

The political debate over regulation tends to focus on the regulations themselves. But enforcing the regulations is just as important. Despite what you might think from the howls of business groups and conservative commentators, the enforcement system is not nearly as strong as it should be.

Twenty years after passage of the Clean Water Act, roughly ten thousand discharges still had no permits whatsoever, 12-13% percent of major private and municipal sources were in a "Significant Noncompliance" status during a single three-month period alone, and another 5% avoided that status only because they were already on extended compliance schedules. Other studies showed considerable variation in compliance levels between states. Some of the non-compliance may not have resulted in serious pollution problems. Still, these figures were cause for serious concern.

Unfortunately, environmental enforcement problems seem to have continued into this century. A 2012 report by GAO says that EPA still reported "substantial rates of noncompliance in some programs." Compounding the challenge in inducing compliance at desired levels is the enforcers' ignorance of the scope of the problem they are addressing. As the GAO also noted, "[B]ecause of incomplete or unreliable data on compliance in some programs, . . . , EPA cannot determine the full extent of entities' compliance."

Enforcement by states has also continued to fall short of expectations, including "routine failure in some states to bring enforcement actions or impose meaningful penalties." As of 2009, EPA set a national goal that states inspect 100% of CWA major permit holders every two years, but in 2010, only two states met that goal, the national average was only 61%, and thirteen states inspected fewer than 50% of major facilities.

This is not to say that enforcement is just a paper tiger. In 2015, EPA's enforcement program resulted in \$7 billion in investments by companies in compliance and cleanup measures; \$404 million in penalties; 129 combined years of incarceration for sentenced defendants, and \$39 million for environmental mitigation projects. These enforcement actions resulted in reductions of 215,000 tons of air pollutants and 46,000 pounds of water pollution. This is a significant enforcement effort. Still, it falls far short of reaching all violations, leaving many pollution sources out of compliance.

One reason why EPA doesn't do a better job in enforcement is that it doesn't have the money. EPA's budget problems are hard to fix, given the huge battles over the federal budget. But there are a number of promising ideas for how to get more bang for a buck, some of which EPA is actively exploring. I'll address some of those ideas in a post later this week.

