

Coalition Sues EPA Over Unregulated Water Pollution From Oil Refineries, Plastics Plants, and Other Industries

13 Groups Demand That EPA Crack Down on Billions of Gallons of Industrial Wastewater by Updating Effluent Limits, as Required by Clean Water Act

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Washington, D.C. – A coalition of environmental groups today filed a federal lawsuit against the U.S. Environmental Protection Agency for failing to set limits on harmful chemicals like cyanide, benzene, mercury, and chlorides in the billions of gallons of wastewater pouring out of U.S. oil refineries, chemical plants, and factories that manufacture fertilizer, plastics, pesticides, and nonferrous metals.

The Clean Water Act requires the EPA to limit discharges of industrial pollutants based on the best available wastewater treatment methods, and to tighten those limits at least once every five years where data show treatment technologies have improved. But EPA has never set limits for many pollutants and has failed to update the few decades-old limits that exist – including limits set almost 40 years ago for oil refineries (1985), plastics manufacturers (1984), and fertilizer plants (1986).

Outdated pollution control technology standards meant that, for example, 81 oil refineries across the U.S. dumped 15.7 million pounds of nitrogen and 1.6 billion pounds of chlorides, sulfates, and other dissolved solids (which can be harmful to aquatic life) into waterways in 2021. Twenty-one nitrogen fertilizer plants discharged 7.7 million pounds of total nitrogen, which causes algae blooms and fish-killing “dead-zones” and proposed new plants will add millions of additional pounds to that load. The EPA estimates that 229 inorganic chemical plants dumped over 2 billion pounds of pollution into waterways in 2019.

“No one should get a free pass to pollute. It’s completely unacceptable that EPA has, for decades, ignored the law and failed to require modern wastewater pollution controls for oil refineries and petrochemical and plastics plants,” said **Jen Duggan, Deputy Director of the Environmental Integrity Project**, which coordinated the action by the 13 environmental groups. “We expect EPA to do its job and protect America’s waterways and public health as required by the Clean Water Act.”

Hannah Connor, Environmental Health Deputy Director at the Center for Biological Diversity, said: “For decades the EPA has let these dirty industries pollute our rivers and bays instead of making them keep pace with advances in technologies that tackle water pollution, as the Clean

Water Act demands. Forcing people and wildlife like endangered Atlantic sturgeon to bear the weight of toxic water pollution while industries rake in record profits isn't just morally wrong, it's also legally indefensible. EPA needs to bring pollution standards into the 21st century."

Despite the legal mandate for regular reviews and updates to keep pace with technology, the guidelines for 40 of 59 industries regulated by EPA were last updated 30 or more years ago, with 17 of those dating back to the 1970s. Outdated standards mean more water pollution is pouring into U.S. waters than should be allowed because some plants are using technology standards from the Reagan era – before common use of the Internet, email, or cell phones.

The lawsuit was filed today in the U.S. Court of Appeals for the Ninth Circuit in San Francisco by the Environmental Integrity Project, the Center for Biological Diversity, Clean Water Action, Waterkeeper Alliance, Food & Water Watch, Environment America, Bayou City Waterkeeper, Black Warrior Riverkeeper, Healthy Gulf, San Antonio Bay Estuarine Waterkeeper, San Francisco Baykeeper, the Surfrider Foundation and Tennessee Riverkeeper.

The lawsuit challenges EPA's decision on January 31 not to update outdated and weak water pollution control technology standards (called "effluent limitation guidelines" or ELGs and pretreatment standards) for seven key industrial sectors: petroleum refineries, inorganic and organic chemical manufacturers, and factories that manufacture plastics, fertilizer, pesticide, and nonferrous metals.

A January 26 report by the Environmental Integrity Project, "[Oil's Unchecked Outfalls](#)," revealed that 81 refineries across the U.S. discharged into waterways 15.7 million pounds of algae-feeding nitrogen in 2021 – as much as from 128 municipal sewage plants – along with 60,000 pounds of selenium (which can cause mutations in fish), among other pollutants.

The six other industries with weak and outdated EPA effluent guidelines targeted in the lawsuit filed by the environmental groups are:

- **Organic chemical and plastics plants:** EPA estimates that 609 facilities across the U.S. manufacture plastic resins, PFAS "forever chemicals," synthetic fibers (rayon, polyester, etc.), and other chemicals and discharge pollution to waterways. These plants release millions of pounds of pollution every year, including nitrogen, benzene, and lead. The effluent guidelines for this sector have not been updated since 1993 and have no limits on, for example, stormwater pollution or on plastic pellets – called "nurdles" – that often escape in stormwater or wastewater.
- **Plastics molding and forming:** 120 plants that mold and form plastic products discharge into U.S. waterways, according to an EPA estimate. But the agency has not revised its technology-based limits for this sector since EPA first set the limits in 1984, almost 40 years ago, even though the standards are supposed to reflect "best available technology." Among the toxic pollutants discharged by this industry without any federal

limits include phthalates, PFAS, nitrogen, N-N-Dimethylformamide, and microplastics in stormwater.

