



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

This report responds to the March 2004 request that we further evaluate EPA's claim that the decline in clean water enforcement actions has been compensated for by a diversion of these resources to enforce against wet weather discharge violations. To address this question we needed to determine whether:

(1) it takes more resources to address wet weather clean water enforcement cases; (2) there has been a shift of EPA resources to wet weather priority areas; and (3) the number of enforcement actions declined over the last 5 fiscal years.

Background

Concern was raised about the Agency's commitment to the clean water enforcement function when a 2003 internal report noted that "formal" NPDES enforcement actions against major facilities had declined over the previous 3 years.

For further information, contact our Office of Congressional and Public Liaison at (202) 566-2391.

To view the full report, click on the following link:

www.epa.gov/oig/reports/2005/20041018-2005-S-00001.pdf

Congressional Request Regarding EPA Clean Water Enforcement Actions

What We Found

According to respondents from the 10 EPA regions, wet weather enforcement cases require more resources to complete than traditional National Pollutant Discharge Elimination System (NPDES) enforcement actions. Further, 8 of the 10 regions said that conducting enforcement actions against combined sewer overflows/sanitary sewer overflows requires more resources than other types of wet weather actions.

Evidence suggests that EPA has shifted NPDES compliance and enforcement staff from traditional NPDES program activities to work on wet weather issues. All five of the EPA regions that provided information from Fiscal Year (FY) 1999 through 2003 delineating traditional and wet weather resources indicated that they have shifted resources to address wet weather violations of the Clean Water Act.

Contrary to the implicit assumption stated in the information request, the annual number of EPA formal NPDES enforcement actions slightly increased rather than decreased between FY 1999 to FY 2003. However, the change was not uniform over this period. A large increase occurred at the beginning of the period, followed by a large 1-year decline. Clean Water Act enforcement actions have increased in the last 2 fiscal years.

Based on these findings, we cannot conclusively support or refute EPA's claim that a decline in EPA formal NPDES enforcement actions has been compensated for by a diversion of these NPDES resources against wet weather discharge violations. Continuous, significant shift of resources toward addressing wet weather cases over the last 5 years has not been matched by a corresponding increase in the share of wet weather enforcement actions, which we would have expected to see if EPA's assertion were true. However, we could neither prove nor disprove EPA's 2003 assertion due to a lack of staffing data and the fact that other potential explanations may exist for the absence of a correlation. Other possible explanations include a lag between resource inputs and enforcement actions and a possible increase in non-enforcement-related activities by EPA staff.