

EXECUTIVE SUMMARY

ARTBA COMMENTS: EPA CLEAN WATER ACT SECTION 401

February 17, 2026

OVERVIEW

Section 401 of the Clean Water Act requires states and tribes undertaking federally permitted projects that may result in discharges to waters of the United States to certify that they have complied with all applicable water quality standards. In 2025, EPA proposed updates to these regulations to improve efficiency, predictability, and transparency. ARTBA joined a broad coalition in supporting the proposal.

KEY ELEMENTS OF THE PROPOSAL

- **Discharge-only scope.**

Focuses state environmental reviews on only actual water discharge, rather than the entire project, excluding unrelated project conditions.

- **National completeness checklist.**

Establishes one consistent list of required review items and timelines so that applicants know when the mandatory one-year review period begins.

- **Firm timelines.**

Limits practices that have been used by project opponents to restart or extend the statutory one-year deadline.

- **Written, cited decisions.**

Requires certifying agencies to clearly explain and justify any conditions they impose, so permit holders have a clear understanding of the decisions being made.

- **General permit pathway.**

Improves how Clean Water Act Section 401 applies to widely-used federal general permits, including nationwide permits relied on for routine work.

WHAT THIS RULE WILL DO:



Promote
predictable
project delivery



Help control
costs



Reduce
permitting risk
and delay



Maintain strong
water quality
protection

ARTBA's Recommendation

Finalize the rule swiftly and adopt the proposed guardrails.