

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 7 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. POE of Texas) at 2 p.m.

PROVIDING FOR CONSIDERATION OF H.R. 2018, CLEAN WATER COOPERATIVE FEDERALISM ACT OF 2011

The SPEAKER pro tempore. The unfinished business is the vote on adoption of the resolution (H. Res. 347) providing for consideration of the bill (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, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 250, nays 171, not voting 10, as follows:

[Roll No. 564]

YEAS—250

Adams	Coffman (CO)	Rowley
Aderholt	Cole	Granger
Akin	Conaway	Graves (GA)
Alexander	Costa	Graves (MO)
Altmire	Costello	Griffin (AR)
Amash	Cravaack	Griffith (VA)
Austria	Crawford	Grimm
Bachmann	Crenshaw	Guinta
Bachus	Critz	Guthrie
Barletta	Culberson	Hall
Bartlett	Davis (KY)	Hanna
Barton (TX)	Denham	Harper
Bass (NH)	Dent	Harris
Benishek	DesJarlais	Hartzler
Berg	Diaz-Balart	Hastings (WA)
Biggert	Dold	Hayworth
Bilbray	Dreier	Heck
Bilirakis	Duffy	Hensarling
Bishop (UT)	Duncan (SC)	Herger
Black	Duncan (TN)	Herrera Beutler
Blackburn	Ellmers	Holden
Bonner	Emerson	Huelskamp
Bono Mack	Farenthold	Huizenga (MI)
Boren	Fincher	Hultgren
Boustany	Fitzpatrick	Hunter
Brady (TX)	Flake	Hurt
Brooks	Fleischmann	Issa
Broun (GA)	Fleming	Jenkins
Buchanan	Flores	Johnson (IL)
Bucshon	Forbes	Johnson (OH)
Buerkle	Fortenberry	Johnson, Sam
Burgess	Fox	Jones
Burton (IN)	Franks (AZ)	Jordan
Calvert	Frelinghuysen	Kelly
Camp	Gallegly	King (IA)
Campbell	Gardner	King (NY)
Cansaco	Garrett	Kingston
Cantor	Gerlach	Kinzinger (IL)
Capito	Gibbs	Kissell
Carter	Gibson	Kline
Cassidy	Gingrey (GA)	Labrador
Chabot	Gohmert	Lamborn
Chaffetz	Goodlatte	Lance
Coble	Gosar	Landry

Lankford	Palazzo	Schweikert
Latham	Paul	Scott (SC)
LaTourette	Paulsen	Scott, Austin
Latta	Pearce	Sensenbrenner
Lewis (CA)	Pence	Sessions
LoBiondo	Petri	Shimkus
Long	Pitts	Shuler
Lucas	Platts	Shuster
Luetkemeyer	Poe (TX)	Simpson
Lummis	Pompeo	Smith (NE)
Lungren, Daniel	Posey	Smith (NJ)
E.	Price (GA)	Smith (TX)
Mack	Quayle	Southerland
Manzullo	Rahall	Stearns
Marchant	Reed	Stivers
Marino	Rehberg	Stutzman
Matheson	Reichert	Sullivan
McCarthy (CA)	Renacci	Terry
McCaul	Ribble	Thompson (PA)
McClintock	Rigell	Thornberry
McHenry	Rivera	Tiberi
McKeon	Roby	Tipton
McKinley	Roe (TN)	Turner
McMorris	Rogers (AL)	Upton
Rodgers	Rogers (KY)	Walberg
Meehan	Rogers (MI)	Walden
Mica	Rohrabacher	Walsh (IL)
Miller (FL)	Rokita	Webster
Miller (MI)	Rooney	West
Miller, Gary	Ros-Lehtinen	Westmoreland
Mulvaney	Roskam	Whitfield
Murphy (PA)	Ross (AR)	Wilson (SC)
Myrick	Ross (FL)	Wittman
Neugebauer	Royce	Wolf
Noem	Runyan	Womack
Nugent	Ryan (WI)	Woodall
Nunes	Scalise	Yoder
Nunnelee	Schilling	Young (AK)
Olson	Schmidt	Young (FL)
Owens	Schock	Young (IN)

NAYS—171

Ackerman	Gonzalez	Napolitano
Andrews	Green, Al	Neal
Baca	Green, Gene	Oliver
Baldwin	Grijalva	Pallone
Barrow	Gutierrez	Pascarell
Becerra	Hanabusa	Payne
Berkley	Hastings (FL)	Pelosi
Berman	Heinrich	Perlmutter
Bishop (NY)	Higgins	Peters
Blumenauer	Himes	Peterson
Boswell	Hinojosa	Pingree (ME)
Brady (PA)	Hirono	Pollis
Braley (IA)	Hochul	Price (NC)
Brown (FL)	Holt	Quigley
Butterfield	Honda	Rangel
Capps	Hoyer	Reyes
Capuano	Inslee	Richardson
Carnahan	Israel	Richmond
Carney	Jackson (IL)	Rothman (NJ)
Carson (IN)	Jackson Lee	Roybal-Allard
Castor (FL)	(TX)	Rush
Chandler	Johnson (GA)	Ryan (OH)
Chu	Johnson, E. B.	Sánchez, Linda
Ciциlline	Kaptur	T.
Clarke (MI)	Keating	Sanchez, Loretta
Clarke (NY)	Kildee	Sarbanes
Clay	Kind	Schakowsky
Cleaver	Kucinich	Schiff
Clyburn	Langevin	Schrader
Cohen	Larsen (WA)	Schwartz
Connolly (VA)	Larson (CT)	Scott (VA)
Conyers	Lee (CA)	Scott, David
Cooper	Levin	Serrano
Courtney	Lewis (GA)	Sewell
Crowley	Lipinski	Sherman
Cuellar	Loebsack	Speier
Cummings	Lofgren, Zoe	Stark
Davis (CA)	Lowe	Sutton
Davis (IL)	Lujan	Thompson (CA)
DeFazio	Lynch	Thompson (MS)
DeGette	Maloney	Tierney
DeLauro	Markey	Tonko
Deutch	Matsui	Towns
Dicks	McCarthy (NY)	Tsongas
Dingell	McCollum	Van Hollen
Doggett	McDermott	Velázquez
Donnelly (IN)	McGovern	Visclosky
Doyle	McIntyre	Walz (MN)
Edwards	McNerney	Wasserman
Engel	Meeks	Schultz
Eshoo	Michaud	Waters
Farr	Miller (NC)	
Fattah	Miller, George	
Flner	Moore	
Frank (MA)	Moran	
Fudge	Murphy (CT)	
Garamendi	Nadler	

Watt	Wilson (FL)	Wu
Welch	Woolsey	Yarmuth

NOT VOTING—10

Bass (CA)	Giffords	Ruppersberger
Bishop (GA)	Hinchee	Waxman
Cardoza	McCotter	
Ellison	Pastor (AZ)	

□ 1429

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. JACKSON of Illinois changed their vote from "yea" to "nay."

Mr. OWENS, Mrs. SCHMIDT, and Messrs. COSTELLO, TURNER, and GUINTA changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 2018 and to also include extraneous materials and letters of support into the CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentleman from Ohio?

There was no objection.

CLEAN WATER COOPERATIVE FEDERALISM ACT OF 2011

The SPEAKER pro tempore. Pursuant to House Resolution 347 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2018.

□ 1429

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (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, with Mr. POE of Texas in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Ohio (Mr. GIBBS) and the gentleman from West Virginia (Mr. RAHALL) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. GIBBS. Mr. Chairman, I yield myself such time as I may consume.

I rise in strong support of H.R. 2018, the Clean Water Cooperative Federalism Act of 2011. Almost four decades ago, when it enacted the Clean Water Act, Congress established a system of cooperative federalism by making the Federal Environmental Protection Agency, the EPA, and the States

partners in regulating the Nation's water quality and allocated the primary responsibilities for dealing with day-to-day water pollution control matters to the States.

For most of these almost four decades, this system of cooperative federalism between the EPA and the States has worked quite well. However, in recent years, the EPA has begun to use questionable tactics to usurp the States' role under the Clean Water Act in setting water quality standards and to invalidate legally issued permits by the States. EPA has decided to get involved in the implementation of State standards, second-guessing States with respect to how standards are to be implemented and even second-guessing EPA's own prior determinations that the State standards meet the minimum requirements for the Clean Water Act. EPA has also inserted itself into the States and the Army Corps of Engineers' permit issuance decisions and the second-guessing State and other agencies' permitting decisions.

