

Illinois EPA Compliance and Enforcement Update



Mike Roubitchek
Deputy General Counsel
Illinois Environmental Protection Agency

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Disclaimer: The views and opinions expressed by this presenter are solely his own and should not be attributed to the State of Illinois or the Illinois Environmental Protection Agency

Topics

- Organizational Structure of BOW Compliance and Enforcement Process
- Trending BOW Compliance and Enforcement Topics
- Illinois EPA Enforcement Process Refresher and Statistics

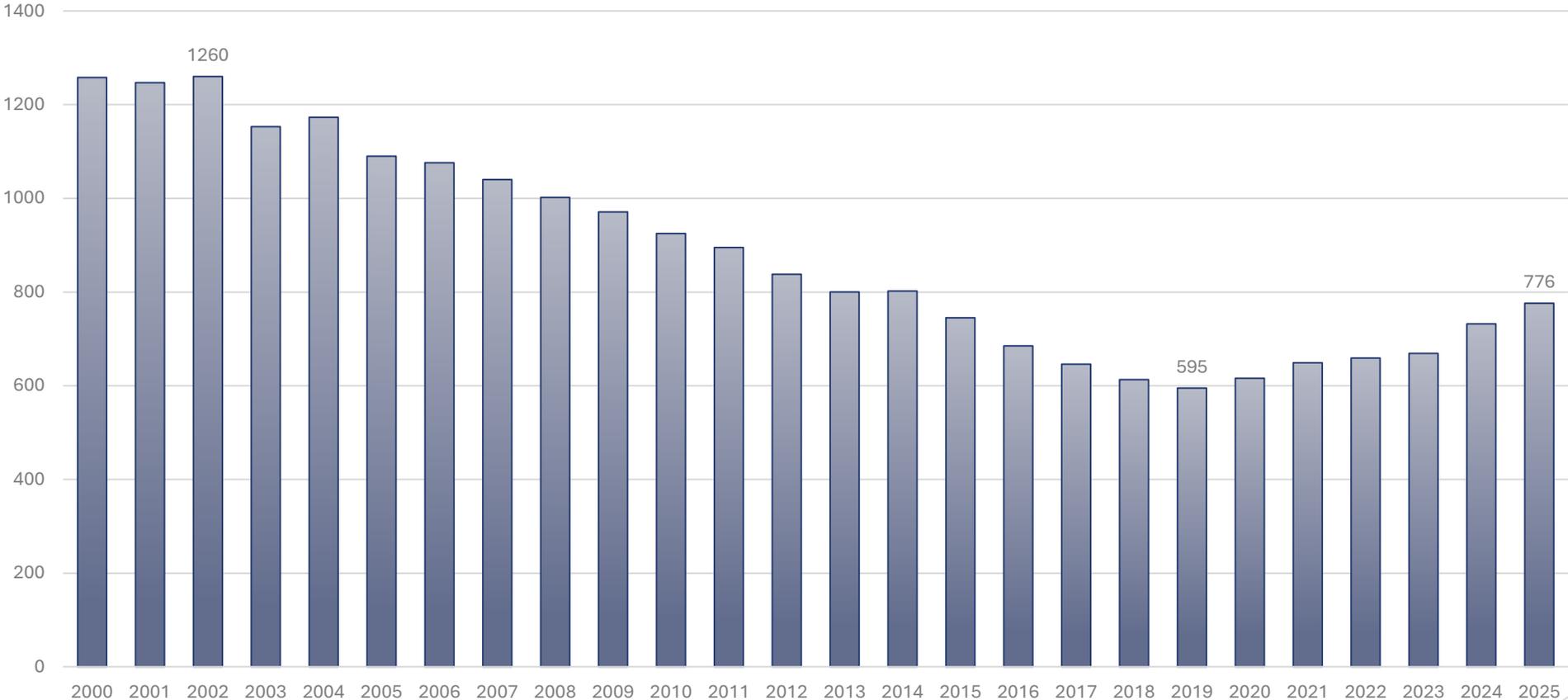


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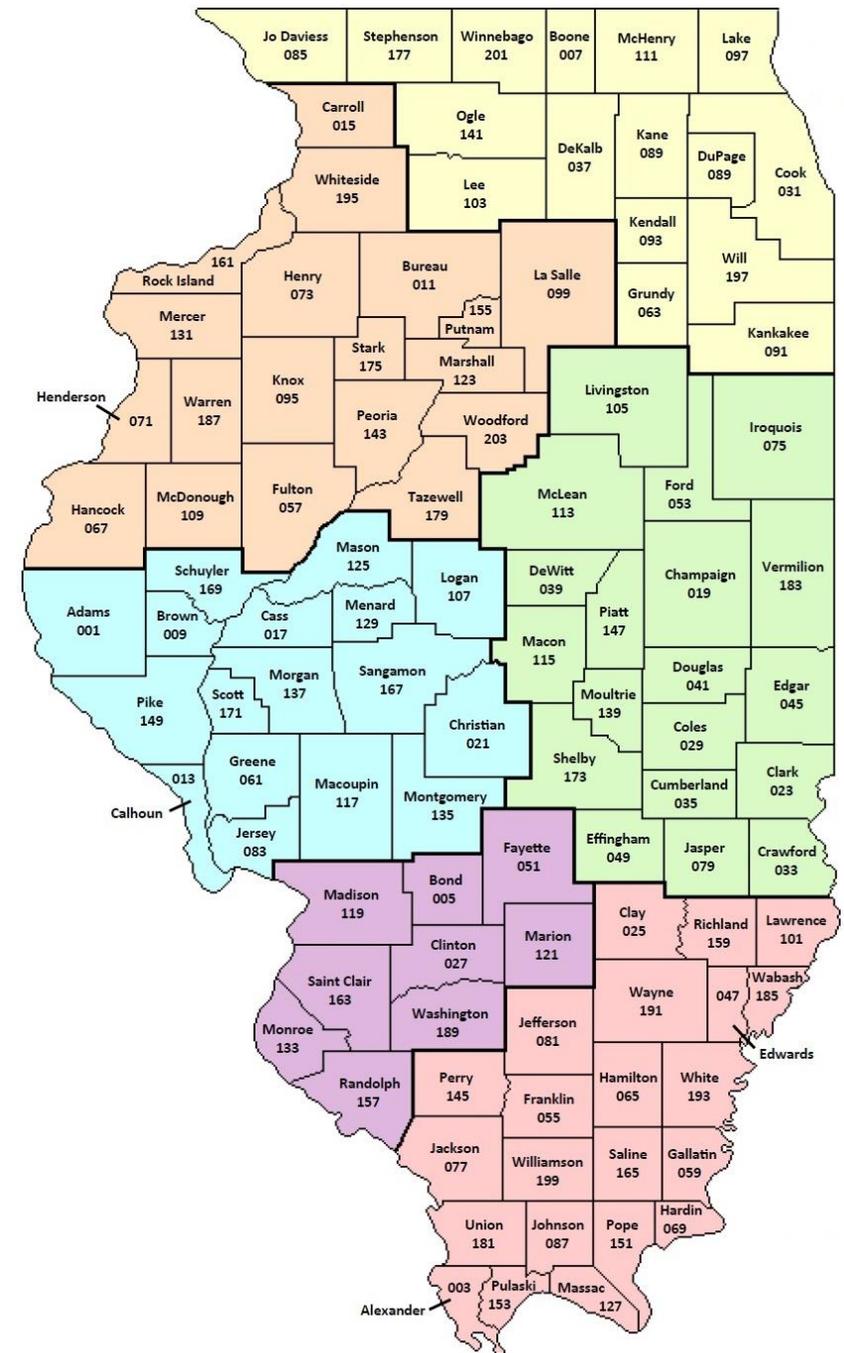


Illinois EPA Headcount



Illinois EPA Regional Offices

- Region 1 - Rockford
- Region 2 – Des Plaines
- Region 3 – Peoria
- Region 4 – Champaign
- Region 5 – Springfield
- Region 6 – Collinsville
- Region 7 – Marion



Illinois EPA Division of Legal Counsel Structure

Bureau of Water – Enforcement and Regulatory Units

Bureau of Land – Enforcement and Regulatory Units

Bureau of Air – Enforcement and Regulatory Units

Criminal

As of August 2025 – 36 Illinois EPA attorneys



Division of Legal Counsel

BOW Enforcement and Regulatory Units - Job Duties

- Enforcement Referrals/Post-Referral Litigation w/AGO
- Enforcement Process Assistance
- Statutory and Regulatory Guidance
- Administrative Citations
- Regulatory Relief
- Permit Appeals
- Tax Certifications
- Administrative Search Warrants



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NPDES Program – *San Francisco v. EPA*

Legal Implications

- ▶ Supreme Court invalidated “end-result” limitations in NPDES Permits
 - Effluent must not cause or contribute to a violation of any applicable WQS
 - No effluent shall [cause offensive conditions]
- ▶ Current NPDES Permittees – special conditions still valid
- ▶ Discharge events potentially violate other requirements of the Permit (e.g., O&M requirements)
- ▶ Limitations on “permit shield” in Section 12(f) of the Act
- ▶ Potential to allege other State-only violations (e.g., Section 12(a) of the Act)

PFAS Reduction Act

415 ILCS 170 et. seq.

PFAS Reduction Act – 415 ILCS 5/170 effective January 1, 2022

