



June 20, 2025

The Honorable Sam Graves
Chairman
United States House of Representatives
Committee on Transportation and
Infrastructure
2165 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Mike Collins
Chairman
United States House of Representatives
Subcommittee on Water Resources and
and Environment
2165 Rayburn House Office Building
Washington, D.C. 20515

H.R. 3898 – *Promoting Efficient Review for Modern Infrastructure Today Act*

Dear Chairman Graves and Chairman Collins:

On behalf of our 320 member companies that represent over 80% of the hydropower fleet by capacity, employ 70,000 Americans, and serve approximately 30 million people, the National Hydropower Association (NHA) writes in strong support of H.R. 3898, the *Promoting Efficient Review for Modern Infrastructure Today (PERMIT) Act*.

NHA welcomes the Committee on Transportation and Infrastructure's focus on improving implementation of the Clean Water Act (CWA) in support of national energy goals. NHA's members are uniquely positioned to benefit from long overdue modernization of the CWA, specifically Section 401. We applaud Representative David Rouzer for introducing the *Improving Water Quality Certifications and American Energy Infrastructure Act* (H.R. 3928), which captures the much-needed improvements to implementing Section 401 of the CWA.

NHA looks forward to working with Congress to improve the permitting and regulatory processes for building and maintaining U.S. hydropower – a reliable, baseload, dispatchable energy resource. With surging load growth from AI and data centers, and the need to expand domestic power production, Congress must finally fix the broken, time-consuming hydropower licensing process.

PERMIT Act Improvements to Section 401 of the Clean Water Act

For too long, certifying authorities have leveraged the certification process to delay and deny the licensing of hydropower projects for reasons unrelated to any water quality effects of the discharges from those projects. These commonsense improvements will ensure that hydropower and other energy projects receive timely water quality certifications while maintaining Section 401's core purpose of allowing certifying authorities to ensure that discharges from federally licensed or permitted projects meet the requirements of the CWA.

Specifically, NHA has identified the following areas that will improve the implementation of Section 401 of the CWA:

- The PERMIT Act will ensure that the scope of a water quality certification and related conditions are limited to the water quality effects of the point source discharges that

trigger the need for certification. Historically, certifying authorities have issued certifications with conditions that regulate the whole activity or project and for reasons that may be unrelated to water quality. Such conditions add unnecessary costs and burdens on regulated entities seeking a license or permit from a federal agency.

- The bill clarifies the scope of the request for certification that starts the one-year clock for certifying authorities to grant, deny, or waive certification. Citing insufficient information, certifying authorities have routinely delayed starting the one-year clock. This bill will provide needed certainty on the type of information needed in the request for certification for the regulated community, the federal agency issuing the license, and the certifying authority.
- If the bill were to be enacted, it would clarify that certifying authorities can only grant certifications with or without conditions, waive certification, or deny certification. The bill would require certifying authorities when making a certification decision to identify the grounds for the decision and the applicable sections of the CWA on which the decision is based. This removes the ability for certifying authorities to delay acting on a certification request simply by denying the request without prejudice and thereby forcing the project applicant to resubmit the request.
- Section 401 incorporates certification conditions into the federal license or permit for which the certification is issued. The PERMIT Act would clarify that certification conditions may be enforced only by the federal licensing or permitting agency. This removes the risk of inconsistent enforcement of certification conditions via citizen suits. It also removes the ability of certifying authorities to later adopt and enforce modified or additional certification conditions, long after the federal license or permit that triggered the need for certification has been issued.

About the National Hydropower Association

NHA is a non-profit national association dedicated to securing hydropower as a baseload and reliable energy source. NHA promotes innovation and investment in all water power technologies, including conventional hydropower, marine energy and hydrokinetic power systems, and pumped storage hydropower to integrate other power sources. Its membership consists of more than 320 organizations, including public and investor-owned utilities, independent power producers, equipment manufacturers, and professional organizations that provide legal, environmental, and engineering services to the hydropower industry.

Thank you for your consideration of these important matters critical to advancing America's energy interests for the hydropower sector. We look forward to working with the House Committee on Transportation and Infrastructure and its Chairman to see this vital legislation enacted into law.

Sincerely,

A handwritten signature in dark ink, appearing to be 'MP', with a long horizontal stroke extending to the right.

Michael Purdie
Director of Regulatory Affairs and Markets
National Hydropower Association