

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 116-54**  
**OFFERED BY MR. GARAMENDI OF CALIFORNIA**

Page 1137, after line 10 insert the following:

1 **SEC. 22117. NATIONAL POLLUTANT DISCHARGE ELIMI-**  
2 **NATION SYSTEM.**

3 (a) TERMS.—Section 402(b)(1) of the Federal Water  
4 Pollution Control Act (33 U.S.C. 1342(b)(1)(B)) is  
5 amended—

6 (1) by amending subparagraph (B) to read as  
7 follows:

8 “(B) are for fixed terms—

9 “(i) not exceeding 10 years, for a permit  
10 issued in accordance with subsection (t); and

11 “(ii) not exceeding 5 years, for a permit  
12 not described in clause (i);” and

13 (2) by redesignating subparagraph (D) as sub-  
14 paragraph (E), and inserting after subparagraph (C)  
15 the following:

16 “(D) do not continue in force beyond the last  
17 day of the fixed term, except as provided in sub-  
18 section (k)(2); and”.

1 (b) REQUIREMENTS.—Section 402 of the Federal  
2 Water Pollution Control Act (33 U.S.C. 1342) is amend-  
3 ed—

4 (1) in subsection (k)—

5 (A) by inserting “(1)” before “Compliance  
6 with”;

7 (B) by striking “of (1)” and inserting “of  
8 (A)”;

9 (C) by striking “or (2)” and inserting “or  
10 (B)”;

11 (D) by adding at the end the following:

12 “(2) PERMIT RENEWAL OR REISSUANCE.—If a  
13 permittee applies to a State to renew or reissue a  
14 permit under this section, in compliance with the ap-  
15 proved State permit program under subsection (b),  
16 and the State does not make a final administrative  
17 disposition of the application by the last day of the  
18 term of the permit—

19 “(A) not later than 30 days after such last  
20 day of the term of the permit, the State shall  
21 notify the Administrator, the Committee on  
22 Transportation and Infrastructure of the House  
23 of Representatives, and the Committee on Envi-  
24 ronment and Public Works of the Senate of

1 such failure to make a final administrative dis-  
2 position;

3 “(B) if the State does not make a final ad-  
4 ministrative disposition of the application by  
5 the date that is 180 days after the last day of  
6 the term of the permit, the Administrator shall  
7 make a final administrative disposition of the  
8 application not later than 180 days after such  
9 date; and

10 “(C) the permit shall continue in effect  
11 until the date on which a final administrative  
12 disposition of the application is made.”; and

13 (2) by adding at the end the following:

14 “(t) EXTENDED TERM FOR CERTAIN PERMITS.—

15 “(1) IN GENERAL.—A State with an approved  
16 permit program under subsection (b) may issue a  
17 permit under this section with a term authorized  
18 under subsection (b)(1)(B)(i) to an eligible munic-  
19 ipality for a covered discharge.

20 “(2) REVIEW AND MODIFICATION OF PERMIT.—

21 “(A) STATE ACTION.—

22 “(i) REVIEW.—Not later than 60 days  
23 after a triggering event occurs with respect  
24 to a permit issued by a State pursuant to  
25 this subsection, the State shall review the

1 permit and make publicly available a deter-  
2 mination of whether any modifications to  
3 the permit are necessary to address the  
4 triggering event.

5 “(ii) MODIFICATION.—Not later than  
6 90 days after making publicly available a  
7 determination under clause (i) that modi-  
8 fications to a permit are necessary, the  
9 State shall make such modifications in ac-  
10 cordance with the requirements of this sec-  
11 tion.

12 “(B) EPA ACTION.—

13 “(i) REVIEW.—If a State fails to  
14 make publicly available a determination by  
15 the deadline required under subparagraph  
16 (A), the Administrator shall make publicly  
17 available such a determination not later  
18 than 30 days after such deadline.

19 “(ii) MODIFICATION.—If a State fails  
20 to modify a permit by the deadline re-  
21 quired under subparagraph (A), or if the  
22 Administrator makes publicly available  
23 under this subparagraph a determination  
24 that modifications to a permit are nec-  
25 essary, the Administrator shall make such

1 modifications in accordance with the re-  
2 quirements of this section not later than  
3 90 days after the deadline required under  
4 subparagraph (A), or 90 days after the  
5 date on which the Administrator makes  
6 publicly available such determination under  
7 this subparagraph, as applicable.