Sec. 30. Disposal.

(a) Proper disposal of Class B firefighting foam containing PFAS shall not include flushing, draining, or otherwise discharging the Class B firefighting foam into a ditch, waterway, storm drain, or sanitary sewer.

Sec. 35. Civil penalties.

A manufacturer who violates this Act is subject to a civil penalty not to exceed \$5,000 for the first violation and a civil penalty not to exceed \$10,000 for each subsequent violation. Civil penalties collected under this Section must be deposited into the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act.



PFAS Reduction Act (cont'd)

Amendment: HB2516 passed May 31, 2025 and signed into law August 15, 2025.

Sec. 45. Other banned products; other civil penalties; enforcement.

(e) This Act and the civil penalties in this Act may be enforced by the Attorney General or the State's Attorney of the county where the violation occurs by bringing an action in the name of the People of the State of Illinois in a court of competent jurisdiction alleging a violation of this Act...



Enforcement Coordination w/USEPA

- ▶ Coordination between Illinois EPA and USEPA within the context of delegated programs (e.g. Clean Water Act; Safe Drinking Water Act)
- ▶ Increased number of joint Federal/State enforcement cases
- ▶ USEPA Memo - March 12, 2025: Implementing National Enforcement and Compliance Initiatives Consistently with Executive Orders and Agency Priorities



USEPA National Enforcement and Compliance Initiatives Fiscal Years 2024-2027

1. Mitigating Climate Change
2. Addressing Exposure to PFAS
3. Protecting Communities from Coal Ash Contamination
4. Reducing Air Toxics in Overburdened Communities
5. Increasing Compliance with Drinking Water Standards
6. Chemical Accident Risk Reduction

Example from prior USEPA Compliance Initiatives – Reducing Significant Non-Compliance with NPDES Permits – goal of 50% reduction in violations



Non-Governmental Organization (NGO) Involvement

- ▶ Significant increase in NGO citizen suits
- ▶ Significant increase in NGO intervention into ongoing State enforcement actions

Environmental Justice

State of Illinois Constitution: Article XI, Section 2:

“Each person has the right to a healthful environment...”



