

Stakeholder Discussion on the Need for a Policy to Address Climate Risks in Clean Water Act Enforcement Remedies

EPA's Office of Enforcement and Compliance Assurance (OECA) is considering a policy that would address climate risks in Clean Water Act (CWA) enforcement remedies. Many states, municipalities, and private entities are considering climate change in their decisionmaking to ensure that their infrastructure and investments are resilient to climate change impacts they are experiencing, such as storms, floods, and droughts.

Various stakeholders have noted the impact that climate change can have on long term CWA compliance and the viability of clean water investments, and expressed a desire for EPA to have a consistent and predictable approach to this question across the EPA Regions. To address this need, we are considering issuance of an EPA policy that would build on climate change adaptation practices already being implemented in parts of the country and provide a framework for including adaptation and resiliency measures in appropriate CWA enforcement remedies. This framework would particularly focus on enforcement remedies that have broad potential impacts, require long-term schedules for improvements, and/or large infrastructure investments, and are vulnerable to the effects of climate change, such as upgrades to facilities located in coastal areas, or discharging to receiving waters likely to experience notably altered flows. A policy could also provide regulated entities with references to tools to use in evaluating their vulnerabilities in the enforcement context, such as the EPA Office of Water's Climate Resilience Evaluation and Awareness Tool (CREAT).

OECA is seeking input from stakeholder organizations for feedback on their experiences as they relate to CWA compliance and consistent approaches for building adaptation and resilience to climate change into CWA enforcement. The questions below are provided to give you a sense of what we would like to discuss in order to learn from your experiences and receive stakeholder input on development of this enforcement policy.

1. In what ways are regulated entities considering potential water-related climate change impacts in their compliance efforts?
2. Does your state have a climate adaptation plan?
 - a. If so, does it place any requirements on regulated entities?
3. Does your state require vulnerability assessments to be completed to ensure long-term compliance?
 - a. Who is required to perform these vulnerability assessments? (i.e. state agencies, municipalities, private entities)
 - b. What considerations and analyses are required as part of the vulnerability assessments?
4. Do your organization's members have policies or best practices on addressing climate change or extreme weather in the CWA compliance context?
5. What specific practices could be included in CWA enforcement remedies to address long-term compliance in the future in light of climate change?
6. Are your members aware of instances of CWA non-compliance resulting from climate change impacts?
7. What areas would it be helpful for a policy to address to ensure consistency?