



## **For Immediate Release**

June 1, 2020

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## **New Section 401 Water Quality Certification Regulation Rollbacks Rob States of their Rights**

**Washington, D.C.** - On June 1, the Trump administration announced new rollbacks to Section 401 of the Clean Water Act, robbing states of their rights to deny Section 401 permits for projects like fracked gas pipelines. This move will empower the Environmental Protection Agency (EPA) and other federal agencies to unilaterally decide whether or not a project should be allowed to advance regardless of the state's determination regarding compliance with water quality standards and applicable state and federal law. The move is part of the Trump administration's efforts to fast-track pipeline approvals, using executive orders and regulation rollbacks to limit the power of the states that has been protected by Congress for nearly 50 years.

Section 401 requires a project applicant to seek a permit from the state if their project will discharge pollutants into water in that state. Under the Clean Water Act, states have the authority to review and approve, condition, waive or deny a 401 certification. Section 401 ensures that states have a role in ensuring that federally-permitted/licensed projects, such as interstate natural gas pipelines, comply with state environmental standards.

Until now, a federal agency could not authorize a project such as a fracked gas pipeline until the state issued a 401 certification or waived their right to do so. The new rulemaking attempts to usurp this legislatively protected right of states; a right specifically protected by Congress in the Clean Water Act.

"This move is nothing more than a clear and obvious power grab designed to take from states their legal right to deny Section 401 certifications and to steal from Congress its role as the legislative arm of government," said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network**. "The Clean Water Act and Section 401 are very clear about many things, including the balance of power between state and federal entities. This new rulemaking is nothing more than the Trump administration bending over backwards to accommodate the fossil fuel industry, and is an illegal and unconstitutional power grab designed to undermine states' rights, state authority, state sovereignty, and the role of Congress as the lawmakers of our nation."

Many states have used their Section 401 authority to deny harmful projects in order to protect their communities and environment. This new federal rule undermines the Clean Water Act's cooperative federalism framework solely for the benefit of the shale gas industry, including companies seeking to

construct and operate fracked gas pipelines, LNG export facilities, associated compressor stations and other related infrastructure. There could now be significant gaps in water quality protection in states like New York, New Jersey, Pennsylvania, and West Virginia where there is significant pressure from the shale gas industry and pipeline companies to secure extensive shale gas infrastructure buildout.

The Delaware Riverkeeper Network plans to legally challenge the new rules.

View the Delaware Riverkeeper Network's October 2019 comments during the rulemaking comment period here:

<https://delawariverkeeper.org/sites/default/files/DRN%20and%20Delaware%20Riverkeeper%20-%20Comments%20on%20EPA%20Proposed%20Clean%20Water%20Act%20Section%20401%20Regulations%20w%20Attachments%20%282019-10-15%29.pdf>

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*Delaware Riverkeeper Network (DRN) is a nonprofit membership organization working throughout the four states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.*