Environmental Justice

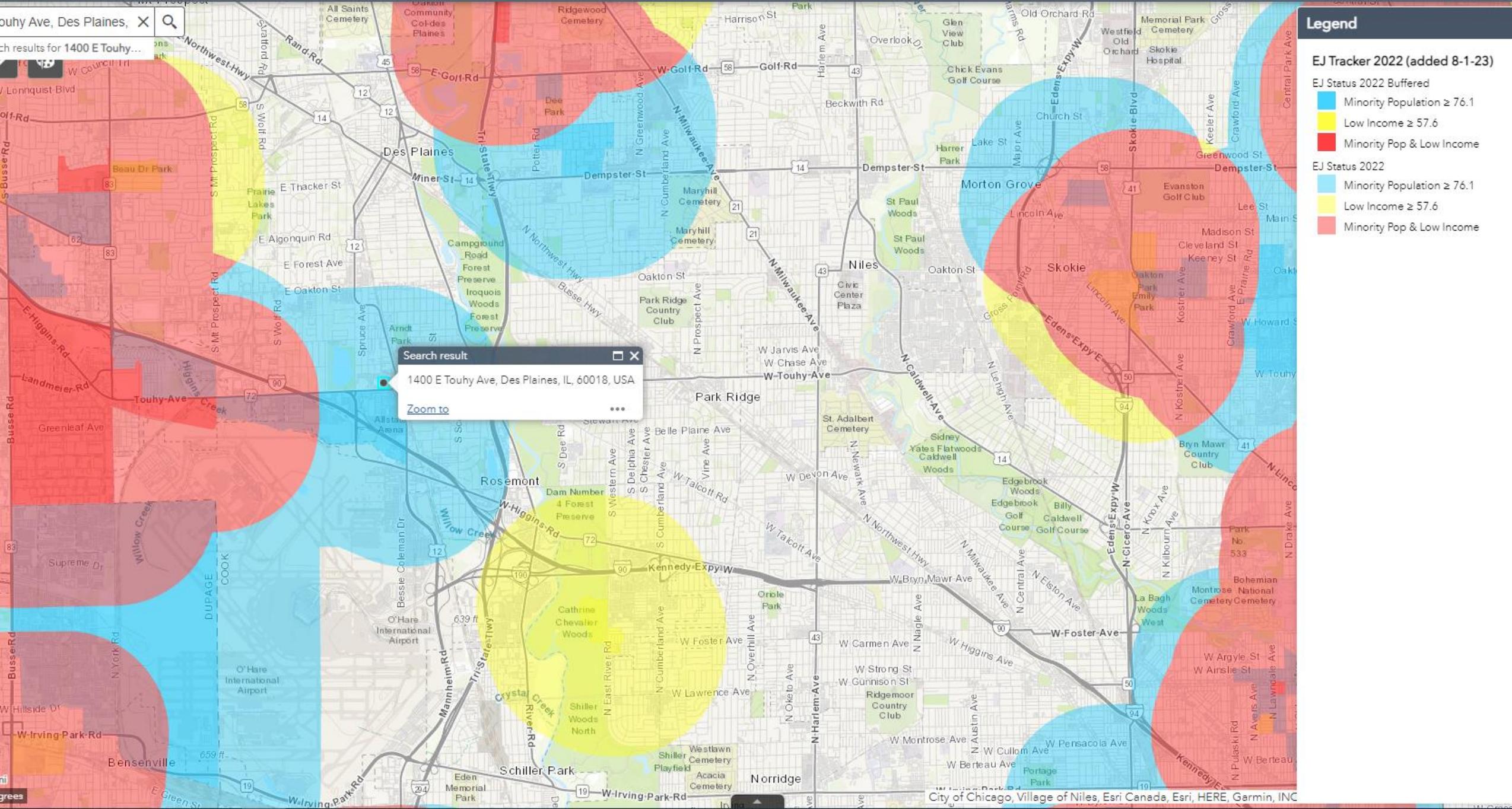
Illinois EPA definition – “Environmental Justice” is based on the principle that all people should be protected from environmental pollution and have the right to a clean and healthy environment.

Illinois EPA definition – “Area of EJ Concern” is a census block group with a low-income and/or minority population greater than twice the statewide average.

The Agency uses a GIS mapping tool called EJ Start to determine where areas of EJ concern are within the State. EJ Start can be found at:

<https://epa.illinois.gov/topics/environmental-justice.html>





Legend

EJ Tracker 2022 (added 8-1-23)

- EJ Status 2022 Buffered
 - Minority Population ≥ 76.1
 - Low Income ≥ 57.6
 - Minority Pop & Low Income
- EJ Status 2022
 - Minority Population ≥ 76.1
 - Low Income ≥ 57.6
 - Minority Pop & Low Income

Search result

1400 E Touhy Ave, Des Plaines, IL, 60018, USA

Zoom to

Enforcement in Areas of EJ Concern

- ▶ Illinois EPA has developed an EJ Enforcement Policy. Key principles include:
 1. Community members are entitled to access information related to the enforcement process and have their concerns heard;
 2. Increased monitoring, inspection and investigation of potential violations; and
 3. Responsible parties are required to address environmental impacts of their violations

<https://epa.illinois.gov/topics/environmental-justice/ej-enforcement-strategy.html>

- ▶ What does this mean for the regulated community?

