



Society for Conservation Biology North America

The North America Section of a global community of conservation professionals

Submitted via www.regulations.gov on 02/15/2026

The Honorable Lee Zeldin
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W., Washington, DC 20460

Subject: Comment on Proposed Revisions to the Clean Water Act, Section 401 (Water Quality Certification Regulations)

Dear Administrator Zeldin,

On behalf of the Society for Conservation Biology North America (SCBNA)—part of a global community of nearly 3,000 conservation scientists and practitioners—we submit these comments in opposition to the proposed revisions to the Clean Water Act (CWA) Section 401 (water quality certification regulations). The proposed rule weakens essential ecological protections, undermines science-based watershed management, and threatens water quality and ecosystem services that sustain biodiversity, public health, and economic well-being in communities at the local, state, and federal levels.¹

Considerations Relevant to the Proposed Rule

Public Health

Restricting state and tribal authorities from considering broader water quality implications places public health at risk. Drinking water contamination—whether from industrial pollutants, nutrient loading, or chemical mixtures—is a key determinant of health outcomes. This proposed rule could limit the ability of states to impose conditions that mitigate such risks, reducing protections at the community level where water quality standards must be enforced to protect human health and aquatic life.⁶

Environmental

Scientific evidence demonstrates that water quality is affected by complex and cumulative impacts, not just isolated point-source discharges.^{8,9} Impairments from industrial and agricultural runoff, as well as other human-caused landscape-level changes, contribute to ecosystem degradation, affecting biodiversity, fisheries, and drinking water quality. Research shows that reduced protections for wetlands and headwaters can lead to biodiversity loss, decreased resilience against pollution, and impaired carbon sequestration—outcomes directly linked to degraded water quality.^{2,3} Wetlands and small tributaries play critical roles in nutrient cycling, flood mitigation, habitat provision, and pollutant filtration. Excluding these features from a comprehensive review when evaluating the effects of a discharge increases the risk that projects will proceed without fully measuring their impacts on species habitat and long-term water quality. Such omissions can accelerate loss of aquatic species and degrade watershed health.^{4,5}

Economic and Social

EPA's own economic analysis suggests the rule will *reduce regulatory burden* by limiting review scope and standardizing procedures.⁷ However, this figure does not account for the *long-term economic costs of degraded water quality*, including increased drinking water treatment expenses, lost recreational and commercial fishing revenue, and diminished ecosystem services. Economic studies consistently show that investing in water quality protection yields substantial net benefits by avoiding costs associated with pollution remediation and public health impacts.¹⁰



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Requested Agency Action

For these reasons, we urge the EPA to **withdraw or substantially revise** the proposed Section 401 Water Quality Certification rule to align with the statutory framework and Supreme Court precedent, including *Public Utility District No. 1 of Jefferson County v. Washington Department of Ecology*. The current rule reflects the court's recognition that Section 401(d) authorizes states to impose not only water quality limitations specifically tied to a "discharge" but also other limitations required by state water quality standards, including "designated uses" adopted under Section 303.¹¹ That authority is exercised through a certification process designed by Congress to give states and Tribes a meaningful role in federal licensing decisions that affect their waters.

Accordingly, any final rule should recognize the ecological, public-health, economic, and social value of upstream waters and therefore (1) allow certification to consider the full scope of project-related impacts rather than isolated point-source discharges; (2) retain meaningful procedural safeguards for both states and Tribes so as not to undermine their participation in the certification process; and (3) preserve robust Tribal authority through continued treatment-as-state (TAS) status.

Thank you for your consideration.

Sincerely,

Lauren Jonaitis
Vice President of Policy, SCBNA

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