

113TH CONGRESS  
1ST SESSION

# H. R. 1829

To amend the Federal Water Pollution Control Act to provide guidance and clarification regarding issuing new and renewal permits, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2013

Mrs. CAPITO (for herself, Mr. BARR, Mr. SHIMKUS, Mrs. LUMMIS, Mr. STIVERS, Mrs. WAGNER, Mr. JOHNSON of Ohio, Mr. GRIFFITH of Virginia, Mr. WHITFIELD, Mr. MCKINLEY, and Mr. LATTA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act to provide guidance and clarification regarding issuing new and renewal permits, 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 “Coal Jobs Protection  
5 Act of 2013”.

1 **SEC. 2. NATIONAL POLLUTANT DISCHARGE ELIMINATION**  
2 **SYSTEM.**

3 (a) **APPLICABILITY OF GUIDANCE.**—Section 402 of  
4 the Federal Water Pollution Control Act (33 U.S.C. 1342)  
5 is amended by adding at the end the following:

6 “(s) **APPLICABILITY OF GUIDANCE.**—

7 “(1) **DEFINITIONS.**—In this subsection:

8 “(A) **GUIDANCE.**—

9 “(i) **IN GENERAL.**—The term ‘guid-  
10 ance’ means draft, interim, or final guid-  
11 ance issued by the Administrator.

12 “(ii) **INCLUSIONS.**—The term ‘guid-  
13 ance’ includes—

14 “(I) the comprehensive guidance  
15 issued by the Administrator and dated  
16 April 1, 2010;

17 “(II) the proposed guidance enti-  
18 tled ‘Draft Guidance on Identifying  
19 Waters Protected by the Clean Water  
20 Act’ and dated April 28, 2011;

21 “(III) the final guidance pro-  
22 posed by the Administrator and dated  
23 July 21, 2011; and

24 “(IV) any other document or  
25 paper issued by the Administrator  
26 through any process other than the

1 notice and comment rulemaking proc-  
2 ess.

3 “(B) NEW PERMIT.—The term ‘new per-  
4 mit’ means a permit covering discharges from a  
5 structure—

6 “(i) that is issued under this section  
7 by a permitting authority; and

8 “(ii) for which an application is—

9 “(I) pending as of the date of en-  
10 actment of this subsection; or

11 “(II) filed on or after the date of  
12 enactment of this subsection.

13 “(C) PERMITTING AUTHORITY.—The term  
14 ‘permitting authority’ means—

15 “(i) the Administrator; or

16 “(ii) a State, acting pursuant to a  
17 State program that is equivalent to the  
18 program under this section and approved  
19 by the Administrator.

20 “(2) PERMITS.—

21 “(A) IN GENERAL.—Notwithstanding any  
22 other provision of law, in making a determina-  
23 tion whether to approve a new permit or a re-  
24 newed permit, the permitting authority—

1           “(i) shall base the determination only  
2           on compliance with regulations issued by  
3           the Administrator or the permitting au-  
4           thority; and

5           “(ii) shall not base the determination  
6           on the extent of adherence of the applicant  
7           for the new permit or renewed permit to  
8           guidance.

9           “(B) NEW PERMITS.—If the permitting  
10          authority does not approve or deny an applica-  
11          tion for a new permit by the date that is 270  
12          days after the date of receipt of the application  
13          for the new permit, the applicant may operate  
14          as if the application were approved in accord-  
15          ance with Federal law for the period of time for  
16          which a permit from the same industry would  
17          be approved.

18          “(C) SUBSTANTIAL COMPLETENESS.—In  
19          determining whether an application for a new  
20          permit or a renewed permit received under this  
21          paragraph is substantially complete, the permit-  
22          ting authority shall use standards for deter-  
23          mining substantial completeness of similar per-  
24          mits for similar facilities submitted in fiscal  
25          year 2007.”.