Transparency - Outreach - Supplemental Environmental Projects (SEPs)



Civil Penalties and Supplemental Environmental Projects

- ▶ Effective June 16, 2025, the statutory maximum penalties in Section 42(a) of the Act increased to \$100,000 for each violation and up to \$25,000 for each day the violation continues. NPDES-related violations increased up to \$25,000 per day.
- ▶ **“How does IEPA anticipate this change will impact its enforcement strategy, particularly in terms of settlement negotiations, discretionary enforcement, and potential deterrent effect on regulated entities?”**
 - ▶ The amounts of civil penalties sought reflects collaboration between Illinois EPA and the Attorney General’s Office. Illinois EPA sets consistent penalty targets in referrals that already had been increasing in recent years to reflect inflation since the Act’s former maximum penalties had been set in 1990.
- ▶ Supplemental Environmental Projects – Illinois EPA will be standing up an online SEP Bank to provide pre-approved SEPs that can be incorporated into settlements.



Case Highlight Review

State of Illinois v. 401 North Wabash



***United States and State of Illinois
v.
City of Cahokia Heights***



The Bean Case



The Casino Barge Case



The Solar Farm Case



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Illinois EPA Enforcement Process

From inspection, to enforcement, to referral



Illinois EPA Inspections

- ▶ Periodic or scheduled inspections
 - US EPA Inspection Work Plan
 - Internal inspection requests (Permits, Compliance, Financial)
- ▶ Complaint-driven inspections
 - Citizen complaints
 - IEMA Hazmat Reports
 - Internal/Governor's Office/Legislative requests
 - AGO Requests
 - Final Loan Inspections
- ▶ “Desk Audit”
 - Permit requirements



The Section 31 Process

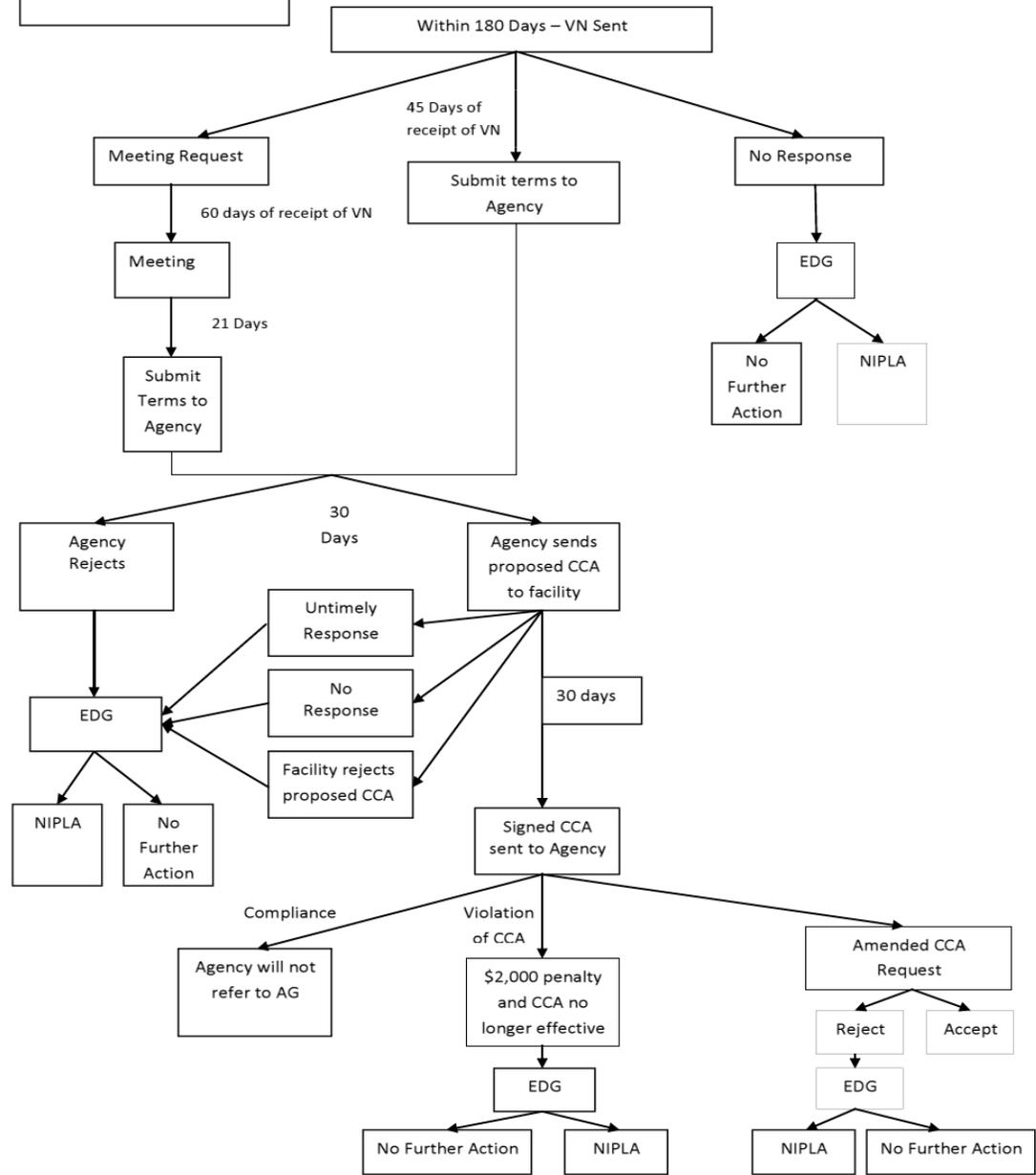
The substantive and procedural requirements of Illinois EPA's enforcement process can be found in Section 31 of the Illinois Environmental Protection Act, 415 ILCS 5/31



