



May 20, 2026

Hon. Lee Zeldin  
United States Environmental Protection Agency  
Office of the Administrator  
Mail Code 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Petition for Rulemaking: Clean Water Act Section 404(c) Regulatory Reform

Dear Administrator Zeldin,

The American Free Enterprise Chamber of Commerce (“AmFree”) submits the attached Petition for Rulemaking to amend the regulations governing the U.S. Environmental Protection Agency’s (“EPA”) exercise of its “veto” power under Clean Water Act Section 404(c). AmFree strongly commends you, and other key members of the Trump Administration, for the dogged pursuit of much needed de-regulatory reforms that allow Americans to build great things again. These paradigm-shifting changes are necessary to liberate American innovators and small businesses from a sclerotic and sluggish regulatory system that forgets who it serves, relishes process over results, and too often sees denial as the default course of action. These reforms, when fully implemented, will drastically reduce the time and cost to construct vital infrastructure projects and ensure that the United States remains a world leader in energy development and manufacturing while improving the lives of Americans everywhere.

Unfortunately, some oppose both the Administration’s de-regulatory agenda and the prosperity it enables. It is vital that EPA’s de-regulatory accomplishments be durable so they may not be easily reversed by a future administration. To that end, the attached Petition for Rulemaking proposes regulatory guardrails for how EPA may exercise its Section 404(c) authority. These guardrails are rooted, not in policy discretion, but in the text of the Clean Water Act. By relying on the best reading of the statute, as required by *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the regulations are likely to survive judicial review. What’s more, under *Loper Bright*, EPA would be restricted from changing its interpretation of the statute to

remove these guardrails in a subsequent administration, providing durable protections for businesses that will transcend election cycles.

The need for durable regulatory relief is pressing. EPA's veto authority allows the agency to insert itself into the already-byzantine permitting process to prohibit development in vast swaths of the country, even before anyone has applied for a permit to develop such areas and even when the U.S. Army Corps of Engineers, the expert federal agency that implements the Section 404, believes that the area can be developed without unacceptable adverse effects to the environment. This was the case when the Biden EPA, working at the behest of anti-development activist groups, prohibited all mining in Alaska's Pebble Deposit, the world's largest undeveloped copper deposit. EPA thus killed thousands of jobs and wiped away over one billion dollars in investments and years of work by both private industry and the State of Alaska, all based on absurd hypothetical conjectures over potential environmental impacts that bore no resemblance to reality. This was not the first time that abuse of Section 404(c) killed a necessary project. Activist groups cajoled EPA to foreclose the much-needed Yazoo Backwater Area flood control project in 2008. In doing so, EPA ignored the conclusions of its own Environmental Impact Statement—and the millions of dollars in damage to flooded businesses and homes—in order preserve fish and wetlands.

Further, under current regulations, EPA can—and has—vetoed a Section 404 permit *years* after it was granted. The post-issuance veto of a Section 404 permit delivered a death sentence to the Mingo Logan Spruce No. 1 Mine, a prosperous West Virginia coal mining business utilizing extensive environmental mitigation measures and with millions of dollars invested in the project. EPA, more concerned with abstract and irremediable environmental concerns at the time, waved away the hundreds of jobs lost, and the very real need for regulatory certainty, as beneath its consideration. All to avoid “an adverse effect on a few animals, such as salamanders, fish, and birds” without any regard for “the negative financial impacts on Mingo Logan's owners and shareholders ... the coal miners who would lose their jobs; on the collateral businesses that sold services and products for the mining operation ... the consumers who pay less for electricity when additional sources of energy are available; and on West Virginia tax revenues.” *Mingo Logan Coal Co. v. EPA*, 829 F.3d 710, 731 (D.C. Cir. 2016) (Kavanaugh, J., dissenting).

The need for reforming how EPA uses its Section 404(c) veto power is obvious. It is prone to abuse for political reasons, robs permittees of certainty—knowing that multi-million-dollar businesses can be destroyed with a *Federal Register* notice—and hangs like the Sword of Damocles over every company negotiating the terms of a

Section 404 permit with the government. We ask that EPA rescind the Obama and Biden EPA vetoes, as a demonstration to activists that businesses will not be frustrated by obstructionist bureaucracies, and act on the attached petition to help insulate EPA's de-regulatory accomplishments from future political meddling. We again congratulate you on all you have done, and will do, to ensure that Americans are free to build, create, and prosper.

Respectfully,

A handwritten signature in blue ink that reads "Gentry Collins". The signature is fluid and cursive, with the first name "Gentry" and the last name "Collins" clearly distinguishable.

Gentry Collins  
CEO, American Free Enterprise  
Chamber of Commerce