

WATERKEEPERS PETITION EPA TO PROTECT MARYLAND WATERWAYS

Environmental Groups Ask Federal Agency to Oversee Clean Water Act in the State

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Baltimore, MD -- December 7, 2009 – Waterkeepers Chesapeake of Maryland and Waterkeeper Alliance (collectively “Waterkeepers”) today filed a detailed, 58 page petition seeking major changes in the way Maryland operates and enforces the Clean Water Act in order to better protect the Chesapeake Bay.

The petition asks the Environmental Protection Agency (EPA) to withdraw Maryland’s delegated authority to administer the Clean Water Act’s (CWA) pollution permitting program for dischargers in the state. Under the CWA, EPA retains ultimate authority to monitor and control point source discharges of pollutants across the nation through its National Pollutant Discharge Elimination System (NPDES) program; the Agency typically delegates this authority to the states for implementation. In the petition, filed on behalf of the Waterkeepers by the University of Maryland Environmental Law Clinic, Waterkeepers request that the EPA evaluate the systematic failure of Maryland’s Department of the Environment to properly and effectively administer and enforce the CWA’s NPDES permitting program.

Organizations represented in the petition include: Anacostia Riverkeeper, Assateague Coastkeeper, Baltimore Harbor Waterkeeper, Chester Riverkeeper, Choptank Riverkeeper, Lower Susquehanna Riverkeeper, Patuxent Riverkeeper, Potomac Riverkeeper, Sassafras Riverkeeper, Severn Riverkeeper, South Riverkeeper, West/Rhode Riverkeeper, and Waterkeeper Alliance.

“If you want to see proof of the failure of Maryland to enforce the CWA within its borders, look no further than the spiraling health of the Chesapeake Bay,” said Michele Merkel, Waterkeepers Chesapeake regional Coordinator “Over the last twelve years, MDE has failed to properly administer the CWA in countless ways as evidenced by the many examples in our petition. The Agency has been unable to draft and approve robust NPDES permits and has failed to comprehensibly enforce the program. By submitting this petition, we hope to encourage all parties to come together and find ways to improve the program and, ultimately, provide all Maryland citizens with cleaner, healthier waterways.”

To bring about an effective level of oversight, the Petitioners propose the following solutions:

- The enforcement of mandatory minimum penalties to help the MDE acquire much needed funds as well as to create a true deterrent factor;
- A chronic violator law to place mounting consequences on repeat violators;

- Increased NPDES fees that recoup the costs of permitting and enforcement;
- Electronically-available permitting and enforcement information that will facilitate transparency and save the state money in filing costs over time;
- Creation of an Ombudsman office in Maryland to help citizens navigate government departments and obtain information more quickly;
- More EPA oversight in order to hold MDE accountable for failures;
- Stop the regular practice of state takeover of federal Clean Water Act citizen suits and agreeing to lax and ineffectual settlement terms with the polluters. Allowing citizens to do what is contemplated under the CWA will also free up scarce MDE resources.

The petition comes at a time when there is renewed vigor in the EPA's approach to state regulation. In a recent interview with The Times-Picayune, EPA Administrator Lisa Jackson said, "Many of these state programs are 20, 30 years old, and we might even need to hit the reset button and say, 'OK, we're going to hold you to a standard. If you're doing your job, great, but if you're not, we're going to be here going inside until you are'".

"It's EPA's job to oversee," Jackson continued. "We often say we're partners, but we're also delegating our authority to a state, and of course, ultimately that means your ultimate answer would be to take it back," she said, indicating the EPA's willingness in extreme situations to revoke a state's authority to administer federal pollution laws.

Waterkeepers Chesapeake of Maryland is a coalition of the twelve independent Waterkeeper programs in Maryland working to protect and restore the Chesapeake and Coastal Bays and their tributaries. Waterkeepers Chesapeake of MD works locally, using grassroots action and advocacy to protect their communities and their waters. They also work regionally to share resources and leverage their individual strengths to expand each Waterkeeper's capacity for on the water, citizen-based enforcement of environmental laws in the Chesapeake region. They patrol thousands of miles of tributaries and shorelines throughout the Chesapeake and Coastal Bays and are at the forefront of enforcement efforts.

Waterkeeper Alliance is a global environmental organization uniting more than 190 Waterkeeper programs around the world and focusing citizen advocacy on the issues that affect our waterways, from pollution to climate change.

See petition:

http://www.law.umaryland.edu/programs/environment/documents/NPDES_petition.pdf