Section 31(a) – Violation Notices and Compliance Commitment Agreements

- ▶ Violation Notices (VN) must be issued within 180 days of the Agency becoming aware of the violations
- ▶ VN Response Letter / VN Meeting
- ▶ Opportunity for VN recipient to request a Compliance Commitment Agreement (CCA)
- ▶ Agency determines whether to issue a CCA
- ▶ CCAs are discretionary, not mandatory

“NEW” Section 31



Section 31(b) – NIPLA and Referral Process

- ▶ If the Agency decides not to issue a CCA, or a CCA has been violated, the matter may proceed to Illinois EPA's Division of Legal Counsel (DLC)
- ▶ DLC issues a Notice of Intent to Pursue Legal Action (NIPLA), which includes the opportunity for a meeting
- ▶ DLC drafts a referral document, which is issued to the AGO or other prosecutorial authority
- ▶ Post-Referral – DLC works with the AGO to obtain injunctive relief and a civil penalty
 - ▶ Use of Agreed Interim Orders (AIO)



Other “Enforcement” Options

- ▶ Administrative Citations
- ▶ Referral to U.S. EPA
- ▶ Emergency Referral – Section 43 of the Act
- ▶ Seal Order – Section 34 of the Act



Illinois EPA Enforcement Process Tips and Reminders

- ▶ Read the VN/know the Section 31 deadlines
 - ▶ 2023 legislative change to Section 31 – opportunity for additional extension
- ▶ Be specific in proposed CCAs
- ▶ Contingent VN responses unlikely to lead to CCAs
- ▶ Use Illinois EPA staff as a resource
- ▶ Staff turnover within the regulated community is contributing to increases in referral numbers
- ▶ Utilize your in-house/outside legal counsel



Illinois EPA Enforcement Process Tips and Reminders (cont'd)

- ▶ Potential for longer CCA deadlines (at Illinois EPA's sole discretion)
- ▶ NPDES Permit termination issues
- ▶ NPDES Industrial General Permit issues
- ▶ Self-Disclosure – Section 42(i) of the Act