1 (b) STATE PERMIT PROGRAMS.—

2 (1) IN GENERAL.—Section 402 of the Federal  
3 Water Pollution Control Act (33 U.S.C. 1342) is  
4 amended by striking subsection (b) and inserting the  
5 following:

6 “(b) STATE PERMIT PROGRAMS.—

7 “(1) IN GENERAL.—At any time after the pro-  
8 mulgation of the guidelines required by section  
9 304(I)(2), the Governor of each State desiring to ad-  
10 minister a permit program for discharges into navi-  
11 gable waters within the jurisdiction of the State may  
12 submit to the Administrator—

13 “(A) a full and complete description of the  
14 program the State proposes to establish and ad-  
15 minister under State law or under an interstate  
16 compact; and

17 “(B) a statement from the attorney gen-  
18 eral (or the attorney for those State water pol-  
19 lution control agencies that have independent  
20 legal counsel), or from the chief legal officer in  
21 the case of an interstate agency, that the laws  
22 of the State, or the interstate compact, as ap-  
23 plicable, provide adequate authority to carry out  
24 the described program.

1           “(2) APPROVAL.—The Administrator shall ap-  
2           prove each program for which a description is sub-  
3           mitted under paragraph (1) unless the Adminis-  
4           trator determines that adequate authority does not  
5           exist—

6                   “(A) to issue permits that—

7                           “(i) apply, and ensure compliance  
8                           with, any applicable requirements of sec-  
9                           tions 301, 302, 306, 307, and 403;

10                           “(ii) are for fixed terms not exceeding  
11                           5 years;

12                           “(iii) can be terminated or modified  
13                           for cause including—

14                                   “(I) a violation of any condition  
15                                   of the permit;

16                                   “(II) obtaining a permit by mis-  
17                                   representation or failure to disclose  
18                                   fully all relevant facts; and

19                                   “(III) a change in any condition  
20                                   that requires either a temporary or  
21                                   permanent reduction or elimination of  
22                                   the permitted discharge; and

23                           “(iv) control the disposal of pollutants  
24                           into wells;

1           “(B)(i) to issue permits that apply, and  
2 ensure compliance with, all applicable require-  
3 ments of section 308; or

4           “(ii) to inspect, monitor, enter, and require  
5 reports to at least the same extent as required  
6 in section 308;

7           “(C) to ensure that the public, and any  
8 other State the waters of which may be af-  
9 fected, receives notice of each application for a  
10 permit and an opportunity for a public hearing  
11 before a ruling on each application;

12           “(D) to ensure that the Administrator re-  
13 ceives notice and a copy of each application for  
14 a permit;

15           “(E) to ensure that any State (other than  
16 the permitting State), whose waters may be af-  
17 fected by the issuance of a permit may submit  
18 written recommendations to the permitting  
19 State and the Administrator with respect to any  
20 permit application and, if any part of the writ-  
21 ten recommendations are not accepted by the  
22 permitting State, that the permitting State will  
23 notify the affected State and the Administrator  
24 in writing of the failure of the State to accept

1 the recommendations, including the reasons for  
2 not accepting the recommendations;

3 “(F) to ensure that no permit will be  
4 issued if, in the judgment of the Secretary of  
5 the Army acting through the Chief of Engi-  
6 neers, after consultation with the Secretary of  
7 the department in which the Coast Guard is op-  
8 erating, anchorage and navigation of any of the  
9 navigable waters would be substantially im-  
10 paired by the issuance of the permit;

11 “(G) to abate violations of the permit or  
12 the permit program, including civil and criminal  
13 penalties and other means of enforcement;

14 “(H) to ensure that any permit for a dis-  
15 charge from a publicly owned treatment works  
16 includes conditions to require the identification  
17 in terms of character and volume of pollutants  
18 of any significant source introducing pollutants  
19 subject to pretreatment standards under section  
20 307(b) into the treatment works and a program  
21 to ensure compliance with those pretreatment  
22 standards by each source, in addition to ade-  
23 quate notice, which shall include information on  
24 the quality and quantity of effluent to be intro-  
25 duced into the treatment works and any antici-



