

House Transportation and Infrastructure Committee Holds Clean Water Act Enforcement Hearing

Excerpts from the National Wildlife Federation and New York Times websites—October 2009

On Thursday, October 15, the House Transportation and Infrastructure Committee **held a hearing** marking the 37th anniversary of the passage of the Clean Water Act. Eleven witnesses, including Environmental Protection Agency Administrator Lisa Jackson, spoke about the current state of Clean Water Act enforcement.

At the hearing, Administrator Jackson drew a clear connection between restoring Clean Water Act protections and the EPA's poor enforcement record, saying "enforcement is made harder when you don't know if you have jurisdiction."

Administrator Jackson made a plea to the Representatives on the Committee and to Congress as a whole to reestablish historic Clean Water Act protections, acknowledging that only Congress has the power to restore this power to EPA, and guarantee everyone's right to clean water.

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E.P.A. Vows Better Effort on Water

The **Environmental Protection Agency** said on Thursday (October 15, 2009) that it would overhaul enforcement of the Clean Water Act, as lawmakers sharply criticized the agency's decade-long lapses in punishing polluters.

At a daylong hearing before the House Committee on Transportation and Infrastructure, the E.P.A. administrator, **Lisa P. Jackson**, said that agency officials "are falling short of this administration's expectations for the effectiveness of our clean water enforcement programs." "The time is long overdue for E.P.A. to re-examine its approach to Clean Water Act enforcement," said Ms. Jackson, who was confirmed to her position in January. She added that the agency would set strict benchmarks for state regulators, eventually compel companies to submit electronic pollution records so violations could be detected and punished more easily, and "develop more innovative approaches to target enforcement to the most serious violations and the most significant sources."

One approach will probably include a series of enforcement actions against companies and municipalities that have violated the Clean Water Act, according to people with knowledge of the E.P.A.'s plans who were not authorized to speak publicly.

The agency has not settled on a list of potential targets, but is likely to focus on mining companies, large livestock farms, municipal wastewater treatment plants and construction companies that operate sites where polluted stormwater has run into nearby lakes and rivers. "Going forward, if states are falling down on the job, we're going to reverse the permits they've issued, and if they're not enforcing the law, we'll step in and do it ourselves," said one agency official. An E.P.A. spokeswoman declined to discuss possible actions.

The E.P.A. has come under scrutiny recently for not punishing tens of thousands of polluters over the last decade, and many of the lawmakers at the hearing on Thursday are longtime critics of the agency's vigilance. In September, a New York Times investigation found that companies and other workplaces **had violated the Clean Water Act** more than 500,000 times in the last five years, but fewer than 3 percent of polluters had ever been fined or otherwise punished.

“Some states and E.P.A. regions have abysmal records of significant noncompliance,” said Representative **James L. Oberstar**, a Minnesota Democrat and chairman of the hearing, citing The Times’s reports. “Administrator Jackson, I look to you to begin taking the management steps necessary to protect our water, our public health and our environment.”

Other lawmakers, primarily Republicans, were critical of recent E.P.A. actions that have delayed so-called mountaintop removal mining permits. The agency has argued that such mines pose a risk to local waterways.

Representatives of state environmental agencies defended their performances at the hearing. “States are doing a good job enforcing the provisions of the Clean Water Act and should be commended given the many constraints they work under,” said Tom Porta, a Nevada environmental official and president of the Association of State and Interstate Water Pollution Control Administrators. Those constraints include inadequate budgets for state regulators and an expanding number of polluters that must be policed.

But many lawmakers and other witnesses at the hearing were unsympathetic. Officials from the **Government Accountability Office** and the E.P.A.’s Office of the Inspector General testified about widespread inconsistencies in how the Clean Water Act was enforced, and said disorganization, a lack of reliable data and poor planning by state and federal regulators had stymied efforts to punish polluters.

One witness described the impact of those lapses. Judy Trembl, of Wisconsin, told lawmakers that her 6-month-old daughter was hospitalized after drinking water that had become contaminated when a nearby farm covered its land with manure, which then seeped into her family’s well. One of the problems, lawmakers said, is that such pollution often goes unpunished or is outside the jurisdiction of the Clean Water Act.

“I just can’t imagine turning on your faucet and manure coming out,” said Representative Phil Hare, an Illinois Democrat. “We’ve got to fix this, and we’ve got to fix it quickly. It’s shameful that your family has to go through this.”

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