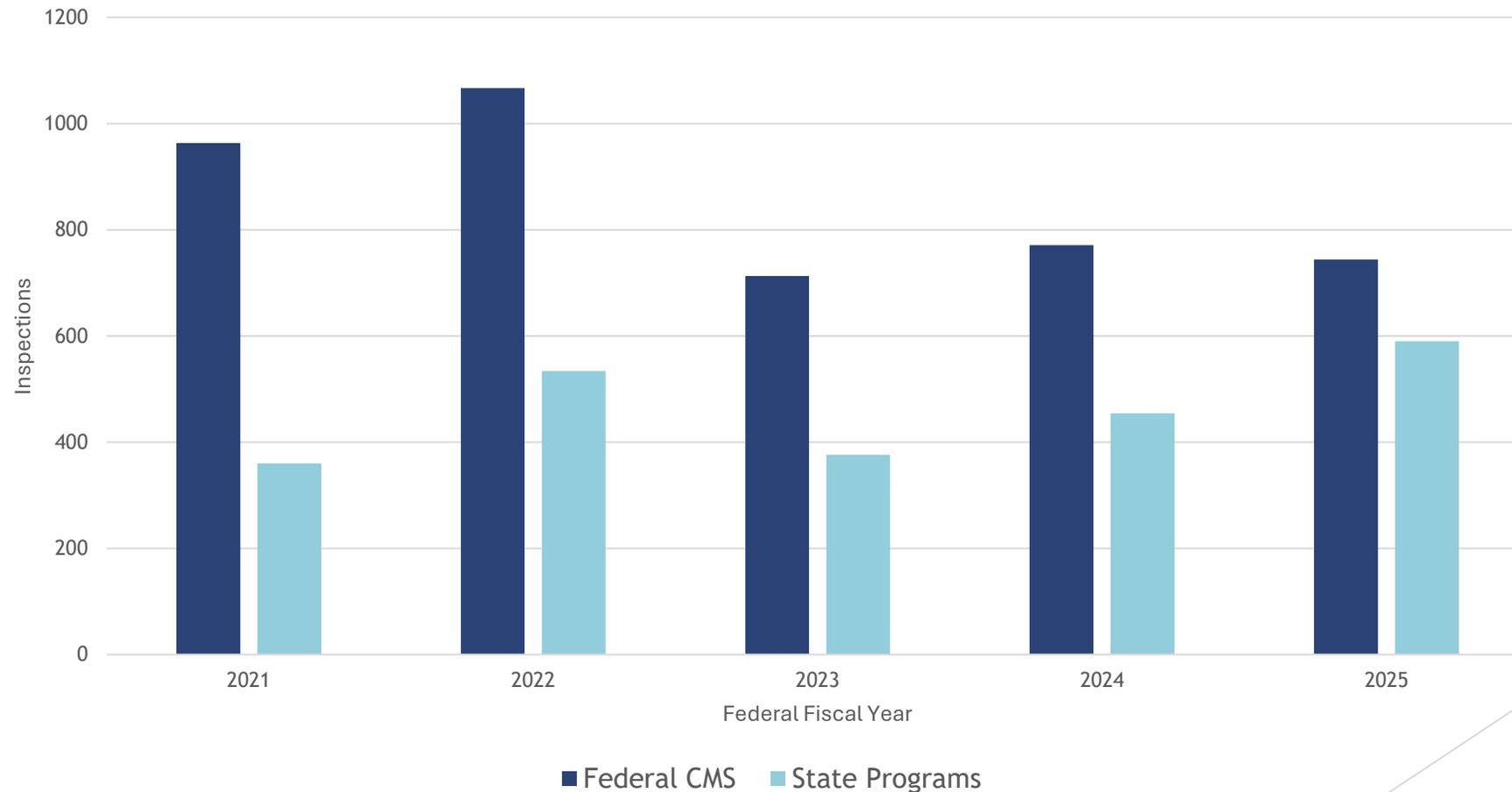
Illinois EPA Enforcement Process

Questions and Answers

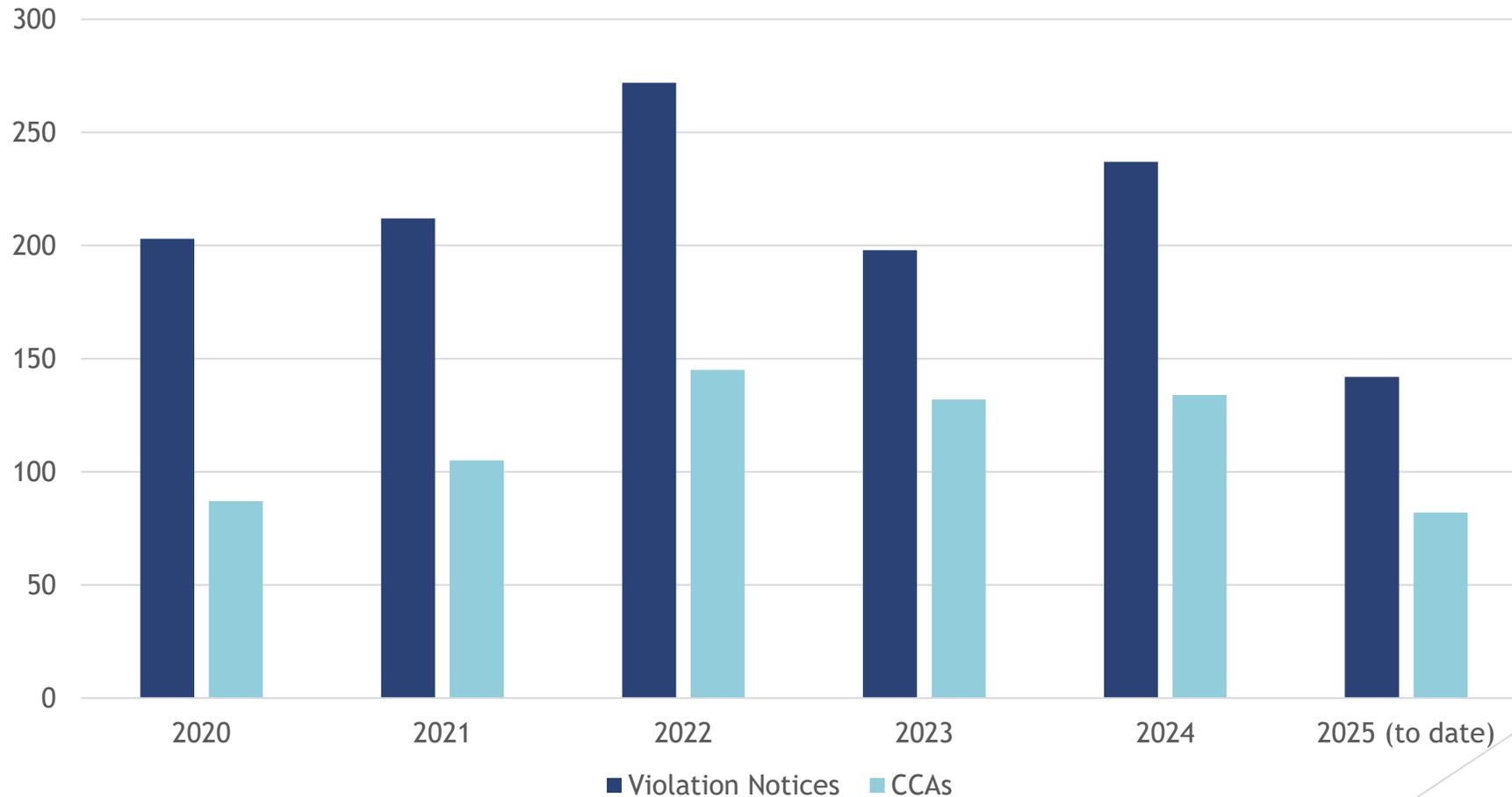
- ▶ Is IEPA seeing a rise in unpermitted discharge cases, and are these typically the result of infrastructure issues, expired permits, or lack of awareness of permitting obligations?
- ▶ What common compliance challenges are municipalities facing under their NPDES permits—are these primarily tied to reporting, bypasses, or effluent limit exceedances?
- ▶ Under what circumstances does IEPA issue interim orders rather than final consent orders—and how should regulated entities interpret or manage these interim obligations?
- ▶ Water enforcement activity spans all regions—from urban Cook and McHenry to rural Johnson and Wayne Counties. Are regional enforcement priorities for water programs driven more by facility type, inspection frequency, or regional pollution concerns like nutrient loading or impaired waters?



