

116TH CONGRESS  
1ST SESSION

# S. 1087

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 9, 2019

Mr. BARRASSO (for himself, Mr. DAINES, Mr. INHOFE, Mrs. CAPITO, Mr. ENZI, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. CERTIFICATION.**

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

9 (1) in subsection (a)—

- 1 (A) in paragraph (1)—
- 2 (i) in the first sentence—
- 3 (I) by inserting “by the appli-  
4 cant” after “any discharge”; and
- 5 (II) by inserting “as a result of  
6 the federally licensed or permitted ac-  
7 tivity” after “into the navigable  
8 waters”;
- 9 (ii) in the second sentence, by striking  
10 “activity” and inserting “discharge”;
- 11 (iii) in the third sentence, by striking  
12 “applications” each place it appears and  
13 inserting “requests”;
- 14 (iv) in the fifth sentence, by striking  
15 “act on” and inserting “grant or deny”;  
16 and
- 17 (v) by inserting after the fourth sen-  
18 tence the following: “The certifying State,  
19 interstate agency, or Administrator shall  
20 publish the requirements for certification  
21 that meet the applicable provisions of sec-  
22 tions 301, 302, 303, 306, and 307. The  
23 decision to grant or deny a request shall be  
24 based only on the applicable provisions of  
25 sections 301, 302, 303, 306, and 307 and

1 the grounds for a decision shall be set  
2 forth in writing to the applicant.”;

3 (B) in paragraph (2)—

4 (i) in the second sentence—

5 (I) by striking “such a dis-  
6 charge” and inserting “a discharge  
7 made into the navigable waters by the  
8 applicant as described in paragraph  
9 (1)”;

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

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

16 (ii) in the third sentence—

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

22 (II) by striking “any water qual-  
23 ity requirement” and inserting “the  
24 applicable provisions of sections 301,  
25 302, 303, 306, and 307”;

1 (iii) in the fifth sentence, by striking  
2 “insure compliance with applicable water  
3 quality requirements.” and inserting “en-  
4 sure any discharge into the navigable  
5 waters by the applicant as described in  
6 paragraph (1) will comply with the applica-  
7 ble provisions of sections 301, 302, 303,  
8 306, and 307.”; and

9 (iv) by striking the first sentence and  
10 inserting “Not later than 90 days after re-  
11 ceipt of a request for certification, the cer-  
12 tifying State, interstate agency, or Admin-  
13 istrator shall identify in writing all specific  
14 additional materials or information that  
15 are necessary to make a final decision on  
16 a request for certification. On receipt of a  
17 request for certification, the certifying  
18 State or interstate agency, as applicable,  
19 shall immediately notify the Administrator  
20 of the request.”;

21 (C) in paragraph (3)—

22 (i) in the first sentence, by striking  
23 “there will be compliance” and inserting  
24 “a discharge made into the navigable

1 waters by the applicant as described in  
2 paragraph (1) will comply”; and

3 (ii) in the second sentence—

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

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

9 (D) in paragraph (4)—

10 (i) in the first sentence, by striking  
11 “applicable effluent limitations” and all  
12 that follows through the period at the end  
13 and inserting “any discharge made by the  
14 applicant into the navigable waters as de-  
15 scribed in paragraph (1) will not violate  
16 the applicable provisions of sections 301,  
17 302, 303, 306, and 307.”;

18 (ii) in the second sentence, by striking  
19 “will violate applicable effluent limitations  
20 or other limitations or other water quality  
21 requirements such Federal” and inserting  
22 “will result in a discharge made into the  
23 navigable waters by the applicant as de-  
24 scribed in paragraph (1) that violates the

1 applicable provisions of sections 301, 302,  
2 303, 306, and 307, the Federal”; and

3 (iii) in the third sentence—

4 (I) by striking “such facility or  
5 activity” and inserting “a discharge  
6 made by the applicant into the navi-  
7 gable waters as described in para-  
8 graph (1)””; and

9 (II) by striking “section 301,  
10 302, 303, 306, or 307 of this Act”  
11 and inserting “sections 301, 302, 303,  
12 306, and 307””; and

13 (E) in paragraph (5)—

14 (i) by striking “such facility or activ-  
15 ity has been operated in” and inserting  
16 “any discharge made by the applicant into  
17 the navigable waters as described in para-  
18 graph (1) is in””; and

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

23 (2) in subsection (d), by striking “assure that  
24 any applicant for a Federal license or permit will  
25 comply with any applicable” and inserting the fol-

1       lowing: “ensure that any discharge made by the ap-  
2       plicant into the navigable waters as described in sub-  
3       section (a)(1) shall comply with the applicable provi-  
4       sions of sections 301, 302, 303, 306, and 307. Any  
5       limitations or requirements in the preceding sen-  
6       tence shall become a condition on any Federal li-  
7       cense or permit subject to the provisions of this sec-  
8       tion.

9       “(e) DEFINITION OF APPLICABLE PROVISIONS OF  
10      SECTIONS 301, 302, 303, 306, AND 307.—In this section,  
11      the term ‘applicable provisions of sections 301, 302, 303,  
12      306, and 307’ means, as applicable,”; and

13               (3) in subsection (e) (as so redesignated)—  
14                       (A) by striking “with”;  
15                       (B) by striking “other appropriate”; and  
16                       (C) by striking “set forth” and all that fol-  
17              lows through the period at the end and insert-  
18              ing “implementing water quality criteria under  
19              section 303 necessary to support the specified  
20              designated use or uses of the receiving navi-  
21              gable water.”.

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