

Stormwater: Riverkeeper/Waterkeeper Alliance Challenge New York Multi-Sector General Permit (Industrial Activity)



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The environmental organizations Riverkeeper, Inc. and Waterkeeper Alliance, Inc. (collectively “Waterkeeper”) filed an action in the Supreme Court of the State of New York against the New York State Department of Environmental Conservation (“DEC”) challenging the statewide Multi-Sector General Permit.

The permit is formally denominated the:

SPDES Multi-Sector General Permit For Stormwater Discharges Associated with Industrial Activity, GP-0-17-004 (“Stormwater Permit”)

A Clean Water Act Industrial Stormwater General Permit is a National Pollution Discharge Elimination System permit that regulates discharges associated with a number of categories of industrial activities. One of the categories – construction sites that disturb 5 or more acres – is generally permitted separately because of differences between those activities and the others.

New York is one of the many states (including Arkansas) that has been authorized to administer the National Pollution Discharge Elimination System Stormwater Permitting Program.

The Waterkeeper Petition before the New York Court argues, by way of summary, that the stormwater permit violates:

. . . New York’s Environmental Conservation Law and the federal Clean Water Act by authorizing hundreds of industrial facilities to discharge extremely high levels of “oxygen-demanding” pollutants – pollutants that lower oxygen levels in water – into numerous waterbodies throughout the State that, according to DEC, already fail to meet state standards for oxygen. These oxygen-impaired waters extend throughout the watersheds protected by Petitioners Riverkeeper and Waterkeeper Alliance. For example, DEC recognizes that portions of the Mohawk River and all of Patroon Creek, near Albany, and many of the heavily industrialized tributaries of the New York Harbor and Long Island Sound, are impaired by low dissolved oxygen.

The causes of action alleged in the Waterkeeper Petition include:

- DEC Failed to Ensure that Authorized Discharges Will Not Cause or Contribute to Violations of Water Quality Standards For Dissolved Oxygen

- DEC Failed to Ensure that Permittees Will Not Cause or Contribute to Violations of Water Quality Standards for AA-Special Waters

Waterkeeper asks that the Court remand the permit to DEC, directing the agency to revise the General Permit consistent with the Court's decision, consistent with federal and state law, and pursuant to certain procedural requirements of 6 NYCRR Part 621.

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