1           pated impact of the change in the quantity or  
2           quality of effluent to be discharged from the  
3           publicly owned treatment works, to the permit-  
4           ting agency of—

5                   “(i) new introductions into the treat-  
6                   ment works of pollutants from any source  
7                   that would be a new source as defined in  
8                   section 306 if the source were discharging  
9                   pollutants;

10                   “(ii) new introductions of pollutants  
11                   into the treatment works from a source  
12                   that would be subject to section 301 if the  
13                   source were discharging those pollutants;  
14                   or

15                   “(iii) a substantial change in volume  
16                   or character of pollutants being introduced  
17                   into the treatment works by a source intro-  
18                   ducing pollutants into the treatment works  
19                   at the time of issuance of the permit; and

20                   “(I) to ensure that any industrial user of  
21                   any publicly owned treatment works will comply  
22                   with sections 204(b), 307, and 308.

23                   “(3) ADMINISTRATION.—Notwithstanding para-  
24                   graph (2), the Administrator may not disapprove or

1 withdraw approval of a program under this sub-  
2 section on the basis of the following:

3 “(A) The failure of the program to incor-  
4 porate or comply with guidance (as defined in  
5 subsection (s)(1)).

6 “(B) The implementation of a water qual-  
7 ity standard that has been adopted by the State  
8 and approved by the Administrator under sec-  
9 tion 303(c).”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 309 of the Federal Water Pol-  
12 lution Control Act (33 U.S.C. 1319) is amend-  
13 ed—

14 (i) in subsection (c)—

15 (I) in paragraph (1)(A), by strik-  
16 ing “402(b)(8)” and inserting  
17 “402(b)(2)(H)”; and

18 (II) in paragraph (2)(A), by  
19 striking “402(b)(8)” and inserting  
20 “402(b)(2)(H)”; and

21 (ii) in subsection (d), in the first sen-  
22 tence, by striking “402(b)(8)” and insert-  
23 ing “402(b)(2)(H)”.

24 (B) Section 402(m) of the Federal Water  
25 Pollution Control Act (33 U.S.C. 1342(m)) is

1 amended in the first sentence by striking “sub-  
2 section (b)(8) of this section” and inserting  
3 “subsection (b)(2)(H)”.

4 (c) SUSPENSION OF FEDERAL PROGRAM.—Section  
5 402(c) of the Federal Water Pollution Control Act (33  
6 U.S.C. 1342(c)) is amended—

7 (1) by redesignating paragraph (4) as para-  
8 graph (5); and

9 (2) by inserting after paragraph (3) the fol-  
10 lowing:

11 “(4) LIMITATION ON DISAPPROVAL.—Notwith-  
12 standing paragraphs (1) through (3), the Adminis-  
13 trator may not disapprove or withdraw approval of  
14 a State program under subsection (b) on the basis  
15 of the failure of the following:

16 “(A) The failure of the program to incor-  
17 porate or comply with guidance (as defined in  
18 subsection (s)(1)).

19 “(B) The implementation of a water qual-  
20 ity standard that has been adopted by the State  
21 and approved by the Administrator under sec-  
22 tion 303(c).”.

23 (d) NOTIFICATION OF ADMINISTRATOR.—Section  
24 402(d)(2) of the Federal Water Pollution Control Act (33  
25 U.S.C. 1342(d)(2)) is amended—

1           (1) by striking “(2) NO” and inserting the fol-  
2           lowing:

3           “(2) OBJECTION BY ADMINISTRATOR.—

4                   “(A) IN GENERAL.—Subject to subpara-  
5                   graph (C), no permit shall issue if—

6                           “(i) not later than 90 days after the  
7                           date on which the Administrator receives  
8                           notification under subsection (b)(2)(E), the  
9                           Administrator objects in writing to the  
10                          issuance of the permit; or

