



Clean Water Act Section 401 Water Quality Certification Proposed Rule

Fact Sheet

August 8th, 2019

BACKGROUND

- Section 401 of the Clean Water Act (CWA) requires that any applicant for a federal license or permit which may result in a discharge into waters of the United States must obtain a water quality certification from the certifying authority that the discharge complies with all applicable water quality requirements enumerated in the statute.
- On April 10, 2019, President Trump issued Executive Order 13868, “Promoting Energy Infrastructure and Economic Growth,” (Executive Order) which directed the EPA to propose a new rule that modernizes the agency’s regulations implementing CWA section 401 (40 CFR Part 121) by August 8, 2019.

THE PROPOSED RULE

- The proposed “Updated Regulations on Water Quality Certifications” rule is intended to modernize the EPA’s regulations and make them consistent with the current text and structure of the CWA.
- The proposed rule also provides additional regulatory procedures that the Agency believes will promote consistent implementation of CWA section 401 and streamline the federal licensing and permitting process, consistent with the objectives of the Executive Order.
- The proposal provides the EPA’s first holistic analysis of the statutory text, legislative history, and relevant case law informing implementation of CWA section 401.

HOW TO COMMENT

- The agency will take comment on the proposal for 60 days after publication in the Federal Register. The agency will also hold an informational webcast on August 20, 2019 and will host public hearing sessions on the proposed rule in Salt Lake City, Utah, on September 5-6, 2019. Additional information on both engagements is available at <https://www.epa.gov/cwa-401/outreach-and-engagement-cwa-section-401-certification>.
- Comments on the proposal should be identified by Docket ID No. EPA-HQ-OW-2019-0405 and may be submitted online. Go to <https://www.regulations.gov> and follow the online instructions for submitting comments to Docket ID. No. EPA-HQ-OW-2019-0405.
- For additional information, including the full EPA public comment policy, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR MORE INFORMATION

- To learn more about the CWA section 401 water quality certification process and the EPA’s rulemaking efforts, please visit <https://www.epa.gov/CWA-401>