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

Page 1137, after line 10 insert the following:

SEC. 22117. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.

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

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

“(B) are for fixed terms—

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

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

and

(2) by redesignating subparagraph (D) as subparagraph (E), and inserting after subparagraph (C) the following:

“(D) do not continue in force beyond the last day of the fixed term, except as provided in subsection (k)(2); and”.
(b) REQUIREMENTS.—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended—

(1) in subsection (k)—

(A) by inserting ``(1)'' before ``Compliance with'';

(B) by striking ``of (1)'' and inserting ``of (A)'';

(C) by striking ``or (2)'' and inserting ``or (B)''; and

(D) by adding at the end the following:

``(2) PERMIT RENEWAL OR REISSUANCE.—If a permittee applies to a State to renew or reissue a permit under this section, in compliance with the approved State permit program under subsection (b), and the State does not make a final administrative disposition of the application by the last day of the term of the permit—

``(A) not later than 30 days after such last day of the term of the permit, the State shall notify the Administrator, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate of
such failure to make a final administrative disposition;

“(B) if the State does not make a final administrative disposition of the application by the date that is 180 days after the last day of the term of the permit, the Administrator shall make a final administrative disposition of the application not later than 180 days after such date; and

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

(2) by adding at the end the following:

“(t) EXTENDED TERM FOR CERTAIN PERMITS.—

“(1) IN GENERAL.—A State with an approved permit program under subsection (b) may issue a permit under this section with a term authorized under subsection (b)(1)(B)(i) to an eligible municipality for a covered discharge.

“(2) REVIEW AND MODIFICATION OF PERMIT.—

“(A) STATE ACTION.—

“(i) REVIEW.—Not later than 60 days after a triggering event occurs with respect to a permit issued by a State pursuant to this subsection, the State shall review the
permit and make publicly available a determination of whether any modifications to the permit are necessary to address the triggering event.

“(ii) MODIFICATION.—Not later than 90 days after making publicly available a determination under clause (i) that modifications to a permit are necessary, the State shall make such modifications in accordance with the requirements of this section.

“(B) EPA ACTION.—

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

“(ii) MODIFICATION.—If a State fails to modify a permit by the deadline required under subparagraph (A), or if the Administrator makes publicly available under this subparagraph a determination that modifications to a permit are necessary, the Administrator shall make such
modifications in accordance with the requirements of this section not later than
90 days after the deadline required under subparagraph (A), or 90 days after the
date on which the Administrator makes publicly available such determination under
this subparagraph, as applicable.

“(iii) Effect on state authority.—A permit modified by the Adminis-
trator under clause (ii) shall be considered to be a permit issued by the State for the
purposes of permit administration, and such modification shall not affect any
other authority or responsibility of the State relating to the permit.

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

“(3) Definitions.—In this subsection:

“(A) Covered discharge.—The term ‘covered discharge’ means a discharge from a
publicly owned treatment works, which consists of municipal sewage treated, recycled, or re-
claimed in accordance with this Act (and may include a municipal combined sewer overflow that is in compliance with the requirements of subsection (q))—

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

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

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

“(II) for each such pollutant, any applicable approved total maximum daily load allocation, or, if no such ap-
proved allocation exists, any applicable water quality standard for the pol-
lutant (including any such standard
as addressed in an integrated plan incorporated into a permit under subsection (s)).

“(B) ELIGIBLE MUNICIPALITY.—The term ‘eligible municipality’ means a municipality with a history of compliance with this Act, as determined in accordance with standards established by the Administrator.

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

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

“(ii) The State identifies under section 303(d) the navigable water into which a discharge is permitted pursuant to the permit as impaired for a pollutant known to be present in the discharge.
“(iii) The Administrator approves a new or modified total maximum daily load that applies with respect to a pollutant known to be present in a discharge permitted pursuant to the permit.

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

“(I) a pollutant known to be discharged under the permit is directly related to the contamination of a water designated for use as a public water supply source pursuant to section 303; and

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

“(bb) such pollutant is subject to a health advisory published by the Administrator under section 1412(b)(1)(F) of the Safe Drinking Water Act.”.

(c) IMPLEMENTATION RULE.—

(1) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall pub-
lish in the Federal Register a rule to implement the
amendments made by this section, including estab-
lishing standards for determining a history of com-
pliance with the Federal Water Pollution Control
Act for purposes of section 402(t) of such Act (as
added by this section).

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