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July 15, 2022

Lauren Kasparek
Oceans, Wetlands and Communities Division
Office of Water (4502-T)
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Ms. Kasparek:

Thank you for the opportunity to provide comment of the proposed rule to improve the Clean Water Act (CWA) section 401 certification process (Docket ID No. EPA-HQ-OW-2021-0302). Water resources are of paramount importance to the State of Wisconsin. Wisconsin is home to more than 15,000 lakes and 84,000 river miles. Clean lakes and rivers are the backbone of Wisconsin's tourism industry, which generates billions of dollars in revenue annually and supports hundreds of thousands of jobs. Wisconsin also has more than one quadrillion gallons of groundwater, which is relied upon for drinking water and agricultural use. Wisconsin has an estimated 6.4 million acres of wetlands, which play an essential role in maintaining the health and function of the lakes and rivers and the quality of the groundwater. These wetlands also provide critical flood protection, water filtration, and habitat for wildlife and fish. Wisconsin has lost nearly half of its pre-settlement wetlands, underscoring the vital state interest in protecting the resources that remain.

With the value and importance of Wisconsin's waters, the Wisconsin Department of Natural Resources was forthright with concerns about the 2020 revisions to the Clean Water Act Section 401 Certification Rule. In reviewing the proposed rule published on June 9, 2022, the state of Wisconsin finds the proposed revisions more closely align with water protection needs in Wisconsin and supports a strong working relationship between certifying agencies like the Wisconsin Department of Natural Resources and the United States Army Corps of Engineers. Wisconsin appreciates the commitment of the Environmental Protection Agency to pursue appropriate and sustained improvement to the 401 certification process.

The Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers have worked diligently to streamline processes for the regulated community. For example, we have launched a joint application process, so the state and federal permit processes run concurrently, thereby saving an applicant the time and expense of two separate processes. We support strategies to streamline processes and reduce unnecessary time delays to process these important environmental decisions.

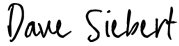
Some time delays are the result of an incomplete application or lack of detailed information necessary to make a certification decision. As currently written, the reasonable period of time may not exceed one year from the date of receipt of a certification request. Under the proposed rule, "receipt" is defined as "the date that a request for certification, as defined by the certifying authority, is documented as received by a certifying authority in accordance with the certifying authority's applicable submission procedures." The Wisconsin Department of Natural Resources supports the intent of this definition, which allows states to determine when a certification request has been received, according to state rules and procedures. This will ensure consistency between the proposed rule and existing state laws, and it will also allow states to define "request for certification" in a manner that ensures comprehensive state review.

To further ensure consistency across states and the submittal of applications with sufficient information regarding water quality impacts, the Wisconsin Department of Natural Resources encourages EPA to add additional components to the proposed items required under 40 CFR § 121.5(c). The additional six components that EPA has proposed at 87 Fed. Reg. 35,336 (June 9, 2022) would be beneficial additions to a request for certification.

We appreciate the EPA's effort to provide stronger regulatory certainty and appropriate levels environmental regulations and cross-agency coordination to ensure adequate protection of Wisconsin's waters. We hope these comments assist in this effort and appreciate their consideration.

Sincerely,

DocuSigned by:

A handwritten signature in black ink that reads "Dave Siebert". The signature is written in a cursive, slightly slanted style.

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David R. Siebert

Administrator, Division of External Services
Wisconsin Department of Natural Resources