

112TH CONGRESS  
1ST SESSION

# H. R. 2018

To amend the Federal Water Pollution Control Act to preserve the authority of each State to make determinations relating to the State's water quality standards, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Mr. MICA (for himself, Mr. RAHALL, Mr. SHUSTER, Mrs. CAPITO, Mr. COBLE, Mr. BARLETTA, Mr. LANDRY, Mr. DUNCAN of Tennessee, Mr. BUCSHON, Mr. CRAWFORD, Mr. GRAVES of Missouri, Mr. GIBBS, Mr. CRITZ, Mr. ALTMIRE, Mr. HOLDEN, Mr. HUNTER, Mr. GARY G. MILLER of California, Mr. YOUNG of Alaska, Mrs. SCHMIDT, and Mr. ROGERS of Kentucky) 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 preserve the authority of each State to make determinations relating to the State's water quality standards, 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 “Clean Water Coopera-  
5 tive Federalism Act of 2011”.

1 **SEC. 2. STATE WATER QUALITY STANDARDS.**

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

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

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

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

10 “(B) The Administrator shall promulgate”; and

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

12 “(C) Notwithstanding subparagraph (A)(ii), the Ad-  
13 ministrator may not promulgate a revised or new standard  
14 for a pollutant in any case in which the State has sub-  
15 mitted to the Administrator and the Administrator has ap-  
16 proved a water quality standard for that pollutant, unless  
17 the State concurs with the Administrator’s determination  
18 that the revised or new standard is necessary to meet the  
19 requirements of this Act.”.

20 (b) FEDERAL LICENSES AND PERMITS.—Section  
21 401(a) of such Act (33 U.S.C. 1341(a)) is amended by  
22 adding at the end the following:

23 “(7) With respect to any discharge, if a State or  
24 interstate agency having jurisdiction over the navigable  
25 waters at the point where the discharge originates or will  
26 originate determines under paragraph (1) that the dis-

1 charge will comply with the applicable provisions of sec-  
2 tions 301, 302, 303, 306, and 307, the Administrator may  
3 not take any action to supersede the determination.”.

4 (c) STATE NPDES PERMIT PROGRAMS.—Section  
5 402(c) of such Act (42 U.S.C. 1342(c)) is amended by  
6 adding at the end the following:

7 “(5) LIMITATION ON AUTHORITY OF ADMINIS-  
8 TRATOR TO WITHDRAW APPROVAL OF STATE PRO-  
9 GRAMS.—The Administrator may not withdraw ap-  
10 proval of a State program under paragraph (3) or  
11 (4), or limit Federal financial assistance for the  
12 State program, on the basis that the Administrator  
13 disagrees with the State regarding—

14 “(A) the implementation of any water  
15 quality standard that has been adopted by the  
16 State and approved by the Administrator under  
17 section 303(c); or

18 “(B) the implementation of any Federal  
19 guidance that directs the interpretation of the  
20 State’s water quality standards.”.

21 (d) LIMITATION ON AUTHORITY OF ADMINISTRATOR  
22 TO OBJECT TO INDIVIDUAL PERMITS.—Section 402(d) of  
23 such Act (33 U.S.C. 1342(d)) is amended by adding at  
24 the end the following:

1 “(5) The Administrator may not object under para-  
2 graph (2) to the issuance of a permit by a State on the  
3 basis of—

4 “(A) the Administrator’s interpretation of a  
5 water quality standard that has been adopted by the  
6 State and approved by the Administrator under sec-  
7 tion 303(c); or

8 “(B) the implementation of any Federal guid-  
9 ance that directs the interpretation of the State’s  
10 water quality standards.”.

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

12 (a) **AUTHORITY OF EPA ADMINISTRATOR.**—Section  
13 404(c) of the Federal Water Pollution Control Act (33  
14 U.S.C. 1344(c)) is amended—

15 (1) by striking “(c)” and inserting “(c)(1)”;

16 and

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

18 “(2) Paragraph (1) shall not apply to any permit if  
19 the State in which the discharge originates or will origi-  
20 nate does not concur with the Administrator’s determina-  
21 tion that the discharge will result in an unacceptable ad-  
22 verse effect as described in paragraph (1).”.

23 (b) **STATE PERMIT PROGRAMS.**—The first sentence  
24 of section 404(g)(1) of such Act (33 U.S.C. 1344(g)(1))  
25 is amended by striking “The Governor of any State desir-

1 ing to administer its own individual and general permit  
2 program for the discharge” and inserting “The Governor  
3 of any State desiring to administer its own individual and  
4 general permit program for some or all of the discharges”.

5 **SEC. 4. DEADLINES FOR AGENCY COMMENTS.**

6 Section 404 of the Federal Water Pollution Control  
7 Act (33 U.S.C. 1344) is amended—

8 (1) in subsection (m) by striking “ninetieth  
9 day” and inserting “30th day (or the 60th day if ad-  
10 ditional time is requested)”; and

11 (2) in subsection (q)—

12 (A) by striking “(q)” and inserting  
13 “(q)(1)”; and

14 (B) by adding at the end the following:

15 “(2) The Administrator and the head of a depart-  
16 ment or agency referred to in paragraph (1) shall each  
17 submit any comments with respect to an application for  
18 a permit under subsection (a) or (e) not later than the  
19 30th day (or the 60th day if additional time is requested)  
20 after the date of receipt of an application for a permit  
21 under that subsection.”.

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