The EPA's recent actions increasingly are amounting to bullying the States and are unprecedented. H.R. 2018 was introduced to clarify and restore the longstanding balance that had existed between the States and the EPA as coregulators under the Clean Water Act and to preserve the authority of States to make determinations relating to their water quality standards and permitting. The bill was carefully and narrowly crafted to preserve the authority of States to make decisions about their own water quality standards and permits without undue interference on second-guessing from EPA bureaucrats in Washington with little or no knowledge of local water quality conditions.

The legislation reins in EPA from unilaterally issuing a revised or new water quality standard for a pollutant adopted by a State and EPA already has approved a water quality standard for that pollutant. H.R. 2018 restricts EPA from withdrawing its previous approval of a State NPDES water quality permitting program or from limiting Federal financial assistance for a State water quality permitting program on the basis that EPA disagrees with the State.

Further, the bill restricts EPA from objecting to NPDES permits issued by a State. Moreover, the bill clarifies that EPA can veto an Army Corps of Engineers Clean Water Act section 404 permitting decision when the State concurs with the veto.

These limitations apply only in situations where EPA is attempting to contradict and unilaterally force its own one-size-fits-all Federal policies on a State's water quality program. By limiting such overreaching by the EPA, H.R. 2018 in no way affects EPA's proper role in reviewing State permits and standards and coordination pollution control efforts between the States. EPA just has to get back to the more collaborative role it has long played as

the overseer of the States' implementation of the Clean Water Act.

Detractors of this legislation claim that the bill only intends to disrupt the complementary roles of EPA and the States under the Clean Water Act and eliminate EPA's ability to protect water quality and public health in downstream States from actions in upstream States. In reality, these detractors want to centralize power in the Federal Government so it can dominate water quality regulation in the States. Implicit in their message is that they do not trust the States in protecting the quality of their waters and the health of their citizens.

This bill returns the balance, certainty, and cooperation between the States and the Federal Government in regards to the environment that our economy, job creators, and permit holders have been begging for. Well over 100 organizations representing a wide variety of public and private entities support this legislation. Just to name a few, these organizations include the National Association of State Departments of Agriculture, the American Farm Bureau Federation, the National Mining Association, the National Water Resources Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Association of Homebuilders, and the Associated General Contractors of America.

JULY 12, 2011.

Hon. JOHN BOEHNER,
Speaker, House of Representatives,
Washington, DC.

Hon. NANCY PELOSI,
Minority Leader, House of Representatives,
Washington, DC.

URGING SWIFT PASSAGE OF THE CLEAN WATER
COOPERATIVE FEDERALISM ACT (H.R. 2018)

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: The undersigned 121 organizations, representing a broad cross-section of the American economy, are united in their strong support for the Clean Water Cooperative Federalism Act (H.R. 2018), a bipartisan bill passed by the House Transportation and Infrastructure Committee on June 22.

The bill would reaffirm the decades-old state-federal relationship set out in the Clean Water Act (CWA) by addressing the Environmental Protection Agency's (EPA) ongoing regulatory overreach. We urge all House members to vote for passage of this important legislation when it is considered on the House floor later this week.

H.R. 2018 has important job creation, economic security, and federalism implications. Over the years, EPA has repeatedly challenged states' authority and expertise under the CWA and asserted its control as the sole arbiter of evolving CWA permitting requirements and standards. The agency's actions jeopardize more than \$220 billion of annual economic activity subject to CWA Sec. 402 and 404 permits.

H.R. 2018 would help put people back to work and create new jobs in the sectors our members serve by restoring the proper balance between EPA and the states in regulating the nation's waters, protecting the CWA's system of cooperative federalism, and preventing EPA from second-guessing or delaying a state's CWA permitting and water quality certification decisions.

We urge swift enactment of H.R. 2018 and look forward to working with you to accomplish that important objective.

Sincerely,

Agricultural Retailers Association; Alabama Cattlemen's Association; American Concrete Pavement Association; American Concrete Pressure Pipe Association; American Farm Bureau Federation; American Rental Association; American Road & Transportation Builders Association; American Sugarbeet Growers Association; Arizona Farm Bureau Federation; Arizona Rock Products Association; Associated Equipment Distributors; The Associated General Contractors of America; Association of Equipment Manufacturers; Buckeye Valley Chamber of Commerce; Chamber of Commerce of the Mid-Ohio Valley; Chemical Producers & Distributors Association; Colorado Cattlemen's Association; Colorado Livestock Association; CropLife America; Dairy Producers of New Mexico; Deep South Equipment Dealers Association; Delaware State Chamber of Commerce; Edison Electric Institute; Equipment Distributors Association of Minnesota; Far West Equipment Dealer Association.

Farm Equipment Manufacturers Association; The Fertilizer Institute; Florida Cattlemen's Association; Florida Sugar Cane League; Georgia Construction Aggregate Association; Georgia Mining Association; Greater Phoenix Chamber of Commerce; Greater Pittsburgh Chamber of Commerce; Idaho Cattle Association; Illinois Association of Aggregate Producers; Illinois Chamber of Commerce; Illinois Coal Association; Industrial Minerals Association—North America; Iowa Cattlemen's Association; Iowa Limestone Producers Association; Iowa-Nebraska Equipment Dealers Association; Kansas Aggregate Producers Association; Kansas Livestock Association; Kansas Ready Mixed Concrete Association; Kentucky Association of Manufacturers; Kentucky Chamber of Commerce; Kentucky Coal Association; Kentucky Crushed Stone Association, Inc.; Lodi Chamber of Commerce; Los Angeles Area Chamber of Commerce.

Manhattan Beach Chamber of Commerce; Michigan Aggregates Association; Mid-America Equipment Retailers Association; Midwest Equipment Dealers Association; Minnesota-South Dakota Equipment Dealers Association; Missouri Cattlemen's Association; Montana Equipment Dealers Association; Montana Stockgrowers Association; National Asphalt Pavement Association; National Association of Home Builders; National Association of Manufacturers.

National Cattlemen's Beef Association; National Corn Growers Association; National Milk Producers Federation; National Mining Association; National Pork Producers Council; National Precast Concrete Association; National Ready Mixed Concrete Association; National Stone, Sand & Gravel Association; National Water Resources Association; Nebraska Cattlemen, Inc.; North American Equipment Dealers Association; North Dakota Implement Dealers Association; Northeast Equipment Dealers Association, Inc.; NUCA Representing Utility and Excavation Contractors.

Ohio Aggregates & Industrial Minerals Association; Ohio Chamber of Commerce; Ohio Equipment Distributors Association; Ohio-Michigan Equipment Dealers Association; Oklahoma Cattlemen's Association; Pacific Northwest

Hardware & Implement Association; Palm Desert Area Chamber of Commerce; Pennsylvania Aggregates and Concrete Association; Pennsylvania Cattlemen's Association; Pennsylvania Chamber of Business and Industry; Portland Cement Association; Public Lands Council; Responsible Industry for a Sound Environment; Scottsdale Area Chamber of Commerce; Simi Valley Chamber of Commerce; South Dakota Agri-Business Association; South Dakota Cattlemen's Association; South East Dairy Farmers Association; SouthEastern Equipment Dealers Association; South Western Association; Tennessee Concrete Association; Tennessee Road Builders Association; Texas and Southwestern Cattle Raisers Association.

Texas Cattle Feeders Association; Tucson Metropolitan Chamber of Commerce; U.S. Cattlemen's Association; U.S. Chamber of Commerce; United Egg Producers; USA Rice Federation; Utah Cattlemen's Association; Utah Farm Bureau Federation; The Utah School and Institutional Trust Lands Administration; Utah Wool Growers Association; Virginia Agribusiness Council; Virginia Grain Producers Association; Virginia Poultry Federation; Washington Aggregates & Concrete Association; Washington Cattlemen's Association; Washington Farm Bureau; West Virginia Chamber of Commerce; West Virginia Coal Association; West Virginia Manufacturers Association; Western Business Roundtable; Wyoming Ag Business Association; Wyoming Crop Improvement Association; Wyoming Stock Growers.

AMERICAN FARM
BUREAU FEDERATION,
Washington, DC, July 13, 2011.

Hon. _____
House of Representatives,
Washington, DC.

