



EPA Region 5 Clean Water Enforcement Declines

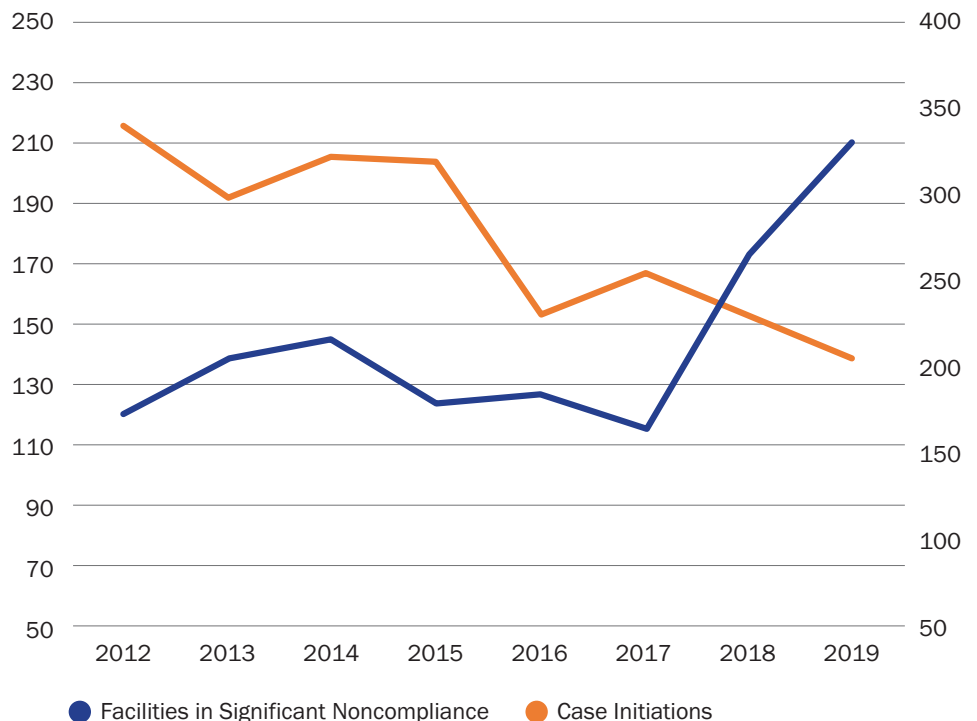
Trend Coincides with Increase in Significant Noncompliance

Executive Summary

The U.S. Environmental Protection Agency (EPA) has stepped back from its responsibility to protect the Great Lakes under the Clean Water Act. After early *New York Times* reporting showed EPA enforcement rates had slowed in the early months of the Trump administration, EPA's official response in December 2017 was that "there is not only no reduction in EPA's commitment to ensure compliance with our nation's environmental laws, but a greater emphasis on compliance in the first place." To test EPA's commitment, the Environmental Law & Policy Center (ELPC) reviewed and analyzed publicly available enforcement data for EPA's Region 5 office, which covers six Great Lakes states: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

ELPC found shrinking funds, plummeting staff levels, declining enforcement metrics, and a corresponding rise in significant noncompliance with the Clean Water Act. ELPC examined several metrics to measure EPA's enforcement in Region 5, including overall enforcement case initiations and penalties or compliance costs assessed under the National Pollution Discharge Elimination System (NPDES). Figure 1 shows a downward trend in enforcement case initiations (not limited to Clean Water Act) coincides with an increase in significant noncompliance with the Clean Water Act. Without a strong expectation of environmental law enforcement, facilities are more likely to violate the law and avoid accountability. As shown in Figure 2, the average civil penalty and compliance costs associated with EPA's CWA-NPDES enforcement actions are also trending downward, especially since fiscal year 2017.

Figure 1: Case Initiations and Facilities in Significant Noncompliance with CWA



Enforcement declines coincide with a downward trend in resources allocated to the EPA, as shown in

Figure 3. Despite decades of bipartisan agreement on the value of environmental protection, the Republican-led Congress has consistently cut EPA's budget over the last few years, and President Trump has proposed further budget cuts each year he's been in office. Under his administration, EPA began spending even less than congressional appropriations. For example, in fiscal year 2019, EPA spent about \$16 million less than Congress appropriated for enforcement and compliance. Shrinking budgets also coincide with plummeting staff levels in Region 5.

States are unable to replace the role of the EPA in Region 5.