11                           “(ii) not later than 90 days after the  
12                           date on which the proposed permit of the  
13                           State is transmitted to the Administrator,  
14                           the Administrator objects in writing to the  
15                           issuance of the permit as being outside the  
16                           guidelines and requirements of this Act.”;

17           (2) in the second sentence, by striking “When-  
18           ever the Administrator” and inserting the following:

19                   “(B) REQUIREMENTS.—If the Adminis-  
20                   trator”; and

21           (3) by adding at the end the following:

22                   “(C) EXCEPTION.—The Administrator  
23                   shall not object to or deny the issuance of a  
24                   permit by a State under subsection (b) or (s)  
25                   based on the following:

1                   “(i) Guidance, as that term is defined  
2                   in subsection (s)(1).

3                   “(ii) The Administrator’s interpreta-  
4                   tion of a water quality standard that has  
5                   been adopted by the State and approved by  
6                   the Administrator under section 303(c).”.

7 **SEC. 3. PERMITS FOR DREDGED OR FILL MATERIAL.**

8           (a) IN GENERAL.—Section 404(a) of the Federal  
9 Water Pollution Control Act (33 U.S.C. 1344(a)) is  
10 amended—

11                   (1) by striking the section heading and all that  
12                   follows through “SEC. 404. (a) The Secretary may  
13                   issue” and inserting the following:

14 **“SEC. 404. PERMITS FOR DREDGED OR FILL MATERIAL.**

15           “(a) PERMITS.—

16                   “(1) IN GENERAL.—The Secretary may issue”;  
17                   and

18                   (2) by adding at the end the following:

19                   “(2) DEADLINE FOR APPROVAL.—

20                   “(A) PERMIT APPLICATIONS.—

21                   “(i) IN GENERAL.—Except as pro-  
22                   vided in clause (ii), if an environmental as-  
23                   sessment or environmental impact state-  
24                   ment, as appropriate, is required under the  
25                   National Environmental Policy Act of

1 1969 (42 U.S.C. 4321 et seq.), the Sec-  
2 retary shall—

3 “(I) begin the process not later  
4 than 90 days after the date on which  
5 the Secretary receives a permit appli-  
6 cation; and

7 “(II) approve or deny an applica-  
8 tion for a permit under this sub-  
9 section not later than the latter of—

10 “(aa) if an agency carries  
11 out an environmental assessment  
12 that leads to a finding of no sig-  
13 nificant impact, the date on  
14 which the finding of no signifi-  
15 cant impact is issued; or

16 “(bb) if an agency carries  
17 out an environmental assessment  
18 that leads to a record of decision,  
19 15 days after the date on which  
20 the record of decision on an envi-  
21 ronmental impact statement is  
22 issued.

23 “(ii) PROCESSES.—Notwithstanding  
24 clause (i), regardless of whether the Sec-  
25 retary has commenced an environmental

1 assessment or environmental impact state-  
2 ment by the date described in clause (i)(I),  
3 the following deadlines shall apply:

4 “(I) An environmental assess-  
5 ment carried out under the National  
6 Environmental Policy Act of 1969 (42  
7 U.S.C. 4321 et seq.) shall be com-  
8 pleted not later than 1 year after the  
9 deadline for commencing the permit  
10 process under clause (i)(I).

11 “(II) An environmental impact  
12 statement carried out under the Na-  
13 tional Environmental Policy Act of  
14 1969 (42 U.S.C. 4321 et seq.) shall  
15 be completed not later than 2 years  
16 after the deadline for commencing the  
17 permit process under clause (i)(I).

18 “(B) FAILURE TO ACT.—If the Secretary  
19 fails to act by the deadline specified in clause  
20 (i) or (ii) of subparagraph (A)—

21 “(i) the application, and the permit  
22 requested in the application, shall be con-  
23 sidered to be approved;

24 “(ii) the Secretary shall issue a permit  
25 to the applicant; and

1                   “(iii) the permit shall not be subject  
2                   to judicial review.”.