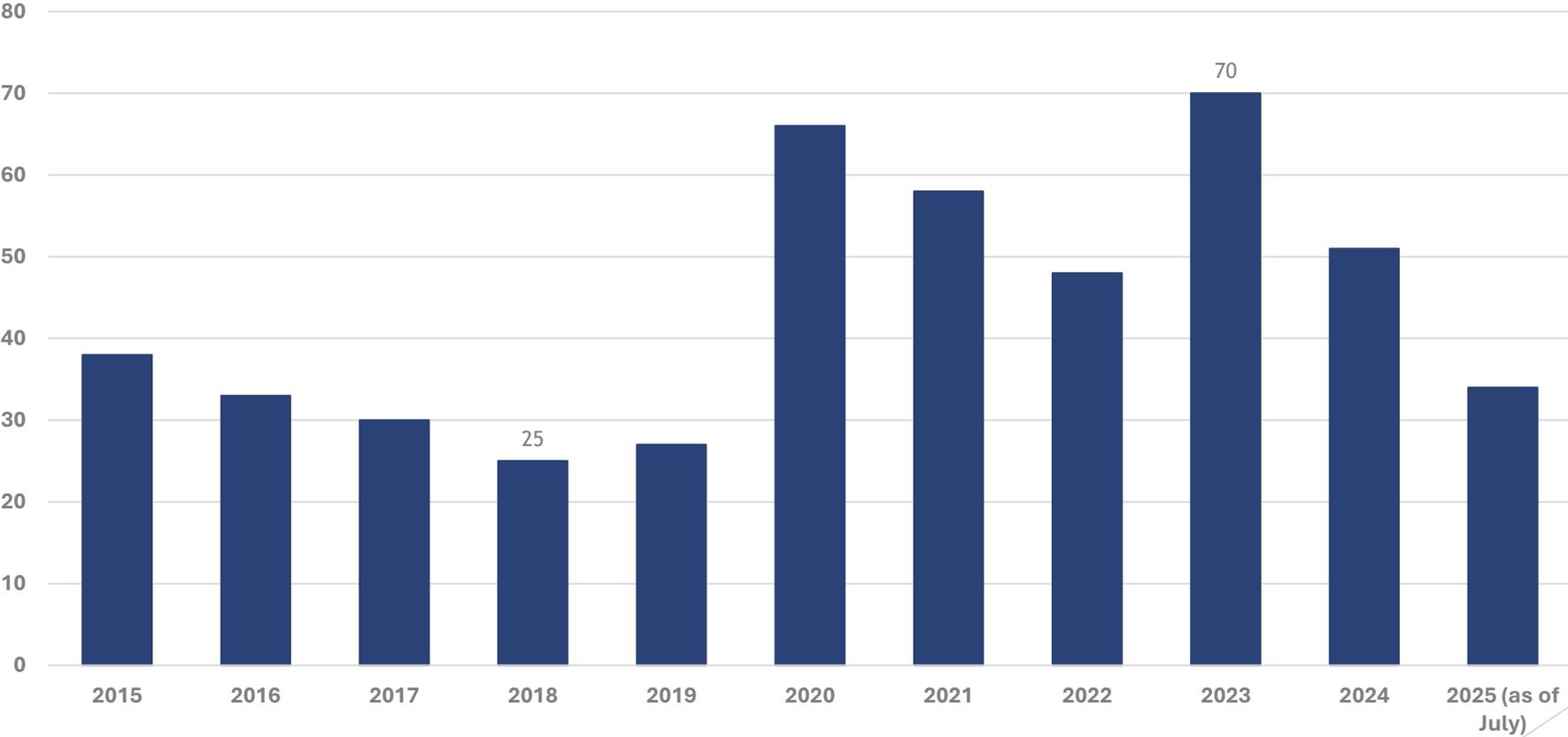
Illinois EPA BOW Wastewater Inspections FY2021-Present



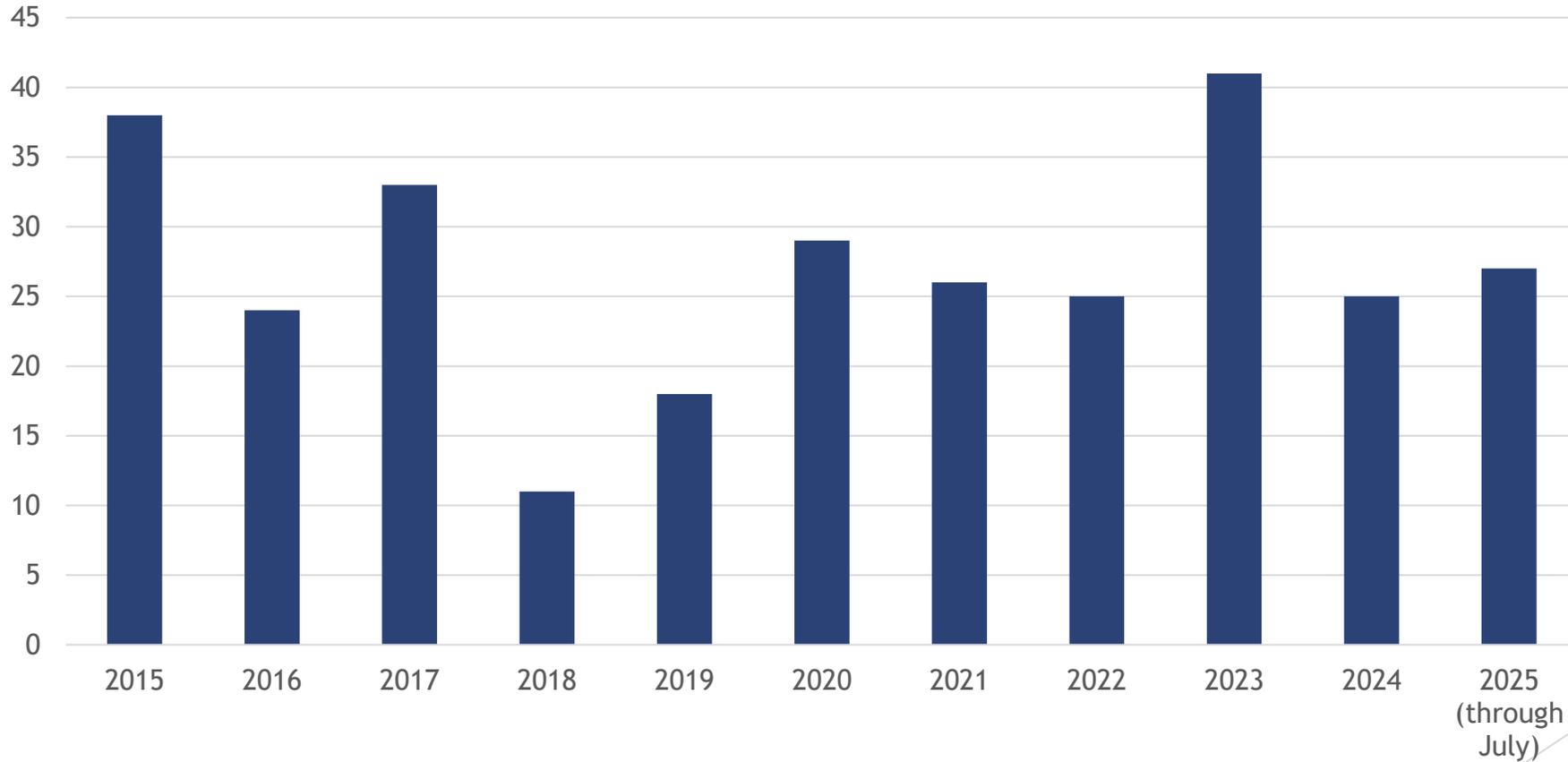
Illinois EPA Violation Notices and CCAs Wastewater: 2020-2025