DEAR REP. _____ The American Farm Bureau Federation, the nation's largest general farm organization representing farmers and ranchers in every state and Puerto Rico, strongly supports H.R. 2018, the Clean Water Cooperative Federalism Act of 2011. This legislation restores the historic Clean Water Act balance and partnership between the federal government and states.

H.R. 2018 limits the Environmental Protection Agency's (EPA) ability to arbitrarily issue revised or new water quality standards if a state has adopted, and EPA has already approved, a standard that protects water quality, unless the state concurs with the new standard. This important legislation protects states and permit holders and maintains the successful partnership between states and the federal government in a way that protects water quality and fosters an environment for economic growth and job creation.

Farm Bureau believes this legislation significantly improves the accountability of EPA. Farm Bureau opposes amendments expected to be offered by Reps. Russ Carnahan (D-Mo.), Gerald Connolly (D-Va.), Sheila Jackson Lee (D-Texas), Jared Polis (D-Colo.) and Edward Markey (D-Mass.) and any other amendments that would weaken the legislation.

Farm Bureau strongly supports H.R. 2018 and urges you to vote in favor of its passage.

Sincerely,

BOB STALLMAN,
President.

CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA,
Washington, DC, July 13, 2011.

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, strongly supports H.R. 2018, the "Clean Water Cooperative Federalism Act of 2011," which would restore the historic balance and partnership between the federal government and the states in the administration of the "Clean Water Act (CWA)." The Chamber strongly opposes several amendments that would weaken this important legislation, and supports an amendment that would improve accountability at the Environmental Protection Agency (EPA).

The Clean Water Act grants states the primary responsibility for protecting water quality. However, recent actions by the EPA upset and supplant this partnership with arbitrary federal power that is being exercised even over states with effective delegated regulatory programs. Individuals and firms that meet the requirements of, and obtain permits from, state regulators ought not to be left exposed to the enforcement whim and caprice of the federal government.

H.R. 2018 would prevent EPA from issuing a revised or new water quality standard if a state has adopted—and EPA has already approved—such a standard, unless the state concurs with the new standard. The bill would also prohibit EPA from superseding a water quality certification granted by a state under CWA §401, limit EPA's ability to withdraw approval of a state water quality permitting program under CWA §402, and limit EPA's ability to object to a state's issuance of a pollutant discharge permit or to veto dredge and fill permits issued by the Army Corps of Engineers.

H.R. 2018 would protect states and their permittees from federal bureaucratic overreach, allow flexibility in the administration of approved permitting programs, and restore the successful partnership between states and the federal government to protect water quality throughout the nation.

The Chamber strongly opposes amendments expected to be offered by Reps. Carnahan, Connolly, Jackson Lee, Polis and Markey. Each amendment would significantly weaken, gut, or impair this important legislation.

In addition, the Chamber supports an amendment expected to be offered by Rep. Capito that would require EPA to more fully assess the economic and employment impacts of regulations it promulgates. This amendment would be an important step towards improving accountability at EPA. Moreover, the amendment would complement provisions of existing law, including Clean Air Act section 321, requiring an analysis of job losses that EPA has historically ignored.

The Chamber strongly supports H.R. 2018 and urges you to vote in favor of this legislation. The Chamber will consider including votes on or in relation to H.R. 2018—including votes on the Capito amendment and several weakening amendments—in our annual How They Voted scorecard.

Sincerely,

R. BRUCE JOSTEN.

THE NATIONAL ASSOCIATION OF
STATE DEPARTMENTS OF AGRICULTURE,
Washington, DC, July 11, 2011.

Hon. JOHN BOEHNER,
Speaker, House of Representatives,
Washington, DC.

Hon. NANCY PELOSI,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: The National Association of State Departments of Agriculture (NASDA) writes in support of the "Clean Water Cooperative Federalism Act" (H.R. 2018). This bipartisan legislation, introduced by Transportation and Infrastructure Committee Chairman John Mica and Ranking Member Nick Rahall, re-affirms the decades-old state-federal relationship set out in the Clean Water Act (CWA) by addressing the Environmental Protection Agency's (EPA) ongoing regulatory overreach. We urge all House members to vote for passage of this important legislation when it is considered on the House floor this month.

The CWA established an effective framework in which the states and the federal government work together to ensure the protection of our nation's waters. However, over a number of years, EPA has eroded states' authority under the CWA, questioned the expertise and integrity of state regulatory officials and attempted to assert control as the sole arbiter of CWA permitting requirements and standards. As the top agriculture officials in the states, NASDA members have seen firsthand the impacts that occur when EPA undermines these state programs.

H.R. 2018 would help restore the proper balance between EPA and the states in regulating the nation's waters, protecting the CWA's system of cooperative federalism, and preventing EPA from second-guessing or delaying a state's CWA permitting and water quality certification decisions.

We urge swift enactment of H.R. 2018 and look forward to working with you to accomplish that important objective.

Sincerely,

STEPHEN HATERIUS,
Executive Director.

LOUISIANA DEPARTMENT
OF AGRICULTURE & FORESTRY,
Baton Rouge, LA, July 11, 2011.

Hon. JOHN BOEHNER,
Speaker, House of Representatives,
Washington, DC.

Hon. NANCY PELOSI,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER BOEHNER AND MINORITY LEADER PELOSI: Recently, the Environmental Protection Agency (EPA) set strict water quality standards for nitrogen and phosphorus in Florida waters, leading many agriculture organizations to express concern over EPA's approach. A study by the Florida Department of Agriculture and Consumer Services and the University of Florida estimates that the requirements being imposed by EPA in Florida will cost the state's economy in excess of \$1 billion.

Louisiana is currently facing a similar threat. A petition originally filed July 30, 2008, by the Minnesota Center for Environmental Advocacy (MCEA), Natural Resources Defense Council, the Chicago-based Environmental Law and Policy Center, the Midwest Environmental Advocates and the Gulf Restoration Network, among others, asked EPA to set nationwide numeric water quality standards for nitrogen and phosphorus, as well as a nutrient pollution loading plan or total maximum daily load (TMDL) for the Mississippi River and the Gulf of Mexico.

Agriculture is the largest sector of our state's economy. Agriculture, forestry and aquaculture comprise over 85 percent of the surface area of this state, 9.7 percent of our work force, and over 243,000 jobs. Valued at more than \$30 billion, agriculture and forestry combined make up the most economically dependent industry in Louisiana. If Louisiana is forced to comply with these actions, we are certain that Louisiana agriculture cannot meet the EPA nutrient criteria requirements without the implementation of costly edge-of-farm water detention and treatment that would severely impact our ability to produce safe food and fiber for our citizens.

Louisiana agriculture and forestry is proactive in addressing water quality concerns. Scientifically based best management practices (BMPs) have been developed and are being implemented through the Louisiana Master Farmer Program and the Louisiana Master Logger Program. These practices are targeted at reducing the generation and delivery of pollutants into the air and waters of the state, specifically those targeted in the state TMDL program. Our Louisiana Master Farmer Program is firmly rooted in state law, is backed by sound science, and is a critical component of Louisiana's overall water resource management program.

The original intent of the Clean Water Act (CWA) was to establish an effective framework in which the states and the federal government work together to ensure the protection of our nation's waters. However, over a number of years, EPA has eroded the states' authority under the CWA, questioned the expertise and integrity of state regulatory officials, and attempted to assert control as the sole arbiter of CWA permitting requirements and standards.

The Clean Water Cooperative Federalism Act of 2011 (H.R. 2018), bipartisan legislation introduced by Transportation and Infrastructure Committee Chairman John Mica and Ranking Member Nick Rahall, re-affirms the decades-old state-federal relationship set out in the CWA by addressing the EPA's ongoing regulatory overreach. I urge all House members to vote for passage of this important legislation when it is considered on the House floor this month.

H.R. 2018 would help restore the proper balance between EPA and the states in regulating the nation's waters, protecting the CWA's system of cooperative federalism, and preventing EPA from second-guessing or delaying a state's CWA permitting and water quality certification decisions.

We stand ready to assist in water quality efforts in Louisiana; however, we feel that: 1) Louisiana should be allowed to exercise the authority envisioned by the CWA to develop its own water quality standards and implement them through an EPA approved and predictable process governed by existing state law; 2) decisions should be based on good science; 3) efforts must be sensitive to economic costs to producers; and 4) consideration must be given to the overall impact to the economic health of farm-based communities where agriculture is the economic base of these communities.

