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Lauren Kasparek
Oceans, Wetlands and Communities Division
Office of Water (4502-T)
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Establishment of Public Docket and Listening Sessions on Implementation Challenges Associated with Clean Water Act Section 401; [Federal Register 29,828, July 7, 2025](#); Docket No. [EPA-HQ-OW-2025-0272](#)

We, the Associated General Contractors of America (AGC), appreciate the opportunity to respond to the U.S. Environmental Protection Agency's (EPA) request for feedback on regulatory uncertainty or implementation challenges associated with the Clean Water Act (CWA) section 401 certification process. The need for, and process for, obtaining water quality certifications affects several permitting programs for activities that AGC members perform while constructing projects of all types. For example, CWA section 404 permits cannot advance without a 401 certification.

AGC is the nation's leading construction trade association. It dates to 1918, and it today represents more than 28,000 member firms representing construction contractor firms, suppliers and service providers across the nation, and has members involved in all aspects of nonresidential construction. Through a nationwide network of chapters in all 50 states, D.C., and Puerto Rico, AGC contractors are engaged in the construction of the nation's public and private buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, water works facilities and multi-family housing units, and they prepare sites and install the utilities necessary for housing developments.

AGC has previously identified CWA section 401 certification as one of the roadblocks to vital infrastructure because the process was confusing in scope and lacked clear deadlines. Certification is an important check to ensure discharges to federal waters, authorized by federal permits, do not compromise a state's water quality requirements. However, the 401 process when left unchecked can delay projects and stretch outside the scope of the CWA to incorporate other environmental and cultural concerns. Because of this, AGC generally supported the Trump Administration's efforts to reform the rule during his first term in office.

In response to the current request for feedback, AGC includes by reference here our industry coalition comments submitted to this docket. We also include by reference prior comment letters on the 401 process. We identify and hyperlink these letters below.

- AGC of America to the U.S. Environmental Protection Agency, Response to Proposed “Updating Regulations on Water Quality Certification,” 84 *Federal Register* at 44,080 (August 22, 2019); Docket ID No. EPA-HQ-OW-2019-0405; AGC letter available [here](#).
- Industry Coalition to the U.S. Environmental Protection Agency, Response to Proposed “Clean Water Act Section 401 Water Quality Certification Improvement Rule,” 87 *Federal Register* at 35,318 (June 9, 2022); Docket ID No. EPA-HQ-OW-2022-0128; Coalition letter available [here](#).

Recurring themes in these comment letters include the need for the 401 process to be efficient and predictable, adhere to the timelines, and remain focused on water quality alone—not the activity “as a whole.” States have added conditions to permits for unrelated considerations such as wildlife crossings, access for the public, restoration activities, and wildlife restrictions. These conditions are outside the scope of water quality, can require the hiring of specialized staff, and lead to construction scheduling delays. It is also important for the agency to encourage and advance streamlining measures for projects with limited environmental impacts. Project proponents can spend significant time preparing the requisite submittals. In addition to improving the process, any proposal should correctly estimate and consider the time needed to compile the information and participate in meetings.

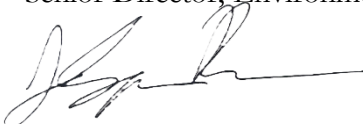
In closing, AGC urges the agencies to provide the regulated community with a clear and predictable 401 process. AGC looks forward to working with the administration throughout the rulemaking process.

AGC appreciates this opportunity to provide feedback on behalf of its construction industry member companies. If you have any questions, please contact Melinda Tomaino directly at melinda.tomaino@agc.org or (703) 837-5415.

Respectfully,

Melinda Tomaino

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