



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

**MEMORANDUM**

**SUBJECT:** Using the Results of NPDES Permit and Enforcement Reviews to Address Significant Issues

**FROM:** Lisa C. Lund, Director  
Office of Compliance

Jim Hanlon, Director  
Office of Wastewater Management

**TO:** Regional Enforcement Directors  
Regional Water Directors

The Clean Water Act Action Plan, dated October 15, 2009, envisioned the integration of permit and enforcement review results in order to more holistically identify and address significant state performance issues that might pose barriers to the protection of water quality. To implement this commitment in the short term, the Office of Compliance and the Office of Wastewater Management are asking regions and states to **include an evaluation of the results of recent reviews as part of the annual planning process, and as a prelude to conducting reviews** in FY2011 and beyond. Recent reviews include the Permitting for Environmental Results (PER) program review, Permit Quality Reviews (PQR) and other permit reviews that include state-specific results, and results of both Round 1 and 2 of the State Review Framework for the enforcement program.

As discussed in the June 22, 2010 *Interim Guidance on Strengthening EPA and State Performance and Oversight*, regions are asked to review and integrate permit and enforcement review results in order to focus oversight resources on the most pressing performance problems in states. To do this, regions should evaluate the recommendations for improvements and their status, along with any other information available, in assessing where permit and enforcement performance issues overlap, or where gaps in program performance may compound or magnify each other. The goal is to identify the most critical NPDES performance issues in each state and the appropriate immediate actions to address them and ensure the integrity of the NPDES program. In looking more holistically at results, regions can ensure that permits are written in a protective and enforceable manner, and that enforcement is not providing a driver to write less



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protective permits. The two tools should both support the water quality protections our regulations are written to provide.

In most cases, states have been willing and able to take corrective actions where performance issues have been identified. In those cases, regions are encouraged to continue to work to support state actions to implement improvements. These actions should be included as a part of negotiated work plans.

Where a state is not able or willing to make progress in addressing these important issues, a region may need to act. Actions may include prioritizing the issuance of permits, objecting to permits, conducting inspections for a particular sector or watershed, taking direct enforcement action in a state, or acting on specific recommendations identified in permit or enforcement program reviews.

This information can also be an important component of looking in a more detailed way at state performance as a part of regular progress meetings (to be held a minimum of twice a year), as well as a prelude to a PQR or SRF review.

These actions are designed to enhance our current structure of oversight of state programs for the short term. The Office of Compliance and the Office of Wastewater Management are also initiating a process to more completely integrate permit and enforcement reviews. The resulting review will incorporate the new approaches coming out of the Clean Water Act Action Plan, and will clearly outline expectations for state programs as a result of these new approaches to protecting water quality.

We are specifically asking regions to:

1. Incorporate an evaluation of past permit and enforcement review results into the FY2012 planning process to begin in the spring;
2. Before conducting an SRF or a permit quality review, to evaluate past performance issues and determine if progress has been made to improve those areas of performance; and
3. As a part of regular progress meetings (twice a year, or more frequently as appropriate), look at outstanding performance issues and negotiated work plan commitments to ensure that appropriate progress is being made to improve performance.

In these difficult economic times, it is critical that the permitting and enforcement programs work together to ensure that the limited resources available to regions and states are utilized to address the most important problems. We very much appreciate the commitment of regional and state permit and enforcement programs to protect human health and the environment, and we look forward to working with you to better integrate our efforts.

If you have any questions, please contact Susan Gilbertson at 202-566-2351 or [gilbertson.sue@epa.gov](mailto:gilbertson.sue@epa.gov), or Martha Segall at 202-564-0723 or [segall.martha@epa.gov](mailto:segall.martha@epa.gov).

Attachment

cc: Randy Hill, OW  
Martha Segall, OW  
Tom Lavery, OW  
Christopher Knopes, OC  
Sue Gilbertson, OC  
Chad Carbone, OC  
Regional Water Branch Chiefs  
Regional Enforcement Coordinators  
Regional SRF Coordinators