The Trump Administration claims to be shifting power away from the federal level and to the states, but states face their own resource constraints that limit their ability to replace EPA's enforcement role. From 2008 to 2018, state pollution control agencies in Region 5 saw a 12% decrease in their own budgets and a 20% decrease in staffing levels.

Figure 2: Average CWA-NPDES Civil Penalties and Compliance Costs per Enforcement Action

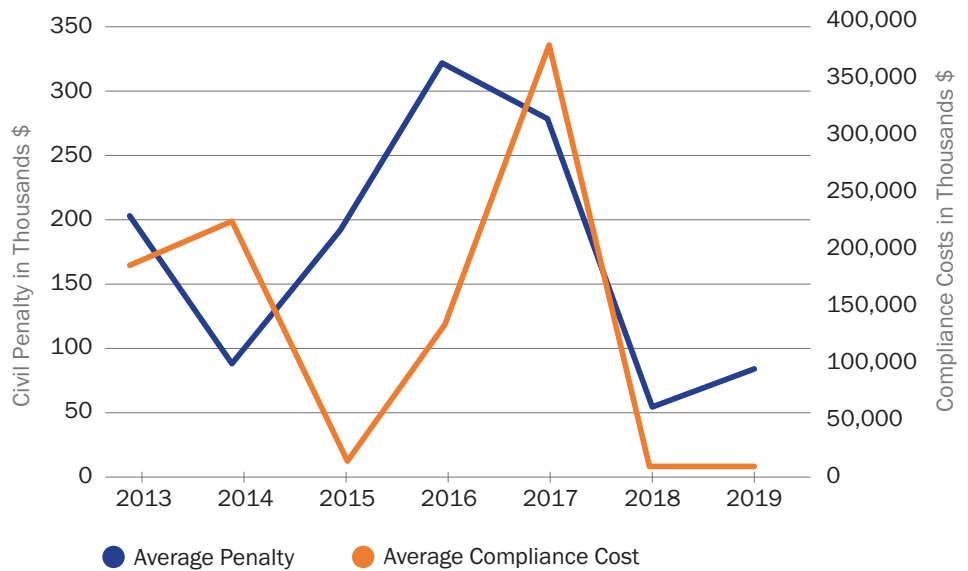
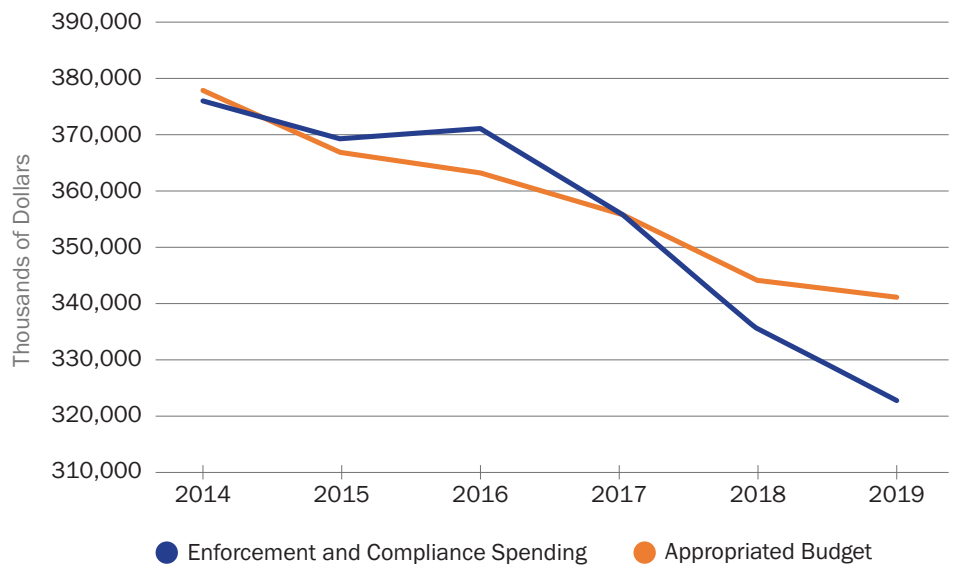


Figure 3: Agency-wide Enforcement and Compliance Spending and Appropriated Budget



ELPC's recommendations

We cannot take our environment and public health for granted. The EPA has a critical mission to uphold federal-level Clean Water Act enforcement. Therefore, ELPC recommends the following:

- EPA should improve its environmental law enforcement and compliance activities and effectively spend and deploy the full amount of funds appropriated by Congress.
- The Trump administration should increase its appropriations requests to fund more enforcement and compliance monitoring staff and resources.
- Congress should appropriate increased enforcement funds for EPA nationally and for Region 5 in particular.