Along with the National Association of State Departments of Agriculture (NASDA), I support the "Clean Water Cooperative Federalism Act." We urge swift enactment of H.R. 2018, and look forward to working with you to accomplish this important objective.

Respectfully submitted,

MIKE STRAIN,
Commissioner.

I urge passage of H.R. 2018, and I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 2018. For far too many years now, my State and others throughout the Appalachian region that produce coal to power our Nation have been struggling under the weight of an uncertain Federal permitting process. That uncertainty has left coal miners and mining communities living in an untenable limbo. The result has been a creation of an atmosphere of worry, of distrust, and of bitterness.

I had hoped that under this administration, we would finally find our way to some clarity and common ground. Unfortunately, that has not been the case. Rather than bringing sides together and fostering balance, the EPA's actions in recent months have widened the division. They have spurred the tension of divided opinion over surface coal mining to fracture what should be a cooperative relationship among the Federal and State agencies with permitting responsibility.

Not only is the EPA reaching into the Clean Water Act authorities under the jurisdiction of the Corps of Engineers; it is also reaching into the States and attempting to control their water protection programs. Opponents of this legislation will argue that the EPA does not have statutory authority to limit or otherwise supersede the authority of the States to issue water quality permits under the Clean Water Act, section 401. But that lack of statutory authority has not prevented them from trying to do so. In its very first official step to change the rules of surface mine permitting, on June 11, 2009, the EPA entered into a memorandum of understanding with the Army Corps of Engineers and the Interior Department. It states: "EPA will improve and strengthen oversight and review of water pollution permits for discharges from valley fills under CWA section 402, and of State water quality certifications under CWA section 401, by taking appropriate steps to assist States to strengthen State regulation, enforcement, and permitting of surface mining operations under these programs."

The agency may claim that it is only following the law and "assisting" the State, but the reality is that agency is strong-arming the States, just as it is muscling in on the jurisdiction of other agencies. By creating wholly new criteria and new timeliness for Clean Water Act permits and stubbornly insisting, from on high, that the States adhere to them, the EPA is imposing its own will and its own interpretations of water quality standards on the States. It has drawn a line in the sand, and it is daring the States to cross over it.

To my mind, the most logical solution would be for all sides to come together. The Federal agencies ought to work together in cooperative partnership with the States. That was the vision of the CWA, and that's the goal of H.R. 2018, the Clean Water Cooperative Federalism Act of 2011.

Mr. Chairman, I think we would all prefer not to have to craft this kind of legislation. Certainly it would be preferable that agencies work with each other, with the States, and within the confines of their statutory authority. It would be better if they followed the rules and did not try to change the law through guidance and MOUs. But when they do so, when they abuse their powers, Congress has the constitutional responsibility to serve as a check on them. This is clearly such a time.

Mr. Chairman, I reserve the balance of my time.

Mr. GIBBS. I yield such time as he may consume to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chair, I thank the gentleman from Ohio (Mr. GIBBS) and also the ranking member of the full committee, the gentleman from West Virginia (Mr. RAHALL), for their leadership on this issue. I am pleased to be a sponsor of this legislation.

I urge my colleagues to support H.R. 2018. We call this the Clean Water Cooperative Federalism Act of 2011. It is, indeed, a bipartisan effort. It has broad support from both Republicans and Democrats. It is a measure to restore some balance between the EPA, our Federal regulatory body that oversees the Clean Water Act, and our States, which are responsible for implementation of some of the important work that ensures that we have clean water.

□ 1440

Now, I know there is no one that wants to in any way degrade the quality of clean water, that wants to lower standards for emissions, you know, that is not a good steward of our environment. But there is no question that the action that we've seen from EPA has unleashed an unprecedented backlash. Everyone has called this a huge power grab by EPA. And EPA has indeed created a regulatory nightmare that affects almost every State in the Union.

Our goal here is to assure that the Federal Government sets standards and that we do have a proper role for implementing the Clean Water Act. And once States have taken action, have their plans approved, that there can be some sense of reliability and stability in the decision that EPA has concurred with. What we've seen now is EPA changing the rules after States have had a commitment and outline of the protocols that they must follow, raising complete havoc. In fact, the agency's actions could jeopardize more than \$220 billion worth of annual economic activity which is subject to the Clean Water Act section 402 and 404 permits.

So again, this is almost an unprecedented regulatory grab, creating a potential nightmare, leaving projects on hold. And these projects have not only an environmental impact, but they also have a job and employment and economic impact in the United States at a very difficult time for our economy.

This bill has been very narrowly drafted to preserve the authority of States to make decisions about protecting water quality in their States, and to again impose some restrictions on EPA in this overreach and to try to prohibit some of the second-guessing or delays of actually implementing a State's water quality permitting process and the standards and decisions that they have made under the Clean Water Act. This is also all done after, again, EPA has already approved a State's program. So we have great concerns about what's taking place.

The impact isn't just Florida. I have a couple of articles here I will refer to. The reaction in the Sunshine News, which is published throughout Florida, our former U.S. Representative who served in this House, who is now the agriculture commissioner in Florida, he released a statement saying that EPA essentially ignores concerns about the effect implementation would have on Florida's economy. He supports a bipartisan effort to again back up the new rules with sound science.

So whether it's Florida, or—here's a Fox News report relating to Appalachia that says, "Appalachian Coal Miners Say EPA Rules Are Killing Their Jobs." Another article in The Florida Times-Union, "Scientists: EPA 'Race' to Protect Florida Rivers Could Leave Science Behind."

So we join a chorus of numerous organizations. Mr. GIBBS talked about them. We have, again, a huge number of organizations, the U.S. Chamber of Commerce, American Farm Bureau, the National Mining Association, Associated Equipment Distributors, the Associated General Contractors of America, National Association of Manufacturers, groups from labor and others who also believe that this is an EPA overreach and will have a negative effect, both—and what we are hoping to achieve, again with having the States properly implement clean water regulations—but also a very negative impact on employment at a very precarious time in the economy of this Nation.

So I urge support of our bipartisan effort, and I ask my colleagues to support this bill.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the distinguished Member from New York (Mr. BISHOP), the ranking subcommittee member on our Water Resources Committee.

Mr. BISHOP of New York. I thank the ranking member for yielding me time.

Mr. Chairman, I rise in strong opposition to H.R. 2018, the Clean Water Cooperative Federalism Act of 2011. Despite some of the arguments I have heard in favor of this legislation, H.R. 2018 has not been narrowly crafted to address issues related to nutrient criteria and surface coal mining. I echo the administration's opposition to this bill when I say that H.R. 2018 would significantly undermine the Clean Water Act and could adversely affect

public health, the economy, and the environment.

While proponents of this legislation argue that the changes to the clean water permitting structure are targeted to address the development of nutrient criteria, such as in the State of Florida, the fact that this legislation is drafted to include any pollutant means that its reach extends to any discharge from any point source in any water body in the United States.

Under this legislation, EPA would also be prohibited from recommending stricter discharge standards for toxic pollutants such as lead or mercury, even if the protection of human health is at stake, unless the State consents to such changes. In my view, this policy does not move our Nation forward, but rather reverses our direction and moves our Nation back 40 years to before the enactment of the Clean Water Act.

Some of my friends would like to avoid a one-size-fits-all approach to regulating clean water. I would too. Luckily for us, the basic structure of the Clean Water Act already provides States enormous flexibility in setting water quality standards. Current law allows States to assume authority over day to day implementation of State permitting programs, and allows States to implement more stringent controls on pollution within their borders. The Clean Water Act merely sets the baseline minimum standard for water quality.

Prior to the Clean Water Act establishing a baseline, 70 percent of the Nation's waters were unsafe for fishing, swimming, or drinking. We are now at 30 percent of our waters in such a condition. And I very much doubt that any reasonable person would want to return to the days of 70 percent.

Some of my friends on the other side of the aisle have argued that this legislation is necessary because State authority to implement clean water programs is much improved since 1972, and States will do the right thing in protecting water quality. I agree that individual States have increased their capacity to protect the water quality within their States. However, I think it is also fair to suggest that the Clean Water Act has been essential to this Nation's efforts to double the number of waters meeting the fishable and swimmable standard since enactment of this statute in 1972.

In my view, elimination of the EPA's oversight and authority for minimum standards would allow a potential race to the bottom for the establishment of pollution discharge limits within a State border. We have seen disputes between States such as Arkansas and Oklahoma, or North Carolina and Tennessee. Among States like Alabama, Georgia, and Florida, the potential opportunities for one State to send its pollution downstream to another State are real and needs to be prevented.

