

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MR. MCKINLEY OF WEST VIRGINIA

At the end of subtitle F of title XII add the following:

1 **SEC. ____. WATER QUALITY CERTIFICATION IMPROVEMENT.**

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) by striking subsection (d) and inserting the
9 following:

10 “(d) Any certification provided under this section
11 shall set forth any effluent limitations and other limita-
12 tions, and monitoring requirements necessary to ensure
13 that any discharge made by the applicant into the navi-
14 gable waters as described in subsection (a)(1) shall comply
15 with the applicable provisions of sections 301, 302, 303,
16 306, and 307. Any limitations or requirements in the pre-
17 ceding sentence shall become a condition on any Federal
18 license or permit subject to the provisions of this section.

19 “(e) In this section, the term ‘applicable provisions
20 of sections 301, 302, 303, 306, and 307’ means, as appli-
21 cable, effluent limitations and other limitations, under sec-
22 tion 301 or 302 of this Act, standard of performance
23 under section 306 of this Act, or prohibition, effluent
24 standard, or pretreatment standard under section 307 of
25 this Act, and any requirement of State law implementing

1 water quality criteria under section 303 necessary to sup-
2 port the specified designated use or uses of the receiving
3 navigable water.”.

