




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 2 2009

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Improving Water Quality through Transparency and Effective Enforcement of Clean Water Act Requirements

FROM: Lisa P. Jackson
Administrator 

TO: Cynthia Giles
Assistant Administrator for Enforcement and Compliance Assurance

Clean and safe water is a priority for this Administration. The Clean Water Act plays a central role in protecting this nation's waters. The American public has a right to expect their water will be clean, and EPA has an obligation to use its resources and authorities to the fullest to ensure this result. Despite the successes we have achieved over the years, water in the United States is not meeting public health and environmental goals. Too many of our streams, lakes and rivers do not meet our water quality standards.

We are also falling short of this Administration's expectations for the effectiveness of our clean water enforcement programs. Data available to EPA shows that, in many parts of the country, the level of significant non-compliance with permitting requirements is unacceptably high and the level of enforcement activity is unacceptably low. Our commitment to the rule of law as a foundational principle for EPA requires that we take action against significant violations and that we assure a consistent standard for compliance across the country. A level playing field for enforcement and compliance is important for fair treatment of industrial facilities across the country and to prevent some regions from achieving an economic advantage over others.

Compliance with the Clean Water Act is a shared responsibility of EPA and the states. I recognize that resources are limited at the federal and state level during these challenging economic times and that we must meet our highest environmental priorities first. However, I believe that, working together with states, there are positive steps we can take quickly to improve compliance and enhance water quality.

The first step is to improve transparency. Americans have a right to know how their government is doing in enforcing laws to protect the nation's water, and government has an obligation to clearly inform the public about water quality and our actions to protect it. An informed public is our best ally in pressing for better compliance. Therefore I am directing you

to improve and enhance information that is available through the EPA web site on compliance with the Clean Water Act and the level of enforcement activity in each state, showing connections where possible to local water quality. This information should be user-friendly and provide a way to look at performance of individual businesses as well as state and national performance. State-by-state performance reports that have already been released under the Freedom of Information Act should also be posted to the web, together with tools to analyze the data EPA prepared for those reports.

Second, we need to raise the bar for clean water enforcement performance. We must make sure that strong and effective action is taken when serious violations of law threaten water quality, and we must boost EPA's enforcement presence against serious violators, recognizing that authorized states have the first opportunity to act. EPA must also improve its own enforcement performance in states where EPA directly implements the clean water program. And we must assure that we are doing the work that is most important to clean up our nation's waters. Because EPA and the states face significant and competing demands for resources, we need to place a high priority on the problems that have the biggest impact on water quality, such as wet weather pollution, which are not currently well represented in the information we have on Clean Water Act compliance.

Third, we need to move EPA's information technology into the 21st century. We need to transform EPA to be not only a collector and disseminator of information but an analytical resource that can present information in a form that is easily understood and useable by the public. We have seen that when information is made public, it can be a powerful tool to help improve the environment directly. We need to launch into a major shift of EPA's Clean Water Act information systems – so that data on both facilities' discharges and compliance and water quality and other environmental conditions will be readily available and transparent to both federal and state regulators and the public, over the web, on a real-time basis.

So that we can identify the concrete steps that EPA should take to accomplish these goals, I am directing you to work with the Office of Water to develop an action plan to further enhance public transparency regarding EPA and state Clean Water Act enforcement program performance, to strengthen that performance, and to transform our water quality and compliance information systems. A critical part of this process should be close consultation with EPA Regional Offices and with states, including the Environmental Council of the States (ECOS) and the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA). You should gather the best ideas from the states and regions, as well as outside stakeholders, and report back to me within 90 days with your recommendations.

cc: Scott Fulton
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Assistant Administrators
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