Mr. Chairman, the role that Congress established for the EPA in the Clean

Water Act has served our Nation well for almost 40 years. It has protected public health, and it has been an effective mechanism to protect the many businesses and industries that rely on clean water.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, July 12, 2011.

STATEMENT OF ADMINISTRATION POLICY: H.R. 2018—CLEAN WATER COOPERATIVE FEDERALISM ACT (REP. MICA, R-FL, AND 39 CO-SPONSORS)

The Administration strongly opposes H.R. 2018 because it would significantly undermine the Clean Water Act (CWA) and could adversely affect public health, the economy, and the environment.

Under the CWA, one of the Nation's most successful and effective environmental laws, the Federal Government acts to ensure safe levels of water quality across the country through the Environmental Protection Agency (EPA). Since the enactment of the CWA in 1972, the Federal Government has protected the waterways our citizens depend on by using its checks and balances authority to review and adjust key State water pollution control decisions, where necessary, to assure that they reflect up to date science, comply with the law, and protect downstream water users in other States. H.R. 2018 would roll back the key provisions of the CWA that have been the underpinning of 40 years of progress in making the Nation's waters fishable, swimmable, and drinkable.

H.R. 2018 could limit efforts to safeguard communities by removing the Federal Government's authority to take action when State water quality standards are not protective of public health. In addition, it would restrict EPA's authority to take action when it finds that a State's CWA permit or permit program is inadequate and would shorten EPA's review and collaboration with the Army Corps of Engineers on permits for dredged or fill material. All of these changes could result in adverse impacts to human health, the economy, and the environment through increased pollution and degradation of water bodies that serve as venues for recreation and tourism, and that provide drinking water sources and habitat for fish and wildlife.

H.R. 2018 would disrupt the carefully constructed complementary CWA roles for EPA, the Army Corps of Engineers, and States in protecting water quality. It also could eliminate EPA's ability to protect water quality and public health in downstream States from actions in upstream States, and could increase the number of lawsuits challenging State permits. In sum, H.R. 2018 would upset the CWA's balanced approach to improve water quality across the Nation, risking the public health and economic benefits of cleaner waters.

If the President is presented with this legislation, his senior advisors would recommend that he veto the bill.

U.S. ENVIRONMENTAL PROTECTION AGENCY, Washington, DC, June 21, 2011.

Hon. TIM BISHOP,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BISHOP: Thank you for the letter dated June 17th regarding H.R. 2018, the Clean Water Cooperative Federalism Act. Attached, please find EPA's legal analysis of this legislation.

If you have any further questions, please feel free to contact me at (202) 564-4741.

Sincerely,

ARVIN GANESAN,
Deputy Associate Administrator
for Congressional Affairs.

TECHNICAL ASSESSMENT OF H.R. 2018

The bill would overturn almost 40 years of Federal legislation by preventing EPA from protecting public health and water quality.

This bill would significantly undermine EPA's longstanding role under the CWA to assure that state water quality standards protect clean water and public health and comply with the law. It would fundamentally disrupt the Federal-State relationship outlined in the 1972 CWA and would hinder the federal government's ability to ensure that states protect interstate waters at a common level. This could lead to upstream states implementing standards that degrade waters in downstream states.

This bill would prevent EPA from taking action without state concurrence even in the face of significant scientific information demonstrating threats to human health or aquatic life.

This bill would unnecessarily delay EPA approval of new or revised State water quality standards, even where there are no concerns, and could lead to a higher rate of EPA disapprovals.

The bill would prevent EPA from providing its views on whether a proposed project that pollutes or even destroys lakes, streams, or wetlands would violate CWA standards.

This bill would limit EPA from meeting its current CWA responsibility to facilitate disputes between States as to whether permit conditions protect water quality in all affected States.

This bill would restrict EPA from providing its views on proposed permits or taking necessary action under existing law to protect public health and water quality.

The bill would remove EPA's existing state coordination role and eliminate the careful Federal/State balance established in the current CWA.

Removing EPA's program oversight role is likely to reduce the quality of state-issued permits and may likely increase the number of lawsuits by citizens and environmental groups. This would shift the dispute resolution process from a productive state-EPA dialogue toward adversarial litigation.

Restricting EPA's authority to ensure that states implement their programs as approved may lead states to reduce the protection they provide to their waters, thereby leading to a "race to the bottom" that jeopardizes water quality and human health.

The bill would prevent EPA from protecting communities from unacceptable adverse impacts to their water supplies and the environment caused by Federal permits.

This legislation would remove EPA's ability to take action to protect communities from projects approved by the Corps of Engineers that would have unacceptable adverse effects to our nation's waters and public health. This would fundamentally disrupt the balance established by the original CWA in 1972—a law that carefully constructed complementary roles for EPA, the Corps, and states.

EPA has only used its CWA Section 404(c) authority 13 times in the nearly 40-year history of the CWA.

This bill would substantively eliminate the opportunity for EPA, the federal government's expert on water quality, to comment on Federal permits impacting water quality and public health.

This bill would greatly limit EPA's ability to provide constructive and expert comments

to the Corps on Section 404 permit applications. The bill would reduce the quality of information available to EPA and the time available to review it, resulting in more frequent EPA objections based on lack of information and unnecessary delays in the permitting process.

This provision would require the Corps to adopt, through regulation, a more complex permitting process, which would add work for the Corps and uncertainty for applicants.

... the Administrator may not promulgate a revised or new standard for a pollutant in any case in which the State has submitted to the Administrator and the Administrator has approved a water quality standard for that pollutant, unless the State concurs with the Administrator's determination that the revised or new standard is necessary to meet the requirements of this Act."

This provision would significantly undermine EPA's ability to ensure that state water quality standards are adequately protective and meet Clean Water Act (CWA) requirements. It would fundamentally change the Federal-State relationship outlined in the 1972 CWA and would hinder the federal government's ability to ensure there is an equitable level of protection provided to our nation's waters.

The bill would generally prevent EPA, without State concurrence, from taking action to revise outdated State water quality standards. It also would prevent EPA from replacing difficult-to-implement narrative water quality criteria with more protective and easier to implement numeric water quality criteria. EPA would not be able to take action to promulgate new or revised WQS without State concurrence even in the face of significant scientific information demonstrating threats to human health or aquatic life.

This bill would slow the process by which EPA approves new or revised State water quality standards. If EPA were prevented from taking action to replace outdated standards, EPA Regions would need additional time in their review of new or revised state water quality standards. EPA would also be more likely to disapprove state standards if it was precluded from taking action to ensure their protectiveness in the future.

"With respect to any discharge, if a State or interstate agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate determines under paragraph (1) that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307, the Administrator may not take any action to supersede the determination."

This subsection would prevent EPA from "superseding" a State certification under Section 401 of the CWA, which applies to Federal licenses or permits. The meaning, context, and application of the word "supersede" is ambiguous.

Because of the provision's uncertain scope, it has the potential to prevent EPA from fulfilling its CWA responsibility to facilitate disputes between States as to the effectiveness of permit conditions in protecting all affected States' water quality.

This provision may reflect a misunderstanding of EPA's recent actions with respect to CWA Sections 401 and 404. EPA formally deviates from a State-issued 401 certification very sparingly. With respect to Section 404 permitting for Appalachian surface coal mining operations, EPA has provided comments to the U.S. Army Corps of Engineers with respect to EPA's water quality concerns. However, EPA has not taken formal action to "supersede" the State certification, so the practical effect of this provision is unclear.

"The Administrator may not withdraw approval of a State program under paragraph (3) or (4), or limit Federal financial assistance for the State program, on the basis that the Administrator disagrees with the State regarding—

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

"(B) the implementation of any Federal guidance that directs the interpretation of the State's water quality standards."

This provision takes a significant step toward eliminating the requirement that states implement water quality standards in their NPDES permits, which is a critical tool in ensuring that our nation's waters remain fishable and swimmable.

The process of approving state NPDES programs is intended to ensure that they implement the minimum requirements specified in the CWA, thereby ensuring a more-or-less level playing field. Restricting EPA's authority to ensure that states implement their programs as approved could lead to a race to the bottom as each state seeks to ensure that their program is no more stringent than the least stringent state program.

