



# Environmental Council of the States

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May 8, 2023

The Honorable Joe Biden  
President of the United States  
The White House  
1600 Pennsylvania Ave NW  
Washington, DC 20500

Subject: Clean Water Act Section 401 Water Quality Certification

Dear President Biden:

The Environmental Council of the States (ECOS) writes to express the need for additional review of the recent Limit, Save, Grow Act (H.R. 2811), passed by the House on April 25, as it relates to the Clean Water Act (CWA) Section 401 water quality certification process. The Section 401 certification process is an important tool states routinely use to protect their waters for the benefit of their citizens. While ECOS recognizes the need to streamline permitting processes, it encourages further review and discussion of the bill language, as it currently raises several legal and policy concerns that could threaten states' ability to ensure water quality requirements are met.

Congress built the CWA on the foundation of cooperative federalism—the principle that states are best positioned to implement federal environmental laws because of their expertise on local conditions and concerns. The CWA therefore clearly recognizes that states have primary legal authority to protect, restore, develop, and use their water resources. Section 401 of the CWA provides states with an important tool to review activities associated with a wide range of federal permitting decisions and to protect water quality from the impacts of those decisions. States have effectively used this statutory authority for over 50 years. Any alteration of Section 401 should be done with great care and attention to avoid unintended consequences for states.

ECOS appreciates your consideration as states continue to work to achieve the goals and requirements of the CWA. Please reach out to me at 202-266-4929, or [bgrumbles@ecos.org](mailto:bgrumbles@ecos.org), with any questions.

Sincerely,

Ben Grumbles  
ECOS Executive Director

cc: The Honorable Michael S. Regan, Administrator, U.S. Environmental Protection Agency

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