- **Fertilizer manufacturing:** EPA estimates that 59 chemical fertilizer manufacturing plants discharged nearly 90 million pounds of pollution into waterways in 2019. Among these are 21 plants that make nitrogen-based fertilizer and release millions of pounds of nitrogen into U.S. waterways. EPA has set no limits on several fertilizer plant pollutants, including selenium, total chromium, zinc, iron, nickel, cadmium, cyanide, and lead. The current effluent guidelines for fertilizer factories have not been updated since 1986.
- **Nonferrous metal manufacturing:** 56 facilities in this manufacturing sector (metals excluding iron and steel) dumped over 100 million pounds of pollution into waterways in 2019, according to an EPA estimate. But pollution control guidelines for this industry have not been updated since 1990 and the current limits for this industry do not include any controls on stormwater pollution, for example.
- **Inorganic chemicals plants:** Inorganic chemical plants, which make products like vinyl chloride, are one of the largest industrial dischargers of toxic pollution in the United States, with 229 factories dumping over 2 billion pounds of pollution into waterways in 2019, according to an EPA estimate. But EPA has not updated pollution limits for this sector since 1984.
- **Pesticide manufacturing:** EPA estimates that 31 pesticide chemical plants discharge pollution into U.S. waterways, including the insect-killing ingredients being manufactured, as well as nitrogen, benzene, cyanide, and more. But EPA has not made updates to the guidelines for pesticide manufacturing since 1998.

John Rumpler, Senior Clean Water Director for Environment America, said: "Outdated standards allow far too many industries, from plastic producers to oil refineries, to pour their pollution into our rivers, bays, lakes and streams," "It's time for the EPA to rein in this pollution, as the public would expect and the Clean Water Act demands."

Kelly Hunter Foster, Waterkeeper Alliance Senior Attorney, said: "The Clean Water Act is our best defense against unregulated industrial water pollution, but we continue to be exposed to large volumes of dangerous, toxic pollutants in our drinking water supplies, fisheries, and recreational waters because EPA is not fully implementing the law. EPA must update pollution standards consistent with modern technologies that can reduce or even eliminate the discharge of hazardous pollutants like heavy metals, benzene, and mercury."

Andrew Whitehurst, Water Program Director for Healthy Gulf, said: "Louisiana's waterways have been burdened by water pollution from refineries and chemical plants, and so there are no excuses for EPA to continue missing opportunities to improve standards for these industries. Technology-based guidelines for pollution control systems must evolve with improvements in water cleanup technology."

Kristen Schlemmer, the Houston-based Bayou City Waterkeeper, said: "Those of us living in Houston are sick of sacrificing our health and ecosystems to inadequately regulated industries."

These burdens are heaviest on our lower-wealth, Black, and brown neighbors living in the shadow of industrial facilities along the Houston Ship Channel, who face increased risks of cancer and don't have equal access to our natural bayous and bays. Through this lawsuit, our hope is to get better regulations in place so our home can stop being treated as a sacrifice zone."

Eric Buecher, Managing Attorney at San Francisco Baykeeper, said: "Oil refinery pollution doesn't belong in San Francisco Bay or in any of the nation's waterways, and it certainly doesn't belong in our neighborhoods. It's high time we held the EPA accountable, and compel the agency to crack down on the toxic pollution from oil refineries that's threatening both wildlife and human health around San Francisco Bay, and across the country."

Erin Doran, Senior Attorney with Food & Water Watch, said: "Once again, EPA has failed to update the antiquated and ineffective water pollution regulations for these industrial dischargers, including plastics plants and fertilizer and pesticide manufacturers, allowing them to continue wreaking havoc on the environment. Enough is enough—we're taking EPA to court."

Jennifer Peters, National Water Programs Director at Clean Water Action, said: "Regardless of where a person lives, they should be able to fish or swim in their local river or lake without fear of getting sick from pollution, and they shouldn't be burdened with a higher water bill because a refinery or plastics plant upstream contaminated their drinking water source. EPA must do its job and update these archaic pollution standards as required by the Clean Water Act as soon as possible."

Staley Prom, Senior Legal Associate, Surfrider Foundation, said: "Surfrider is pleased to join our coalition partners and Environmental Integrity Project in calling for EPA to fulfill its statutory duties to protect clean water and public health and ensure that technology-based standards for industrial polluters like petroleum refineries and pesticides plants reflect the realities of 2023. Surfrider members surf, swim, snorkel, fish, and recreate in waters impacted by EPA's failure to act, and deserve the protections of modern technology to minimize water pollution."

Nelson Brooke, Black Warrior Riverkeeper (in Alabama), said: "It is a shame EPA has allowed industrial polluters such as chemical plants and oil refineries to escape accountability under the Clean Water Act by operating for decades without proper pollution controls in place! It is imperative EPA swiftly right these wrongs by requiring modern pollution controls for industrial facilities in order to protect rivers and all the people and critters who depend on them to be clean and safe."

David Whiteside, Founder of Tennessee Riverkeeper, said: "Pollution from plastics, pesticides, petroleum and a grim litany of other toxins continue to plague public water supplies. The Clean Water Act requires factories to use the best available methods to treat their pollution, but the E.P.A. has failed to enforce this provision. Our lawsuit seeks to reduce a vast array of toxins in

our environment from numerous industries by requiring polluters to finally use modern technology and obey the law.”

AGE OF EPA WATER POLLUTION CONTROL TECHNOLOGY GUIDELINES FOR INDUSTRIAL SECTORS TARGETED IN THE LAWSUIT

The Environmental Integrity Project is a 21-year-old nonprofit organization, based in Washington, D.C. and Austin, Texas, that is dedicated to enforcing environmental laws and

Industrial Category	Promulgation	Revision	Age (Years)
Inorganic Chemicals	1974	1984	39
Plastics Molding & Forming	1984	Never	39
Petroleum Refining	1974	1985	38
Fertilizer Manufacturing	1974	1986	37
Nonferrous Metals Manufacturing	1976	1990	33
Organic Chemicals & Plastics	1987	1993	30
Pesticide Chemicals	1978	1998	25

strengthening policy to protect public health and the environment.

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