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EDITORIAL

Clean Water: Still Elusive

Rightly celebrated as one of this country's most important environmental statutes, the 1972 Clean Water Act has greatly improved the quality of America's waters, turning contaminated rivers and lakes into swimmable, fishable and even drinkable waters.

But even its staunchest allies agree that the act has grown old and fallen well short of its goals, crippled by uneven and sometimes nonexistent enforcement by state and federal agencies — particularly during the Bush years, but even before — and by shortcomings in the law itself.

A comprehensive series of investigative articles in The Times by Charles Duhigg makes it clear that the time has come to strengthen enforcement and the law. More than 40 percent of the country's waters, he found, remain dangerously polluted. Nearly 20 million Americans fall ill every year from drinking water contaminated with parasites, bacteria or viruses. Polluters — public and private, large and small — treat the law with contempt. Violations have jumped significantly. Penalties for noncompliance are small and rarely assessed.

President Obama's new team seems to be paying attention — chiefly Lisa Jackson, the administrator of the Environmental Protection Agency, which oversees the act as well as a related measure, the Safe Drinking Water Act. Ms. Jackson has ordered an assessment of the agency's shortcomings, promised stronger enforcement, added new chemicals to the long list of contaminants and promised to investigate others. But she agrees that more must be done, by her and by others.

POLICE THE STATES As with most environmental laws, responsibility is shared. Washington sets the health standards; the states write and enforce the permits, which tell polluters what can and cannot be discharged into the water. Some states are tough, others weak, but in all cases the E.P.A. has the authority to intervene and enforce the laws when states fail. Worried about disturbing the federal-state balance, intimidated by industry, the E.P.A. has never used this power the way it should.

CLOSE OBVIOUS LOOPHOLES There are two big gaps in enforcement. Large animal-feeding operations — the huge sheds containing hogs and chickens — are supposed to be regulated as "point sources" just like factories. They are not. In Iowa, not a single confined animal-feeding operation has a clean water act permit telling it what to do.

Power plants are another big loophole. What utilities put into the air is regulated. Not so the toxics — arsenic, lead, cadmium — they discharge into the water. The agency was supposed to have set limits on these pollutants in the 1980s, and never has. That's disgraceful.

FIX THE LAW The 1972 act focused largely on what was then seen as the most obvious threat: direct discharges from large “point sources” like factories and municipalities. The bigger danger today comes from unregulated sources like runoff from farms, suburban lawns and city streets. The act should be rewritten to give these nonpoint sources higher priority.

FIX THE FINANCING The number of regulated sources has grown enormously, from 100,000 in 1972 to an estimated one million. Adding nonpoint sources would increase the burden on underfinanced and understaffed state agencies, not to mention the E.P.A. itself. The Clean Air Act requires states to collect fees from the largest air polluters. A similar, federally mandated fee system might be considered for water polluters.

There are other problems. Data collection from industry and local authorities is hopelessly outdated. Two misguided Supreme Court decisions have forced the E.P.A. to use precious resources to resolve jurisdictional disputes over its authority to protect wetlands and small streams. But beefing up enforcement, repairing regulatory and legal flaws and putting the entire effort on a firm financial footing are the big ones. Ms. Jackson deserves all the help she can get from the White House and Congress in tackling them.

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