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# Effluent Guidelines/Clean Water Act: Waterkeeper Petition Challenging U.S. Environmental Protection Agency's Alleged Failure to Revise Seven Industrial Point Source Categories

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Waterkeeper Alliance and 11 other environmental organizations (collectively “Waterkeeper”) filed an April 11th Petition for Review (“Petition”) in the United States Court of Appeals for the Ninth Circuit alleging a failure by the United States Environmental Protection Agency to not undertake certain mandatory Clean Water Act actions in regard to seven industrial point source categories.

The other environmental organization joining the Petition include:

- Bayou City Waterkeeper
- Black Warrior Riverkeeper
- Center for Biological Diversity
- Clean Water Action
- Environment America
- Food and Water Watch
- Healthy Gulf
- San Antonio Bay Estuarine Waterkeeper
- Tennessee Riverkeeper
- San Francisco Baykeeper
- Surfrider Foundation

The seven industrial point source categories addressed by the Petition include:

- Petroleum Refining, 40 C.F.R. Part 419
- Inorganic Chemicals Manufacturing, 40 C.F.R. Part 415
- Organic Chemicals, Plastics, and Synthetic Fibers, 40 C.F.R. Part 414
- Fertilizer Manufacturing, 40 C.F.R. Part 418
- Pesticide Chemicals, 40 C.F.R. Part 455
- Plastics, Molding and Filming, 40 C.F.R. Part 463
- Nonferrous Metal Manufacturing, 40 C.F.R. Part 421

Section 304(m) of the Clean Water Act requires that EPA biennially publish a plan for a new and revised Effluent Program Plan after public review and comment.

Plan 15 addresses:

- EPA's annual review of effluent guidelines and pretreatment standards
- Presents EPA's preliminary review of certain specific point source categories
- Provides an update on the analyses and tools being developed related to effluent limitation guidelines and pretreatment standards

Section 301(b) of the Clean Water Act authorizes EPA to promulgate national categorical standards or limits to restrict discharges of pollutants on an industry-by-industry basis. Such effluent limits are derived from research regarding pollution control technology used in the industry. EPA's development of categorical limits is an ongoing process. Existing categorical standards are assessed to determine if revisions are warranted. For example, the motivation for a change to an existing standard may be the need to incorporate evolving technological developments.

The Waterkeeper Petition cites EPA's Federal Register Notice at 88 Fed. Reg. 6258 (Jan. 31, 2023) titled "Effluent Guidelines Program Plan 15." It is alleged that EPA's decision not to revise the previously referenced industrial point source categories in Plan 15 is arbitrary, capricious, and an abuse of discretion or otherwise not in accordance with law. They argue EPA was required to:

- Revise the effluent limitations
- Revise the effluent limitation guidelines
- Revise the standards of performance for new sources
- Revise the pretreatment standards

A copy of the Petition can be downloaded [here](#).