The term "implementation of any water quality standard" is significantly ambiguous and would likely lead to litigation. This term could include a variety of functions, such as implementing state water quality standards in NPDES permits, implementing applicable Total Maximum Daily Loads (TMDLs), ensuring that states meaningfully implement their narrative water quality standards, or taking enforcement action.

States rely to varying degrees on narrative water quality standards, which are a practical solution to the infeasibility of developing a numeric standard for every pollutant of concern. EPA approval of narrative standards would be hampered if EPA could not then ensure their effective and meaningful incorporating into permits.

EPA is unclear about the practical effect of this provision. EPA has not withdrawn approval of a state program for the reasons outlined above for a significant period of time.

"The Administrator may not object under paragraph (2) to the issuance of a permit by a State on the basis of—

"(A) the Administrator's interpretation of a water quality standard that has been adopted by the State and approved by the Administrator under section 303(c); or

"(B) the implementation of any Federal guidance that directs the interpretation of the State's water quality standards."

This provision would prevent EPA from objecting to permits that fail to implement significant provisions of the CWA. EPA's role in overseeing State CWA programs—a role dating back to 1972—serves a critical purpose by promoting national consistency and encouraging productive dialogue between EPA and states before permits are issued.

Removing EPA's oversight role is likely to reduce the quality of state-issued permits and would likely increase the number of lawsuits by citizens and environmental groups to remedy these inadequate permits. This would shift dispute resolution from a generally productive state-EPA working relationship to an adversarial litigation-driven process.

This provision appears to be motivated by a fundamental misunderstanding of EPA's recent actions with respect to Appalachian surface coal mining. EPA has not formally interpreted state narrative water quality standards or directed a specific interpretation of those state standards. Therefore, the

practical impact of this provision is questionable.

Section 404(c): “Paragraph (1) shall not apply to any permit if the State in which the discharge originates or will originate does not concur with the Administrator’s determination that the discharge will result in an unacceptable adverse effect as described in paragraph (1).”

This legislation would prevent EPA from taking action to protect the nation’s aquatic resources from unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas without concurrence from the state. This would fundamentally disrupt the structure established by the original CWA in 1972—a law that carefully constructed complementary roles for EPA, the Corps, and the states.

EPA uses Section 404(c) as the action of last resort when no other approach works to prevent unacceptable impacts. EPA must follow a highly deliberative process (including an opportunity for significant public comment) in exercising its ultimate environmental review authority over CWA Section 404 permitting—and this authority only applies in cases where an activity will result in specific and severe adverse environmental effects.

EPA has only used its CWA Section 404(c) authority 13 times in the nearly 40-year history of the CWA, and EPA reserves use of this authority for only the most unacceptable cases. EPA’s use of Section 404(c) has protected more than 73,000 acres of wetlands and more than 30 miles of streams from unacceptable adverse impacts.

In 2008, the Bush Administration used Section 404(c) to protect over 67,000 acres of wetlands in Mississippi—some of the richest wetland and aquatic resources in the Nation. This area includes a highly productive floodplain fishery, highly productive bottomland hardwood forests, and important migratory bird foraging grounds.

Similarly in 1990, the first Bush Administration used Section 404(c) to protect a portion of the South Platte River in Colorado which has extraordinary aquatic resource values and supports an outstanding recreational fishery which the State of Colorado designated a “gold medal” trout stream.

Many projects result in effects that cross state lines. In these cases, this bill would contribute to confusion as to which state must “concur” and could result in a situation where another State would unfairly bear the environmental costs associated with an activity.

States already have a powerful tool under Section 401 of the CWA to prevent projects from violating state water quality standards, and they are already provided an important role in EPA’s Section 404(c) process.

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

This subsection would significantly reduce the opportunity for public and interagency participation in the Corps’ Section 404 permitting process, especially by EPA.

For EPA, the agency entrusted with primary authority to implement the CWA, this bill would severely limit EPA’s ability to provide constructive, informed comments to the Corps. Without access to complete information and adequate time to review and comment, EPA would be severely restricted in carrying out its CWA responsibilities.

Reducing the quality of information available to EPA and the time available to review it, would result in more frequent EPA objections based on lack of information, and unnecessary delays to the applications as the Corps works with the applicant to address EPA and others’ less-informed comments.

This legislation would disrupt the current mechanism by which the Corps receives comments from federal agencies and the public. Implementing this legislation would require agencies to submit comments after the Corps receives an application, regardless of whether the application is complete. This would require the Corps to make changes to its regulations that would create a more complex permitting process, thereby adding work for the Corps and adding uncertainty for applicants as they navigate a less straightforward permitting process.

□ 1450

Mr. GIBBS. I yield 4 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I thank the gentleman for yielding.

I rise in strong support of H.R. 2018, the Clean Water Cooperative Federalism Act of 2011.

As a member of the Water Subcommittee and cosponsor of this bill, I applaud Chairman MICA, Chairman GIBBS, and Ranking Member RAHALL for bringing forward this important bipartisan legislation.

H.R. 2018 seeks to reverse the erosion of the States’ authority and partnership with the Federal Government under the Clean Water Act. This well-established and effective partnership has come under increasing attack by the EPA under the Obama administration, and the EPA has progressively undermined the States’ shared regulatory authority.

Our bill preserves the system of cooperative federalism established under the Clean Water Act, and in which the primary responsibilities for water pollution control are allocated to the States.

The bill restricts EPA’s ability to second-guess or delay a State’s permitting in water quality certification decisions under the CWA once the EPA has already approved a State’s program. We must put an end to the EPA’s one-size-fits-all, and the economy stifling agenda.

This bill ensures a commonsense regulatory regime that protects our environment while at the same time protecting our Nation’s farmers, miners, and other businesses critical to our economy.

This bill addresses one of the many areas in which the EPA has overstepped its authority and taken actions that are deeply hurtful to our economy.

In my State of Pennsylvania, the EPA has increased its interference with the Commonwealth to unprecedented levels, creating numerous delays and problems for the Commonwealth and our Department of Environmental Protection, with no scientific basis or environmental payoff.

I received copies of numerous letters from the Pennsylvania DEP Secretary

Krancer to the EPA citing EPA’s interference and unwillingness to collaborate with the State on the issues that they have led on for three decades.

The first example is regarding the National Pollutant Discharge Elimination System, or the NPDES, permits, which has been a problem with several States in addition to Pennsylvania. Pennsylvania DEP has had the primary authority over the NPDES permitting program since 1984, and the EPA has just recently started to interfere in the Pennsylvania program, specifically in mining-related permits.

The EPA has specifically increased their permit review of mining-related permits under a new guidance, which relies on unsettled science. This is causing long delays in the permitting process with no environmental benefit and is costing Pennsylvania jobs and economic benefits.

The Pennsylvania House of Representatives recently passed a resolution stating the EPA is overstepping DEP without any Federal legislative or regulatory changes to support this increased oversight. This resolution reasserts Pennsylvania’s primary role over the NPDES permitting in the State.

The EPA has refused to work with the Pennsylvania Department of Environmental Protection on Chesapeake Bay issues to address several problems with the EPA’s model that do not accurately reflect Pennsylvania’s unique issues. A letter from Secretary Krancer to Lisa Jackson states, “PA DEP and our municipality stakeholders have been frustrated with EPA’s continued failure to acknowledge the challenge of Pennsylvania’s unique municipal structure. Pennsylvania does not agree the TMDL development effort has been collaborative.”

Again, there was an EPA letter to the DEP citing DEP’s concerns with the State’s handling of wastewater for the Marcellus drilling, excessively overstepping the DEP, criticizing their approach, and demanding to direct Pennsylvania’s sampling and monitoring programs. It seems the EPA is listening more to The New York Times than the State regulatory agencies that are actually regulating and monitoring the issues on the ground.

The CHAIR. The time of the gentleman has expired.

Mr. GIBBS. I yield the gentleman an additional 30 seconds.

Mr. SHUSTER. The EPA, along with other Federal agencies, continues to grab for more authority, overriding long-standing State policies and roles in regulating oil and gas exploration and environmental protection, in particular States such as Pennsylvania, with long-standing and respected programs.

The EPA needs to back off. Pennsylvania issues are completely different than Texas issues, and no one knows Pennsylvania or wants to protect Pennsylvania better than the State agencies working to protect it.

I strongly support H.R. 2018 and, again, congratulate Mr. GIBBS on a job well done on this legislation.

