H. R. 116TH CONGRESS 1ST SESSION

To amend the Federal Water Pollution Control Act to make changes with respect to water quality certification, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. McKinley introduced the following bill; which was referred to the Committee on _______________________

A BILL

To amend the Federal Water Pollution Control Act to make changes with respect to water quality certification, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Quality Certifi-
cation Improvement Act of 2019”.

SEC. 2. CERTIFICATION.

Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341) is amended—
(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by inserting “by the applicant” after “any discharge”; and

(II) by inserting “as a result of the federally licensed or permitted activity” after “into the navigable waters”;

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

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

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

(v) by inserting after the fourth sentence the following: “The certifying State, interstate agency, or Administrator shall publish the requirements for certification that meet the applicable provisions of sections 301, 302, 303, 306, and 307. The decision to grant or deny a request shall be based only on the applicable provisions of
sections 301, 302, 303, 306, and 307 and
the grounds for a decision shall be set
forth in writing to the applicant.”;

(B) in paragraph (2)—

(i) in the second sentence—

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

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

(III) by striking “of application
for such Federal license or permit”
and inserting “under the preceding
sentence”;

(ii) in the third sentence—

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

and

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

(iii) in the fifth sentence, by striking “insure compliance with applicable water quality requirements.” and inserting “ensure any discharge into the navigable waters by the applicant as described in paragraph (1) will comply with the applicable provisions of sections 301, 302, 303, 306, and 307.”; and

(iv) by striking the first sentence and inserting “Not later than 90 days after receipt of a request for certification, the certifying State, interstate agency, or Administrator shall identify in writing all specific additional materials or information that are necessary to make a final decision on a request for certification. On receipt of a request for certification, the certifying State or interstate agency, as applicable, shall immediately notify the Administrator of the request.”;

(C) in paragraph (3)—

(i) in the first sentence, by striking “there will be compliance” and inserting
“a discharge made into the navigable wa-
ters by the applicant as described in para-
graph (1) will comply”; and

(ii) in the second sentence—

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

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

(D) in paragraph (4)—

(i) in the first sentence, by striking
“applicable effluent limitations” and all
that follows through the period at the end
and inserting “any discharge made by the
applicant into the navigable waters as de-
scribed in paragraph (1) will not violate
the applicable provisions of sections 301,
302, 303, 306, and 307.”;

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

(iii) in the third sentence—

(I) by striking “such facility or activity” and inserting “a discharge made by the applicant into the navigable waters as described in paragraph (1)”; and

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

(E) in paragraph (5)—

(i) by striking “such facility or activity has been operated in” and inserting “any discharge made by the applicant into the navigable waters as described in paragraph (1) is in”; and

(ii) by striking “section 301, 302, 303, 306, or 307 of this Act” and inserting “sections 301, 302, 303, 306, and 307”; and

(2) in subsection (d), by striking “assure that any applicant for a Federal license or permit will comply with any applicable” and inserting the fol-
lowing: “ensure that any discharge made by the applicant into the navigable waters as described in subsection (a)(1) shall comply with the applicable provisions of sections 301, 302, 303, 306, and 307. Any limitations or requirements in the preceding sentence shall become a condition on any Federal license or permit subject to the provisions of this section.

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

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

(A) by striking “with”;

(B) by striking “other appropriate”; and

(C) by striking “set forth” and all that follows through the period at the end and inserting “implementing water quality criteria under section 303 necessary to support the specified designated use or uses of the receiving navigable water.”.