been meeting behind closed doors with top company executives who want to weaken regulatory requirements that affect their firms.

Taken together, [these developments devastated EPA staff morale at all levels](#). A number of experienced enforcement personnel [have left the agency over the past two years](#), taking with them experience and expertise vital to effective environmental enforcement. Among the groups most affected has been the EPA's Senior Executive Service (SES), the agency's top rung of permanent career staff. The agency's political leadership can legally subject SES staff to duty changes and relocations to another part of the country with little notice. Such sudden reassignments have already happened to some SES staff, while others are fearful of suffering the same fate if they disappoint political appointees.

Not surprisingly, these circumstances have deterred some within EPA's SES from pursuing vigorous enforcement of agency regulations, protecting the nation's air and water and requiring the cleanup of toxins.

Beyond this, EPA oversight of state enforcement work has been all but eliminated in the past two years. Even though a number of state environmental agencies lack the resources, expertise and political will to enforce pollution control requirements, [EPA regional officials have been encouraged to defer to state preferences in enforcement matters](#) — which in many cases means standing back and allowing pollution to continue unabated. Thus, even in circumstances of extreme violations, where a state fails to pursue needed and appropriate enforcement measures in a given case, EPA personnel are largely precluded from stepping in and enforcing the law.

While EPA enforcement is not completely moribund, it now appears to be limping along at far lower levels, and with less overall impact, than was true prior to the Trump administration. Given these ongoing failings, now is the time for Congress to conduct thorough and vigorous oversight of the agency's steeply declining enforcement efforts.

*Joel A. Mintz is a professor of law emeritus and the C. William Trout Senior Fellow in Public Interest Law at Nova Southeastern University College of Law. Mintz is a former EPA enforcement attorney and chief attorney. He is*

It's official: Trump's policies deter EPA staff from enforcing the law | TheHill  
*the author of three books and numerous articles regarding EPA enforcement and a member scholar at the Center for Progressive Reform.*

**TAGS** JOEL A. MINTZ ENERGY ENVIRONMENT EPA POLLUTION POLLUTERS



**THE HILL 1625 K STREET, NW SUITE 900 WASHINGTON DC 20006 | 202-628-8500 TEL | 202-628-8503 FAX**  
**THE CONTENTS OF THIS SITE ARE ©2019 CAPITOL HILL PUBLISHING CORP., A SUBSIDIARY OF NEWS COMMUNICATIONS, INC.**