THE GENERAL ASSEMBLY OF PENNSYLVANIA—
HOUSE RESOLUTION No. 87

A RESOLUTION

Urging the Environmental Protection Agency to stop its unlawful application of the Guidance Memo relating to the Federal Water Pollution Control Act, which is a substantive change to the permitting procedure conferred on the states, and restore the regulatory environment that existed prior to the release of the Guidance Memo.

Whereas, Under section 402 of the Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. §1342), National Pollutant Discharge Elimination System (NPDES) permits are typically issued by states for discharge of nondredged and nonfill material; and

Whereas, Once the Environmental Protection Agency (EPA) approves a state permitting program, the state has exclusive authority to issue NPDES permits; and

Whereas, Through a 1991 Memorandum of Agreement executed between the Commonwealth of Pennsylvania and the EPA, the Department of Environmental Protection (DEP) was identified as the lead agency with exclusive authority for administering and granting NPDES permits for mining-related activities in this Commonwealth; and

Whereas, In September 2010, the EPA informed the DEP that it was altering the Commonwealth's administration of its permitting program and would conduct its own additional review of NPDES permits; and

Whereas, This abrupt change in the Commonwealth's permitting process was not the result of any accompanying Federal statutory or regulatory changes; and

Whereas, As a result of this change, the DEP is required to provide the EPA's Region 3 field office with all pending mining-related NPDES permit applications, whose activity will either discharge into the Monongahela River or into any designated total maximum daily load impaired stream for its independent review; and

Whereas, The EPA's Region 3 field office is not sufficiently staffed to perform these types of reviews in a timely manner, causing indefinite delays in the permitting process; and

Whereas, The EPA's objections to the issuance of these permit applications vary, but generally are based on what the Federal agency perceives are inconsistencies between the applications and an interim final Guidance Memo that the EPA released in April 2010, designed to provide a framework for regional reviews of surface mining projects in Appalachia based on conductivity levels it associated with adverse impacts to streams; and

Whereas, Although the stated intent of the Guidance Memo is to limit its applicability to surface mining projects only, a number of the permits being delayed in this Commonwealth are for activities other than this type of mining; and

Whereas, The Guidance Memo is based on flawed studies with limited application and unconfirmed conclusions that cannot be used to develop a predictive cause and effect relationship between the EPA's established benchmark threshold for conductivity levels and healthy streams in this Commonwealth; and

Whereas, Despite the representation that the Guidance Memo is an interim document, it nevertheless is applied by the EPA in a binding manner in its current version, even though the EPA continues to receive comments on it; and

Whereas, The EPA's application of the Guidance Memo constitutes a substantive

change in the basic application of the permitting process; and

Whereas, By substituting the issuance of agency guidance for formal rulemaking, the EPA circumvents the clear requirements of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 551 et seq.) for public notice and comments; and

Whereas, This unnecessary extended review of NPDES permit applications by the EPA has led to a significant backlog of permits that could result in coal contracts being lost, mining jobs being destroyed and this Commonwealth losing its major source of affordable and reliable electric generation; Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Environmental Protection Agency to stop its unlawful application of the Guidance Memo relating to the Federal Water Pollution Control Act, which is a substantive change to the permitting procedure conferred on the states, and restore the regulatory environment that existed prior to the release of the Guidance Memo; be it further

Resolved, That the Commonwealth of Pennsylvania reassert its rightful role as the sole agency with permitting authority of mining-related National Pollutant Discharge Elimination System permits; and be it further

Resolved, That the Chief Clerk of the House of Representatives transmit a copy of this resolution to the Governor of Pennsylvania, the Environmental Protection Agency Administrator and all members of the Pennsylvania Congressional Delegation.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the distinguished member of our Transportation and Infrastructure Committee, the gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. I thank my friend from West Virginia for yielding.

Mr. Chairman, I rise in strong support of H.R. 2018. The Clean Water Act created a partnership between the States and the Federal Government to keep our waterways healthy. However, the EPA has repeatedly tried to impose Federal standards on individual States.

In Pennsylvania, the EPA imposed an unachievable one-size-fits-all standard for water quality that ignores the economic concerns of our farmers, energy producers, small businesses, and local governments. This could cost Pennsylvania thousands of jobs and threaten our energy production.

This bill restores the balance between the States and the EPA as co-regulators under the Clean Water Act. States and local governments are dependent upon Congress to remove regulatory roadblocks to economic growth and job creation in local communities while protecting our vast natural resources. This legislation is essential to providing much-needed certainty to support investment that will create jobs in American mining, manufacturing, agriculture, and related industries that have borne the brunt of EPA's regulatory overreach and interference with State Clean Water Act permits.

Mr. Chairman, I urge adoption of the resolution.

Mr. GIBBS. I yield 1 minute to the gentleman from New Hampshire (Mr. GUINTA).

Mr. GUINTA. I want to thank Subcommittee Chairman GIBBS for yield-

ing me time to speak on this bill. I would also like to thank both Chairman MICA and Ranking Member RAHALL for working in a bipartisan way to address this very important issue.

Mr. Chairman, the first bill that I authored when I came to Congress was the Great Bay Community Protection Act, just a smaller and more focused version of a bill in the House that this bill is addressing today, the Clean Water Cooperative Federalism Act of 2011.

I am proud to be a cosponsor of H.R. 2018. I think this bill amends the CWA to preserve the authority of each State to make determinations relating to the State's water quality standards and to restrict EPA's ability to second-guess or delay a State's permitting and water quality certification decisions under the CWA in several important respects.

This legislation will help seven communities in my State of New Hampshire save \$250 million in ensuring that we focus on clean water standards, but allowing the State to do so in a timely manner.

I strongly urge passage of this legislation.

Mr. RAHALL. I am honored to yield 1 minute to another distinguished member of our T&I Committee, the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. Mr. Chairman, I rise in support of this bipartisan bill, which was crafted and introduced with job protection and regulatory clarity as its top priorities.

The Clean Water Act originally created a working relationship between the Federal Government and the States. But recently that relationship has been undermined by unnecessary intervention by the EPA.

When the government imposes impossible standards on job creators, the entire economy suffers. Businesses go through rigorous processes to receive permits from State governments to proceed with work that creates jobs and provides revenue to local governments, only to be undercut at the last minute by EPA regulations that do not take into account local context or economic impact.

My colleagues should vote "yes" on this bill to prevent this further EPA overreach.

Mr. GIBBS. I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. I thank the gentleman from Ohio for yielding.

Mr. Chairman, I come to the floor today to express strong support for H.R. 2018. I commend Chairman MICA and Ranking Member RAHALL for their hard work in crafting a bill that brings back a sane balance between the States and Federal regulators.

By the EPA's own admission, Mr. Chairman, current regulations will cost the United States \$109 billion by the end of year 2020. In areas of the Sixth District of North Carolina, EPA currently has the ability to second-

guess or delay the State's Clean Water Act permits, even though it has already approved the State's program.

It is furthermore important to note that the American Farm Bureau Federation, as the gentleman from Ohio previously mentioned, strongly supports this legislation that I believe we need to keep the EPA off the family farm.

□ 1500

Current EPA regs will have a disastrous effect on farmers and quarry owners and will add tremendous costs and delays to commercial, residential, and infrastructure projects.

Mr. Chairman, I urge passage of H.R. 2018.

Again, I thank the gentleman from Ohio for yielding.

Mr. RAHALL. Mr. Chairman, I am happy to yield 4 minutes to a former member of our Transportation and Infrastructure Committee, now a member of the Ways and Means Committee, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Still a member in my heart, of the Transportation Committee, Mr. RAHALL. I appreciate your courtesy in permitting me to speak on this.

I've been listening to debate on the floor, and I really could not disagree more with the proponents of this legislation. They would seek to overturn a 40-year record of trying to get people to follow the law. Look at the record of what States have done over the course of the last 100 years dealing with water quality. And it isn't that the Federal Government overreached and the States had done too much. We have the Clean Water Act because the States consistently failed to meet their obligations.

Today, there are wide variations around America in terms of how zealously individual States take their responsibility and how they balance. There's tremendous pressure for short-term economic gain at the expense of the environment. And in some parts of the country, it doesn't bother them to bulldoze mountaintops into streams. And, in fact, EPA has not been vigilant in dealing with that. It's only been recently that we are starting to have people come to grips with this issue.

