

OUR POWER, OUR PLANET

KNOWING THE LAW AND YOUR RIGHTS



THE CLEAN WATER ACT

- The Clean Water Act ("CWA") states that "[t]he discharge of any pollutant by any person into Waters of the United States shall be unlawful unless in compliance with sections of the Clean Water Act, including Section 402." 33 U.S.C. §1311.
- Facilities that discharge pollutants from a point source and into a Water of the U.S. need an individual and/or general National Pollutant Discharge Elimination System ("NPDES") permit.
- NPDES permits place limitations on these discharges in order to protect water quality and also require that facilities engage in monitoring and reporting through Discharge Monitoring Reports ("DMRs"). DMRs are publicly available through EPA's ECHO database, or through the state regulator's database.



CITIZEN SUITS

- Citizen suits, under Section 505 of the Clean Water Act (33 U.S.C. § 1365), empower citizens to enforce the CWA against a violator.
- **Steps of a CWA citizen suit:** (1) Send a 60-day Notice of Intent to File Suit to the violator for its alleged violation, and to the state regulatory agency and the U.S. EPA Administrator. (2) Wait 60 days during which time the violator can come into compliance with its permit or relevant order. (3) After the 60 days, a citizen may file suit if the violator does not come into compliance and the relevant regulatory agency failed to require the violator's compliance or failed to begin and continue prosecution against the violator.
- To sue as a citizen, you need Article III standing, which means showing harm such as loss of recreational use and enjoyment, exposure to pollution, or other harms that prevent use of the waterway.
- Waterkeepers can sue as an organization, but still rely on you, their members, for standing to sue.

WATERKEEPERS

- Waterkeepers play a vital role in protecting and preserving our waters by tracking pollution, collecting data, educating communities, and advocating for healthy waters.
- Water quality data collection done by waterkeepers serves as essential evidence to build CWA cases against polluters; for example, by demonstrating how downstream waterways are impacted.
- Waterkeepers and other citizens are on the frontlines of water pollution and can be the first to flag issues and have access to polluted waters in order to survey them.

CITIZEN ADVOCACY

- You can help by looking out for water pollution and reporting what you find to your state environmental protection agency or to a local waterkeeper.
- Water quality data and personal impact stories allow attorneys to demonstrate not only that pollution is actually occurring, but how that pollution impacts the community - which is essential for proving standing and taking a case forward.