8 “(iii) EFFECT ON STATE AUTHOR-  
9 ITY.—A permit modified by the Adminis-  
10 trator under clause (ii) shall be considered  
11 to be a permit issued by the State for the  
12 purposes of permit administration, and  
13 such modification shall not affect any  
14 other authority or responsibility of the  
15 State relating to the permit.

16 “(C) RIGHT OF ACTION.—A determination  
17 under this paragraph by a State or the Admin-  
18 istrator of whether modifications to a permit  
19 are necessary to address a triggering event is a  
20 final agency action subject to judicial review in  
21 the same manner as a review under section  
22 509(b)(1).

23 “(3) DEFINITIONS.—In this subsection:

24 “(A) COVERED DISCHARGE.—The term  
25 ‘covered discharge’ means a discharge from a

1 publicly owned treatment works, which consists  
2 of municipal sewage treated, recycled, or re-  
3 claimed in accordance with this Act (and may  
4 include a municipal combined sewer overflow  
5 that is in compliance with the requirements of  
6 subsection (q))—

7 “(i) into a navigable water that is not  
8 identified by the State issuing the permit  
9 under section 303(d) as impaired for a pol-  
10 lutant specifically addressed by the permit;  
11 or

12 “(ii) in the case of a discharge into a  
13 navigable water that is so identified, that  
14 is subject to, and in compliance with, per-  
15 mit limits that are consistent with—

16 “(I) a judicial order or consent  
17 decree resolving an enforcement ac-  
18 tion related to such discharge under  
19 this Act; or

20 “(II) for each such pollutant, any  
21 applicable approved total maximum  
22 daily load allocation, or, if no such ap-  
23 proved allocation exists, any applica-  
24 ble water quality standard for the pol-  
25 lutant (including any such standard

1 as addressed in an integrated plan in-  
2 corporated into a permit under sub-  
3 section (s)).

4 “(B) ELIGIBLE MUNICIPALITY.—The term  
5 ‘eligible municipality’ means a municipality with  
6 a history of compliance with this Act, as deter-  
7 mined in accordance with standards established  
8 by the Administrator.

9 “(C) TRIGGERING EVENT.—The term ‘trig-  
10 gering event’ means, with respect to a permit  
11 issued pursuant to this subsection, any of the  
12 following that happens after the date on which  
13 the permit is issued:

14 “(i) The State receives information  
15 that there may be a cause for modification,  
16 as identified in section 122.62 of title 40,  
17 Code of Federal Regulations (as in effect  
18 on the date of enactment of this sub-  
19 section), of the permit.

20 “(ii) The State identifies under sec-  
21 tion 303(d) the navigable water into which  
22 a discharge is permitted pursuant to the  
23 permit as impaired for a pollutant known  
24 to be present in the discharge.

1           “(iii) The Administrator approves a  
2           new or modified total maximum daily load  
3           that applies with respect to a pollutant  
4           known to be present in a discharge per-  
5           mitted pursuant to the permit.

6           “(iv) The Administrator or the State  
7           determines that—

8                   “(I) a pollutant known to be dis-  
9                   charged under the permit is directly  
10                  related to the contamination of a  
11                  water designated for use as a public  
12                  water supply source pursuant to sec-  
13                  tion 303; and

14                   “(II)(aa) the discharge of such  
15                   pollutant is related to a violation of an  
16                   applicable water quality standard; or

17                   “(bb) such pollutant is subject to  
18                   a health advisory published by the Ad-  
19                   ministrator           under           section  
20                   1412(b)(1)(F) of the Safe Drinking  
21                   Water Act.”.

22           (c) IMPLEMENTATION RULE.—

23                   (1) DEADLINE.—Not later than 1 year after  
24                   the date of enactment of this Act, the Administrator  
25                   of the Environmental Protection Agency shall pub-



1       lish in the Federal Register a rule to implement the  
2       amendments made by this section, including estab-  
3       lishing standards for determining a history of com-  
4       pliance with the Federal Water Pollution Control  
5       Act for purposes of section 402(t) of such Act (as  
6       added by this section).

7               (2) CONSULTATION.—In carrying out this sub-  
8       section, the Administrator shall consult with rep-  
9       resentatives of States, municipalities (as such term  
10      is defined in section 502 of the Federal Water Pollu-  
11      tion Control Act), and other stakeholders and inter-  
12      ested parties.

