

Center for Biological Diversity Files Petition to Address Ocean Acidification Through the Clean Water Act

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On October 18, 2012, the Center for Biological Diversity (CBD) filed a petition with EPA under the Administrative Procedures Act, asking the Agency to revise various state water quality standards for marine pH under the Clean Water Act to address ocean acidification. According to NOAA's Pacific Marine Environmental Laboratory, ocean acidification is a decrease in marine pH caused by the uptake of carbon dioxide emissions from the atmosphere. The petition alleges that ocean acidification is occurring as a result of anthropogenic carbon dioxide emissions. According to the petition, the decrease in marine pH since the beginning of the Industrial Revolution corresponds to a 30% increase in acidity. The petition cites scientific findings that ocean acidification has major negative impacts on the ability of corals and other marine organisms to build calcium carbonate skeletons. Studies have also shown that ocean acidification causes negative effects on the growth and reproduction of aquatic species.

The petition alleges that the marine pH water quality standards of 15 coastal states and territories exceed EPA's recommended water quality criterion, and that these standards are inadequate to protect aquatic life from the harmful effects of ocean acidification. EPA's national recommended water quality criterion for saltwater bodies is 6.5 to 8.5 pH, with no changes outside this range or a change of more than 0.2 pH units outside the naturally occurring variation. Many of the states identified in the petition allow deviations of 0.5 or 1.0 pH units. The petition asks EPA to promulgate more stringent water quality standards for these states and territories under Section 303 of the Clean Water Act.

With the re-election of President Obama, many are expecting EPA to pursue an aggressive regulatory agenda during his second term, and water issues are likely to be a main priority for the Agency. If EPA grants the proposal, many expect industry sources to argue it constitutes an impermissible attempt to regulate carbon dioxide air emissions through the Clean Water Act.

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