

Committee on Energy and Commerce

**Opening Statement Prepared for Delivery
of**

Subcommittee on Oversight and Investigations Chair Diana DeGette

Confronting a Growing Public Health Threat: Measles Outbreaks in the U.S.

February 27, 2019

For decades, this oversight and investigations panel has worked to ensure that the Environmental Protection Agency is doing its job - including enforcing our nation's environmental laws.

That work continues today.

It's important to remember, that when we talk about enforcement, what we are really talking about is protecting our environment - and our health - from polluters.

We're talking about keeping our rivers and waterways clean; and harmful pollutants out of the air that each and every one of us breathes.

If the EPA isn't enforcing the laws that we already have on the books, then we all pay the price.

Unfortunately, the price some of us pay is greater than others - as some of our nation's biggest polluters are often located in, or near, mostly minority and low-income communities.

We have a responsibility to care for them, as we do every single person who calls America home. And ensuring the EPA is doing its job, and holding polluters accountable, is critical toward protecting their health and well-being.

Now, I understand that enforcing our environmental laws can often be a long and intensive process. I also understand that there is not one single measurement that can be used to accurately evaluate the agency's overall efforts to enforce our laws in a given year.

That said, there are some indicators that are more telling than others, and when combined with others can help to paint a pretty clear picture of what's really going.

The numbers you'll hear today are from the EPA's own Office of Enforcement and Compliance Assurance, and were included in a report it released earlier this month detailing the agency's 2018 enforcement and compliance activities.

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I'm sure the EPA will try to use these numbers today to paint a rather rosy interpretation of its enforcement efforts last year. And they'll probably going on and on about how proud they are of all that they did last year.

But, what I see when I look at this report is an agency that's sitting on its hands. I see an agency that's giving polluters a free pass. And it's putting our health and environment at risk.

When EPA enforcement activities go down, pollution goes up - that's a fact. And the latest numbers from the EPA show its overall enforcement activities for 2018 were at a historically low levels.

For example - and, again, this is according to the agency's own numbers - in fiscal year 2018 the EPA assessed polluters a total of \$69 million in civil penalties. \$69 million! That's the lowest total amount of penalties assessed to polluters since the EPA created the office of enforcement in 1994.

Again, I understand that enforcement efforts can often take months and even years to complete, and that some of the work done in one year may not be accurately reflected in the overall total for that given year. But these numbers seem to suggest a disturbing trend taking place at EPA.

And while no one figure can tell the whole story, there are some indicators that - when taken together - can help us paint a pretty clear picture of the EPA's overall efforts to enforce our laws.

For example, the total number of facilities that the EPA inspected last year is the lowest since 1994. The total number of civil cases it initiated is the lowest since 1982. And the number of cases it referred to the Department of Justice - the lowest since 1976.

So, while I'd like to sit here and believe that the EPA is serious about enforcing our federal environmental laws, it's hard to ignore the facts. And it's hard to ignore headline after headline which suggest the opposite. For example:

- * Washington Post [quote]: "Under Trump, EPA inspections fall to a 10-year low."
- * New York Times [quote]: "EPA Enforcement Drops Sharply in Trump's 2nd Year in Office."
- * NBC News: [quote] "EPA criminal action against polluters hits 30-year low under Trump."
- * Christian Science Monitor [quote]: "Has the EPA Lost its Teeth?"

If the EPA isn't enforcing our environmental laws, who is?

If the EPA isn't acting as the environmental watchdog that it was created to be, then it's not acting in the best interest of the American taxpayers who fund it.

The question is: why?

Why is the EPA suddenly sitting on the sidelines?

Based on data provided by the agency, since President Trump took office, EPA has cut at least 17% of the personnel assigned to its main enforcement office. That doesn't include any of the personnel they have lost at any one of the EPA's 10 regional office, where much of the enforcement work really gets done.

We'll also hear today how those who remained at EPA are facing even greater challenges when trying to perform their jobs under this administration.

When President Trump announced his plans to cut the EPA by nearly 25 percent, he sent a pretty clear message to polluters and to the career staff at EPA where his priorities lied.

Had those proposed cuts been successful, EPA's budget would have been cut by nearly \$2.6 billion and its workforces would have reduced by more than 3,100 employees.

Thankfully, Congress was able to prevent those massive cuts from going into effect. But, by simply proposing them in the first place, this administration accomplished its goal of sending a pretty clear message.

Our committee has heard from agency staff who have reported feeling pressure from EPA political appointees to go easy on industry. The EPA, under the Trump Administration, has even instituted a new political review process before agency staff can move forward with any enforcement actions against a polluter.

If that weren't enough, the EPA - under the Trump administration - has continued to delegate more and more of its enforcement authority to the states - which all have varying laws and different approaches to enforcing them.

Delegating enforcement of our nation's environment laws to the states makes them moot. And to me, that's unacceptable.

The EPA's argument that its enforcement efforts should not be evaluated simply on the amount of fines it issues or actions it takes, but instead on how many polluters it's able to bring into compliance, is a farce. Compliance without enforcement does not work.

And while encouraging polluters to comply with our environmental laws is certainly a valiant effort to undertake, turning a blind eye to some of the worst polluters in the process will not be tolerated.

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If evidence and experience have shown us one thing it's that the worst polluters are also the most unlikely to voluntarily raise their hands and ask for help.

And while we are always glad to hear about the EPA's successes in allowing an industry to self-police itself, I am always skeptical when I hear of a government agency allowing the foxes to guard the henhouse.

It has been widely reported that the Trump Administration has appointed dozens of former industry lobbyists to high-ranking jobs within the administration. One of the things that troubles me most is how many of those appointees are at the EPA.

Just yesterday, in fact, the Washington Post reported that EPA political leaders may have interfered in several enforcement matters undertaken by the agency - including some that involved former industry clients, which is a clear violation of ethics rules.

In the past two years, we have seen an agency that's constantly trying to move the goal posts of what is allowable under the law.

We have seen leadership at the EPA attempt to roll back some of our most critical environmental safeguards - including weakening our protections against mercury, loosening our oversight of the oil and gas industry, and undoing the highly-successful vehicle fuel-efficiency standards that have worked so well to help reduce our overall greenhouse gas emissions.

Congress has worked too hard, on behalf of the American people, to enact some of the rules and regulations that work to protect our environment and health. And this panel will not sit back and allow this administration to simply ignore those laws.

We expect the EPA to do its job.

We expect it to enforce every single rule and regulation we have the books.

And we expect it to vigorously protect the American people and our environment.

Thank you.

