

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 116-54**  
**OFFERED BY MR. MCKINLEY OF WEST VIRGINIA**

Page 1137, after line 10, insert the following:

1 **SEC. 22117. CERTIFICATION.**

2 Section 401 of the Federal Water Pollution Control  
3 Act (33 U.S.C. 1341) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) in the first sentence—

7 (I) by inserting “by the appli-  
8 cant” after “any discharge”; and

9 (II) by inserting “as a result of  
10 the federally licensed or permitted ac-  
11 tivity” after “into the navigable  
12 waters”;

13 (ii) in the second sentence, by striking  
14 “activity” and inserting “discharge”;

15 (iii) in the third sentence, by striking  
16 “applications” each place it appears and  
17 inserting “requests”;

1 (iv) in the fifth sentence, by striking  
2 “act on” and inserting “grant or deny”;  
3 and

4 (v) by inserting after the fourth sen-  
5 tence the following: “The certifying State,  
6 interstate agency, or Administrator shall  
7 publish the requirements for certification  
8 that meet the applicable provisions of sec-  
9 tions 301, 302, 303, 306, and 307. The  
10 decision to grant or deny a request shall be  
11 based only on the applicable provisions of  
12 sections 301, 302, 303, 306, and 307 and  
13 the grounds for a decision shall be set  
14 forth in writing to the applicant.”;

15 (B) in paragraph (2)—

16 (i) in the second sentence—

17 (I) by striking “such a dis-  
18 charge” and inserting “a discharge  
19 made into the navigable waters by the  
20 applicant as described in paragraph  
21 (1)”;

22 (II) by inserting “receipt of the”  
23 before “notice”; and

24 (III) by striking “of application  
25 for such Federal license or permit”

1 and inserting “under the preceding  
2 sentence”;

3 (ii) in the third sentence—

4 (I) by striking “such discharge”  
5 and inserting “any discharge made  
6 into the navigable waters by the appli-  
7 cant as described in paragraph (1)”;  
8 and

9 (II) by striking “any water qual-  
10 ity requirement” and inserting “the  
11 applicable provisions of sections 301,  
12 302, 303, 306, and 307”;

13 (iii) in the fifth sentence, by striking  
14 “insure compliance with applicable water  
15 quality requirements.” and inserting “en-  
16 sure any discharge into the navigable  
17 waters by the applicant as described in  
18 paragraph (1) will comply with the applica-  
19 ble provisions of sections 301, 302, 303,  
20 306, and 307.”; and

21 (iv) by striking the first sentence and  
22 inserting “Not later than 90 days after re-  
23 ceipt of a request for certification, the cer-  
24 tifying State, interstate agency, or Admin-  
25 istrator shall identify in writing all specific

1 additional materials or information that  
2 are necessary to make a final decision on  
3 a request for certification. On receipt of a  
4 request for certification, the certifying  
5 State or interstate agency, as applicable,  
6 shall immediately notify the Administrator  
7 of the request.”;

8 (C) in paragraph (3)—

9 (i) in the first sentence, by striking  
10 “there will be compliance” and inserting  
11 “a discharge made into the navigable  
12 waters by the applicant as described in  
13 paragraph (1) will comply”; and

14 (ii) in the second sentence—

15 (I) by striking “section” and in-  
16 serting “the applicable provisions of  
17 sections”; and

18 (II) by striking “or 307 of this  
19 Act” and inserting “and 307”;

20 (D) in paragraph (4)—

21 (i) in the first sentence, by striking  
22 “applicable effluent limitations” and all  
23 that follows through the period at the end  
24 and inserting “any discharge made by the  
25 applicant into the navigable waters as de-

1 scribed in paragraph (1) will not violate  
2 the applicable provisions of sections 301,  
3 302, 303, 306, and 307.”;

4 (ii) in the second sentence, by striking  
5 “will violate applicable effluent limitations  
6 or other limitations or other water quality  
7 requirements such Federal” and inserting  
8 “will result in a discharge made into the  
9 navigable waters by the applicant as de-  
10 scribed in paragraph (1) that violates the  
11 applicable provisions of sections 301, 302,  
12 303, 306, and 307, the Federal”; and

13 (iii) in the third sentence—

14 (I) by striking “such facility or  
15 activity” and inserting “a discharge  
16 made by the applicant into the navi-  
17 gable waters as described in para-  
18 graph (1)”;

19 (II) by striking “section 301,  
20 302, 303, 306, or 307 of this Act”  
21 and inserting “sections 301, 302, 303,  
22 306, and 307”; and

23 (E) in paragraph (5)—

24 (i) by striking “such facility or activ-  
25 ity has been operated in” and inserting

1 “any discharge made by the applicant into  
2 the navigable waters as described in para-  
3 graph (1) is in”; and

4 (ii) by striking “section 301, 302,  
5 303, 306, or 307 of this Act” and insert-  
6 ing “sections 301, 302, 303, 306, and  
7 307”; and

8 (2) in subsection (d), by striking “assure that  
9 any applicant for a Federal license or permit will  
10 comply with any applicable” and inserting the fol-  
11 lowing: “ensure that any discharge made by the ap-  
12 plicant into the navigable waters as described in sub-  
13 section (a)(1) shall comply with the applicable provi-  
14 sions of sections 301, 302, 303, 306, and 307. Any  
15 limitations or requirements in the preceding sen-  
16 tence shall become a condition on any Federal li-  
17 cense or permit subject to the provisions of this sec-  
18 tion.

19 “(e) DEFINITION OF APPLICABLE PROVISIONS OF  
20 SECTIONS 301, 302, 303, 306, AND 307.—In this section,  
21 the term ‘applicable provisions of sections 301, 302, 303,  
22 306, and 307’ means, as applicable,”; and

23 (3) in subsection (e) (as so redesignated)—

24 (A) by striking “with”;

25 (B) by striking “other appropriate”; and

1                   (C) by striking “set forth” and all that fol-  
2                   lows through the period at the end and insert-  
3                   ing “implementing water quality criteria under  
4                   section 303 necessary to support the specified  
5                   designated use or uses of the receiving navi-  
6                   gable water.”.