3           (b) STATE PERMITTING PROGRAMS.—

4                   (1) AUTHORITY OF EPA ADMINISTRATOR.—Sec-  
5                   tion 404(c) of the Federal Water Pollution Control  
6                   Act (33 U.S.C. 1344(c)) is amended by striking  
7                   “(c)” and inserting the following:

8                   “(c) AUTHORITY OF EPA ADMINISTRATOR.—

9                   “(1) POSSIBLE PROHIBITION OF SPECIFICA-  
10                   TION.—Until such time as the Secretary has issued  
11                   a permit under this section, the Administrator is au-  
12                   thorized to prohibit the specification (including the  
13                   withdrawal of specification) of any defined area as  
14                   a disposal site, and he is authorized to deny or re-  
15                   strict the use of any defined area for specification  
16                   (including the withdrawal of specification) as a dis-  
17                   posal site, whenever he determines, after notice and  
18                   opportunity for public hearings, that the discharge  
19                   of such materials into such area will have an unac-  
20                   ceptable adverse effect on municipal water supplies,  
21                   shellfish beds and fishery areas (including spawning  
22                   and breeding areas), wildlife, or recreational areas.  
23                   Before making such determination, the Adminis-  
24                   trator shall consult with the Secretary. The Admin-  
25                   istrator shall set forth in writing and make public



1 his findings and his reasons for making any deter-  
2 mination under this subsection.

3 “(2) AUTHORITY OF STATE PERMITTING PRO-  
4 GRAMS.—Paragraph (1) shall not apply to any per-  
5 mit if the State in which the discharge originates or  
6 will originate does not concur with the Administra-  
7 tor’s determination that the discharge will result in  
8 an unacceptable adverse effect as described in para-  
9 graph (1).”.

10 (c) STATE PROGRAMS.—The first sentence of section  
11 404(g)(1) of such Act (33 U.S.C. 1344(g)(1)) is amended  
12 by striking “for the discharge” and inserting “for some  
13 or all of the discharges”.

14 **SEC. 4. IMPACTS OF EPA REGULATORY ACTIVITY ON EM-**  
15 **PLOYMENT AND ECONOMIC ACTIVITY.**

16 (a) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOY-  
17 MENT AND ECONOMIC ACTIVITY.—

18 (1) ANALYSIS.—Before taking a covered action,  
19 the Administrator shall analyze the impact,  
20 disaggregated by State, of the covered action on em-  
21 ployment levels and economic activity, including esti-  
22 mated job losses and decreased economic activity.

23 (2) ECONOMIC MODELS.—

1 (A) IN GENERAL.—In carrying out para-  
2 graph (1), the Administrator shall utilize the  
3 best available economic models.

4 (B) ANNUAL GAO REPORT.—Not later  
5 than December 31st of each year, the Comp-  
6 troller General of the United States shall sub-  
7 mit to Congress a report on the economic mod-  
8 els used by the Administrator to carry out this  
9 subsection.

10 (3) AVAILABILITY OF INFORMATION.—With re-  
11 spect to any covered action, the Administrator  
12 shall—

13 (A) post the analysis under paragraph (1)  
14 as a link on the main page of the public Inter-  
15 net Web site of the Environmental Protection  
16 Agency; and

17 (B) request that the Governor of any State  
18 experiencing more than a de minimis negative  
19 impact post such analysis in the Capitol of such  
20 State.

21 (b) PUBLIC HEARINGS.—

22 (1) IN GENERAL.—If the Administrator con-  
23 cludes under subsection (a)(1) that a covered action  
24 will have more than a de minimis negative impact on  
25 employment levels or economic activity in a State,

1 the Administrator shall hold a public hearing in each  
2 such State at least 30 days prior to the effective  
3 date of the covered action.

4 (2) TIME, LOCATION, AND SELECTION.—A pub-  
5 lic hearing required under paragraph (1) shall be  
6 held at a convenient time and location for impacted  
7 residents. In selecting a location for such a public  
8 hearing, the Administrator shall give priority to loca-  
9 tions in the State that will experience the greatest  
10 number of job losses.