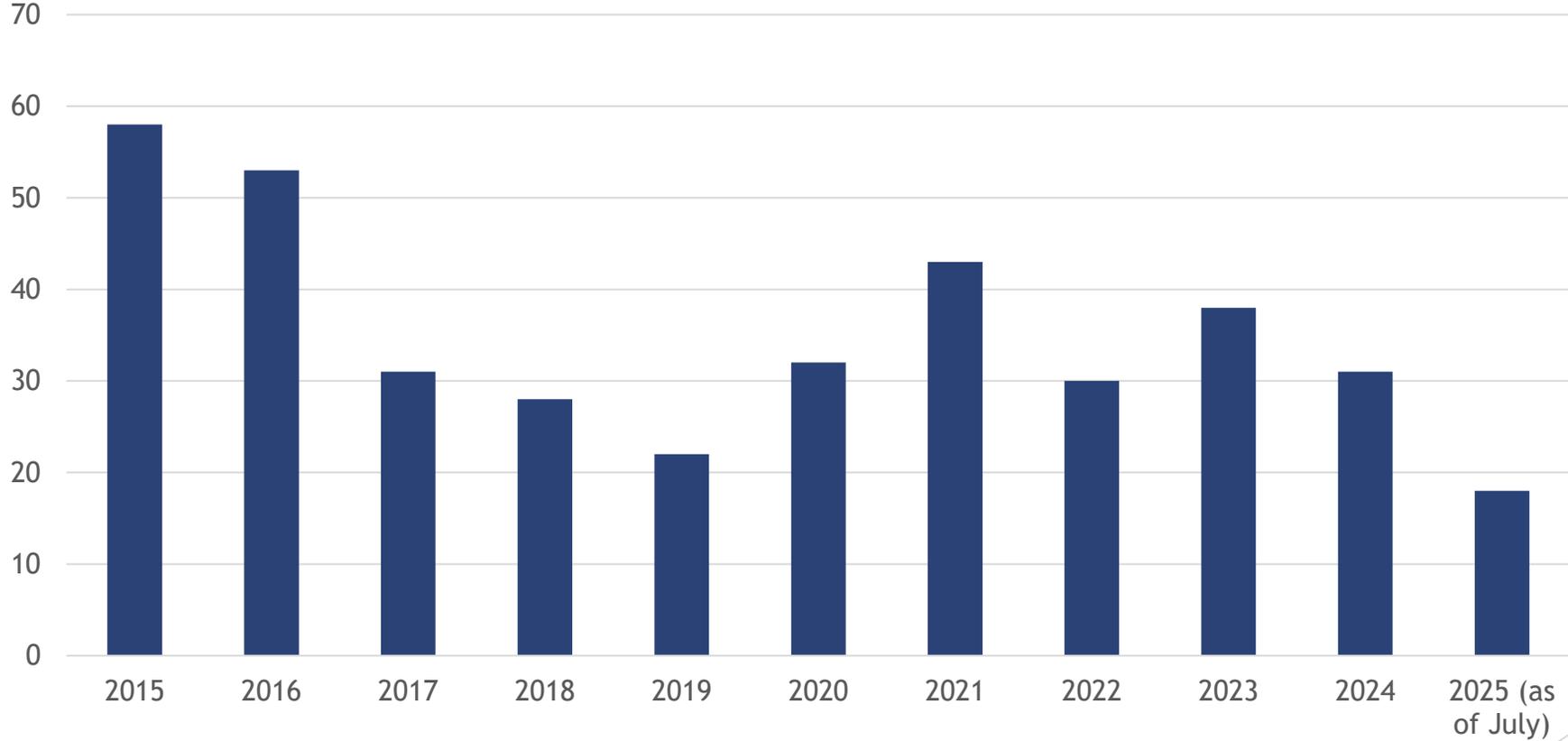
Illinois EPA Referrals Bureau of Water Cases 2015-2025



Illinois EPA/AGO Complaints Filed Bureau of Water Cases 2015-2025



Illinois EPA/AGO Orders Entered Bureau of Water Cases 2015-2025



Questions?

Mike Roubitchek
Deputy General Counsel
Illinois Environmental Protection Agency
(217) 782-5544
Mike.Roubitchek@Illinois.gov

