



September 3, 2018

The Honorable John Barrasso
Chairman, Senate Committee on Environment and Public Works
410 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Chairman Barrasso,

The American Pipeline Contractors Association (APCA) represents construction firms, manufacturers, and distributors who build and maintain interstate natural gas and oil pipeline systems across the country on behalf of many natural gas pipeline operators. APCA strongly supports the Water Quality Certification Improvement Act of 2018 (S 3303), which would clarify current law to ensure that state water quality permitting reviews of a proposed pipeline project are limited to the direct water quality impacts of that project, and we applaud you for introducing this important legislation.

The Clean Water Act (CWA) Sec. 401 provides state authority to issue water quality certifications as a precondition to final approvals of federally permitted pipeline projects overseen by the Federal Energy Regulatory Commission (FERC). Unfortunately, some states are abusing their Sec. 401 authority, using the CWA as a means to delay and even terminate important natural gas and oil infrastructure projects from getting off the ground. New York is a prime example, where state authority has been abused over general opposition to new natural gas infrastructure, and loopholes in the CWA open the door to denial of certification on grounds not intended by the CWA.

In summary, the legislation would:

- Clarify that the scope of a CWA 401 review is limited to water quality impacts only;
- Clarify that states can only consider discharges that would result from the federally permitted project itself when considering water quality;
- Require states to publish clear requirements regarding water quality certification requests;
- Require states to make final decisions to grant or deny a request in writing based only on water quality reasons; and
- Require states to inform a project applicant within 90 days whether the states have all of the materials needed to process a certification request.

APCA members work every day on projects that ensure the delivery of natural gas and oil to American families and businesses. In addition to obstructing the transportation of badly needed energy to many regions of the country, permit delays amount to people in our industry finding themselves out of work. Obstruction from protesters and “environmental” advocates continues to hamper pipeline transportation; the misuse of Sec. 401 authority at the state level only exacerbates the problem. The provisions in S 3303 will take needed steps to curb these abuses and assure that state authority under the CWA to ensure water quality is utilized for its intended purpose.

Best regards,
Members of the American Pipeline Contractors Association