11 (c) NOTIFICATION.—If the Administrator concludes  
12 under subsection (a)(1) that a covered action will have  
13 more than a de minimis negative impact on employment  
14 levels or economic activity in any State, the Administrator  
15 shall give notice of such impact to the State’s Congres-  
16 sional delegation, Governor, and Legislature at least 45  
17 days before the effective date of the covered action.

18 (d) DEFINITIONS.—In this section, the following defi-  
19 nitions apply:

20 (1) ADMINISTRATOR.—The term “Adminis-  
21 trator” means the Administrator of the Environ-  
22 mental Protection Agency.

23 (2) COVERED ACTION.—The term “covered ac-  
24 tion” means any of the following actions taken by

1 the Administrator under the Federal Water Pollu-  
2 tion Control Act (33 U.S.C. 1201 et seq.):

3 (A) Issuing a regulation, policy statement,  
4 guidance, response to a petition, or other re-  
5 quirement.

6 (B) Implementing a new or substantially  
7 altered program.

8 (3) MORE THAN A DE MINIMIS NEGATIVE IM-  
9 PACT.—The term “more than a de minimis negative  
10 impact” means the following:

11 (A) With respect to employment levels, a  
12 loss of more than 100 jobs. Any offsetting job  
13 gains that result from the hypothetical creation  
14 of new jobs through new technologies or govern-  
15 ment employment may not be used in the job  
16 loss calculation.

17 (B) With respect to economic activity, a  
18 decrease in economic activity of more than  
19 \$1,000,000 over any calendar year. Any offset-  
20 ting economic activity that results from the hy-  
21 pothetical creation of new economic activity  
22 through new technologies or government em-  
23 ployment may not be used in the economic ac-  
24 tivity calculation.

1 **SEC. 5. IDENTIFICATION OF WATERS PROTECTED BY THE**  
2 **CLEAN WATER ACT.**

3 (a) IN GENERAL.—The Secretary of the Army and  
4 the Administrator of the Environmental Protection Agen-  
5 cy may not—

6 (1) finalize, adopt, implement, administer, or  
7 enforce the proposed guidance described in the no-  
8 tice of availability and request for comments entitled  
9 “EPA and Army Corps of Engineers Guidance Re-  
10 garding Identification of Waters Protected by the  
11 Clean Water Act” (EPA–HQ–OW–2011–0409) (76  
12 Fed. Reg. 24479 (May 2, 2011)); and

13 (2) use the guidance described in paragraph  
14 (1), any successor document, or any substantially  
15 similar guidance made publicly available on or after  
16 December 3, 2008, as the basis for any decision re-  
17 garding the scope of the Federal Water Pollution  
18 Control Act (33 U.S.C. 1251 et seq.) or any rule-  
19 making.

20 (b) RULES.—The use of the guidance described in  
21 subsection (a)(1), or any successor document or substan-  
22 tially similar guidance made publicly available on or after  
23 December 3, 2008, as the basis for any rule shall be  
24 grounds for vacating the rule.

1 **SEC. 6. LIMITATIONS ON AUTHORITY TO MODIFY STATE**  
2 **WATER QUALITY STANDARDS.**

3 (a) STATE WATER QUALITY STANDARDS.—Section  
4 303(c)(4) of the Federal Water Pollution Control Act (33  
5 U.S.C. 1313(c)(4)) is amended—

6 (1) by redesignating subparagraphs (A) and  
7 (B) as clauses (i) and (ii), respectively;

8 (2) by striking “(4)” and inserting “(4)(A)”;

9 (3) by striking “The Administrator shall pro-  
10 mulgate” and inserting the following:

11 “(B) The Administrator shall promulgate;”

12 and

13 (4) by adding at the end the following:

14 “(C) Notwithstanding subparagraph  
15 (A)(ii), the Administrator may not promulgate  
16 a revised or new standard for a pollutant in any  
17 case in which the State has submitted to the  
18 Administrator and the Administrator has ap-  
19 proved a water quality standard for that pollut-  
20 ant, unless the State concurs with the Adminis-  
21 trator’s determination that the revised or new  
22 standard is necessary to meet the requirements  
23 of this Act.”.

