



*A brief description of a new bill, regulation, or court decision prepared for you by ACWA.*

January 26, 2017

Bill Summary: The Water Quality Improvement Act of 2017

**Citation:** HR 465 ([text](#)) ([PDF](#))

**Relevance:**

- Permitting Authorities will be required to allow municipalities to develop a plan for NPDES planning process
- integrated plans must incorporate State input on priority setting
- Administrator, at the State's request, must provide information and technical assistance to the State regarding development of integrated plans

**Facts:**

The Water Quality Improvement Act of 2017 (Act) proposes to create a more comprehensive, flexible, and integrated permitting process by adding a new subsection, "Integrated Planning and Permitting," to the statute. This is an attempt to codify the agency's 2011 "[Achieving Water Quality Through Integrated Municipal Stormwater and Wastewater Plans](#)" memo.

**Integrated Plans**

- direct Administrator or appropriate State Permitting Authority to allow municipalities to develop a plan for the NPDES planning process
  - plans offered by the municipalities must:
    - identify compliance requirements, effluent limitations, and control measures used to achieve its compliance requirements;
    - include, as applicable, a schedule for compliance requirements; and
    - include documentation of integrated planning and permitting process, including data and other information that the plan is based on
- require progress tracking and evaluation and a process for integrated plan revisions should further action be needed to achieve compliance requirements

**Control Measures Implementation**

- municipalities shall prioritize compliance requirements based on a cost-benefit analysis;
- compliance schedules shall provide for reasonable progress, complete with interim dates and milestones as appropriate, towards meeting permit requirements;
- municipalities must consider alternative approaches available for compliance requirements;

- technical feasibility and economic affordability of those alternatives must also be considered
  - technical feasibility is determined by the Permitting Authority, which must consider:
    - naturally occurring pollutant concentrations;
    - natural, ephemeral, intermittent, or low flow conditions or water levels;
    - human-caused conditions or sources of pollution that cannot be remedied or would cause more environmental damage to correct than to leave in place;
    - dams, diversions, or other types of hydrologic modifications that make it not feasible to restore the water body to its original condition or to operate such modification in a way that would comply; and
    - physical conditions related to the natural features of the water body, such as the lack of proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, that may preclude compliance
- economic affordability is determined by the Permitting Authority, which must consider:
  - current and future effluent limitations and control measures costs required for compliance would result in “substantial” and “widespread” economic and social impact in the municipality’s service area
    - “Substantial” means that the cumulative costs paid by the persons exceeds, or is expected to exceed, 2% the person’s annual household income
    - “Widespread” means that the impact “substantially” affects at least 20% of the persons in the service area
  - the financial condition of the municipality and people in the municipality’s service area, including:
    - socioeconomic indicators, including income and unemployment data;
    - population trends;
    - whether the municipality has an industry that is failing or relocating out of the service area, or if the industry might fail or relocate if higher taxes or fees are imposed on it;
    - the municipality’s capital improvement plan and whether municipality would divert resources that would otherwise be used for investment in capital projects providing core public services to fund improvements for compliance requirements;
    - municipality’s ability to incur debt, including its ability to issue and find a market for additional municipal bonds;
    - whether debt incurred to employ effluent limitations and other control measures has or will decrease the municipality’s bond rating;
    - whether municipality has limited legal authority to pass increased costs through ratepayers and increased costs of water quality programs must be paid from its general fund;
    - legally adopted rate structure for provision of water and wastewater related services;

- and cumulative costs paid to an entity for provision of water and waste-water related services by persons in a service area weigh other information it finds “relevant” to the permit; and
  - other information the Permitting Authority finds relevant
- Limitations: Permitting Authority shall not base its determination of the municipality’s financial condition on:
  - median household income in municipality’s service area; or
  - expected minimum level of expenditure on provision of water and wastewater services by a municipality

Permitting Authority Review:

- Permitting Authority has discretion to approve/deny integrated plans and permits
- Permitting Authority must prepare a report explaining its rationale
- report shall be publically available for comment by municipality and other interested parties

Permit Renewals: The Permitting Authority shall consider:

- schedule of compliance;
- if reasonable progress has been achieved;
- if control measures are still technically feasible and economically affordable; and
- if control measures in existing permit are expected to result in compliance

CSO—Financial Capability Assessment

- directs EPA to update “[Combined Sewer Overflows - Guidance for Financial Capability Assessment and Schedule Development](#)” within 15 months of the Act’s enactment
  - updates shall be done with advice and recommendations from representative and municipality state officials, stakeholders, and other interested parties
  - process must be open to public comment
  - Administrator must consult all relevant studies, reports, and other information, including the EPA’s Environmental Financial Advisory Board’s recommendations that are related to financial capability assessments of municipalities, EPA’s “[Financial Capability Assessment Framework for Municipal Clean Water Act Requirements](#)”, and “[Financial Capability Assessment Framework](#)”
- final version must be submitted to Committee on Transportation and Infrastructure of the House and Committee on Environment and Public Works of the Senate

Report to Congress

- directs the Administrator to submit a report on the issuance of integrated permits to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works
- at least 15 integrated permit pilot projects
  - eligibility

- only municipalities that: (a) have a permit under CWA § 402; or (b) are operating under administrative order, administrative consent agreement, or judicial consent decree are eligible.
- Act describes how EPA shall prioritize which eligible municipalities will be selected for the pilot programs
- EPA is directed to try to pick municipalities of various sizes and geographical locations for the pilot program.

**Status:** The Act was referred to the House Committee on Transportation and Infrastructure on January 12, 2017.