



Memorandum

TO: Water Quality Subcommittee
Coal Policy Task Force
Minerals Policy Task Force

FROM: Tawny Bridgeford, General Counsel & Senior Vice President,
Regulatory Affairs

DATE: August 8, 2025

SUBJECT: Final NMA Comments on CWA 401 Certification Pre-
Rulemaking Docket

The National Mining Association (NMA) this week filed [comments](#) in response to the U.S. Environmental Protection Agency's (EPA) [pre-rulemaking docket](#) on Clean Water Act (CWA) section 401 implementation challenges. As we previously informed you, EPA requested comment on several questions related to defining the scope of certification and certification conditions, water quality requirements, neighboring jurisdictions, categorical determinations, and other stakeholder input on experience with the existing rule.

See NMA's [memorandum](#) distributed on July 10, 2025, for additional details. EPA will use feedback received to determine next steps to address "identified areas of regulatory uncertainty or implementation challenges regarding the scope of certification."

The NMA's comment letter is based on previous positions taken during the last two rulemakings on the CWA section 401 program, while including additional concerns related to the "may affect" determination under section 401(a)(2) in response to member company feedback. The NMA also supported a coalition [letter](#) led by the U.S. Chamber of Commerce and signed by 15 other industry trade associations.

If you have any questions regarding NMA's comments or this regulatory matter, please contact me at tbridgeford@nma.org.

101 Constitution Ave. NW / Suite 500 East / Washington, DC 20001 / Phone: 202.463.2600