24 (b) FEDERAL LICENSES AND PERMITS.—Section  
25 401(a) of such Act (33 U.S.C. 1341(a)) is amended by  
26 adding at the end the following:

1           “(7) With respect to any discharge, if a State  
2           or interstate agency having jurisdiction over the nav-  
3           igable waters at the point where the discharge origi-  
4           nates or will originate determines under paragraph  
5           (1) that the discharge will comply with the applica-  
6           ble provisions of sections 301, 302, 303, 306, and  
7           307, the Administrator may not take any action to  
8           supersede the determination.”.

9   **SEC. 7. STATE AUTHORITY TO IDENTIFY WATERS WITHIN**  
10                                   **ITS BOUNDARIES.**

11           Section 303 of the Federal Water Pollution Control  
12   Act (33 U.S.C. 1313) is amended by striking subsection  
13   (d)(2) and inserting the following:

14           “(2)(A) Each State shall submit to the Admin-  
15           istrator from time to time, with the first such sub-  
16           mission not later than 180 days after the date of  
17           publication of the first identification of pollutants  
18           under section 304(a)(2)(D), the waters identified  
19           and the loads established under paragraphs (1)(A),  
20           (1)(B), (1)(C), and (1)(D) of this subsection. The  
21           Administrator shall approve the State identification  
22           and load or announce his disagreement with the  
23           State identification and load not later than 30 days  
24           after the date of submission and if—

1           “(i) the Administrator approves the identi-  
2           fication and load submitted by the State in ac-  
3           cordance with this subsection, such State shall  
4           incorporate them into its current plan under  
5           subsection (e); and

6           “(ii) the Administrator announces his dis-  
7           agreement with the identification and load sub-  
8           mitted by the State in accordance with this sub-  
9           section he shall submit, not later than 30 days  
10          after the date that the Administrator announces  
11          his disagreement with the State’s submission, to  
12          such State his written recommendation of those  
13          additional waters that he identifies and such  
14          loads for such waters as he believes are nec-  
15          essary to implement the water quality standards  
16          applicable to such waters.

17          “(B) Upon receipt of the Administrator’s rec-  
18          ommendation the State shall within 30 days either—

19                 “(i) disregard the Administrator’s rec-  
20                 ommendation in full and incorporate its own  
21                 identification and load into its current plan  
22                 under subsection (e);

23                 “(ii) accept the Administrator’s rec-  
24                 ommendation in full and incorporate its identi-  
25                 fication and load as amended by the Adminis-



1           trator’s recommendation into its current plan  
2           under subsection (e); or

3           “(iii) accept the Administrator’s rec-  
4           ommendation in part, identifying certain addi-  
5           tional waters and certain additional loads pro-  
6           posed by the Administrator to be added to such  
7           State’s identification and load and incorporate  
8           the such State’s identification and load as  
9           amended into its current plan under subsection  
10          (e).

11          “(C)(i) If the Administrator fails to either ap-  
12          prove the State identification and load or announce  
13          his disagreement with the State identification and  
14          load within the time specified in this subsection then  
15          such State’s identification and load is deemed ap-  
16          proved and such State shall incorporate the identi-  
17          fication and load that it submitted into its current  
18          plan under subsection (e).

19          “(ii) If the Administrator announces his dis-  
20          agreement with the State identification and load but  
21          fails to submit his written recommendation to the  
22          State within 30 days as required by subparagraph  
23          (A)(ii) then such State’s identification and load is  
24          deemed approved and such State shall incorporate

1 the identification and load that it submitted into its  
2 current plan under subsection (e).

3 “(D) This section shall apply to any decision  
4 made by the Administrator under this subsection  
5 issued on or after March 1, 2013.”.

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