It is important that EPA has the opportunity to withhold—to have some sanction—when States don't follow through on their plans. This bill would take away the ability of EPA to have sanctions. It's important that we have a third party to be able to do some mediation when there are differences between States. This is not something that is confined to Pennsylvania or West Virginia or Oregon, because our waterways are interconnected. They transcend boundaries. We need to have the Federal Government making sure that, at a minimum, there are reasonable standards that are enforced and that the plans that one administration on a State level commits to are actually followed through.

You don't have to spend very much time on Google to find out that there are places around the country right now where local authorities and where State authorities are not meeting the highest standards of water quality.

I strongly suggest that this is a step backward. Luckily, it's not going to be enacted into law. The administration would veto it. I can't imagine it gets very far in the other body.

Frankly, looking at the list of the organizations, the list that was cited of the people who support this, they are not the people who have championed clean water. They're the people that want looser restrictions, that want to be able to pollute more, and that want to be able to make their own decisions. But the people who care about fish and wildlife, the people who care about environmental protection, and the people who care first about the health and welfare of the American public, they are uniformly opposed to this legislation.

Mr. Chairman, this is important business. There are economics involved with protecting the environment. In State after State, there's a lot of money to be made by having healthy hunting and fishing. There is money to be saved by having healthy waterways and healthy communities. And if we don't stop the pollution in the first place, then that puts the burden on local communities to spend more on water quality and water treatment.

I strongly suggest my colleagues take a hard look at the history of the last 40 years. Look at the uneven application of the Clean Water Act at the State level. Look at how a judicious approach on the part of the Federal Government has helped promote compliance. Even the so-called veto power of EPA has been invoked only 13 times in 38 years.

This is a bad bill. It should be rejected.

Mr. RAHALL. Mr. Chairman, I am ready to close. As we have no further requests on my side under general debate, I will give my closing comments now.

How much time do I have remaining, Mr. Chairman?

The CHAIR. The gentleman from West Virginia has 17½ minutes remaining.

Mr. RAHALL. This is about the process, as I described in my opening comments, not the policy. This bill is not about whether the Members of this body support clean, safe water. We all support clean, safe water. I do not know a single Member in this House that wants to turn back the clock on the gains that this Nation has made in the last 40 years to clean up our rivers and streams. This bill is about process and precedent. It is about whether we should be allowing one Federal agency to run roughshod over the law, over the States, and over other Federal agencies to set policy according to political ideology. Now, I do not think we should be allowing any agency of our Federal Government to be run in that manner.

If this Congress allows the EPA to push the envelope in circumventing the law, in circumventing public comment and public participation, it lays the legal groundwork for the next administration to do the exact same thing—maybe under the guise of cleaner air and cleaner water, maybe under the guise of lowering those standards. But the precedent that would be set could be devastating. By not taking action, the Congress is tacitly giving the EPA the authority to do what it deems politically necessary, and that is something that this and every Congress has the responsibility to resist.

So this bill, Mr. Chairman, is not about whether any Member in this institution supports the ends that the EPA is trying to reach. It is about whether or not we believe that we should be allowed to use any—any—means to reach those ends. And I do not believe they should.

There are plenty of Members on this floor today who believe that the intentions of the EPA with respect to its mission to ensure clean water are noble. I put myself in that category. But we all have to worry when an agency goes to such lengths to circumvent the Congress and the rulemaking process so as to impose its own agenda, because after the next election or the election after that or the election after that, some future EPA may not have such noble intentions. And if we fail to stand up today, we will suffer the consequences of our inaction later.

This bill is about transparency. It does not tell the EPA they cannot effect improvements in water quality. It says that they cannot do it without letting the people—the people—have a voice in the process. That's the way the rulemaking process is intended to work. But this EPA has effectively thwarted that process and thumbed its nose at the people by issuing guidance and treating it like regulation.

As I said in my opening comments, I wish we were not here on this bill today. I wish it would not be necessary. I would much rather see a cooperative Federal relationship among the agencies and the Federal agencies with the States and with the industries involved, but that has not occurred. And, therefore, it has created an era of mistrust, distrust, and bitterness, an outright scared attitude among our coal miners whether or not they will have a job next year or even tomorrow and for how long their current job will last.

With that, Mr. Chairman, I do conclude by speaking in support of this legislation, and I yield back the balance of my time.

□ 1510

The CHAIR. The gentleman from Ohio has 12 minutes remaining.

Mr. GIBBS. Mr. Chairman, I think what this bill is addressing, we have 21st century problems and challenges, and we are looking for 21st century solutions. I want to lay out the facts to have a little more clarity, and I appreciate my colleague from West Virginia's support of the bill.

We have to realize that the State EPAs have to have an approved plan by the Federal EPA. That is the framework that they are working under, and you just can't have the Federal EPA come in during the ball game and try to change the rules and undermine the efforts of the State EPAs.

I want to comment regarding the gentleman from Oregon's comments that we are going to go backwards and we have made progress in the last 40 years, and the States didn't do anything in the last 40 years or before. Let's remember what happened prior to 1972.

I grew up 12 miles from the city of Cleveland and the Cuyahoga River. I remember when the Cuyahoga River caught on fire. I remember as a child when I couldn't go down and swim in Lake Erie any more because raw sewage was going into Lake Erie. Those events caused this Congress to pass the Clean Water Act and establish the U.S. EPA and also give authority for the States to set up their programs. Prior to that, nobody was concerned about the environment and we didn't have the so-called environmental movement where we are all concerned about having clean water.

Since then, we have made tremendous progress. On point-source pollution, we have made tremendous progress. On discharges, we don't have the discharges going into our lakes and rivers and streams like we did 40 years ago. We have made significant progress addressing nonsource-point pollution. Now, that is not to say that we don't have more challenges.

I want to talk about one size fits all, and the U.S. EPA has an agenda right now that is overreaching. They want to set policies and parameters that fit for everybody to work under. I will give you an example. The numerical nutrient standard, and let's take phosphorus and nitrogen. You hear a lot about phosphorus sediment pollution in our lakes and rivers. To go in there and set a number, a numerical number that they can't exceed that, discharge at that level, causes some problems.

For the last 40 years, we have been operating under something called the narrative standard. States can go in there and look at what is going on in that watershed or that stream or that river. I can tell you, in every river and stream in this country, there are different things happening. The biology is different. The pH is different. The water temperature, water flow is different. The sunlight. A whole host of things. They can incorporate that and come up with a plan on how to address that in their local locale.

When you set a number at such a high level, it creates a situation where the States can't attain it; it's not possible. We have seen that happen in Florida, and that is why Florida has litigation pending because they set one size fits all. Whereas Florida, ironically, was moving to a point to set a numerical standard, but they wanted

to address and incorporate what I call the narrative standard so they could address what is happening in each locale and not a huge region to address those differences that are happening in that stream or that river. So one size fits all doesn't work. It causes problems, and it will make us to go back, impacting the progress we've made in the last 40 years.

Now, in this bill we also talk about the permitting issue. One of the most egregious things that I have seen since I have been in Congress since January was a revocation of a permit. Yes, it was in West Virginia. It was a coal mine operation that went through 10 years of an environmental impact study, got their permit in 2007, and then 3 years later the permit was revoked, not because they were in permit violation. The Army Corps of Engineers testified in my committee that there were no problems. The State, West Virginia EPA didn't support revoking that permit. I really don't know why they revoked that permit other than it was maybe on an agenda of somebody. But they were not in violation of the permit.

It is one thing to revoke a permit when you are in violation of a permit, but when you are not in violation of the permit, to take that permit away, it sets a very dangerous precedent; because the dangerous precedent it sets across our entire economy, if you're an entity or an enterprise and you have to have a permit from the Federal Government to be in business, and if that Federal Government at the whim of some bureaucrat or the administration comes and pulls that permit any time they want to, who is going to risk capital and make that investment, create jobs, knowing that they could be shut down tomorrow because the permit is not there to stay in business?

That is what this bill addresses. They have to get concurrence. The U.S. EPA would have to get concurrence from the State EPA to support that revocation to shut that business down.

So this is really a jobs bill. We are trying to relieve uncertainty so people know what the playing field is. I can tell you, I think the State EPAs can do a better job in their locales, because they know what is going on there, than to have a one-size-fits-all policy by the Federal Government and an overreaching and burdensome regulatory climate that kills jobs, kills economic investment, and, like I said, kills jobs.

So that is why I think it is important to move this bill forward. This is a jobs bill.

We have sent several bills over to the Senate that are jobs bills. I urge the Senate to take them up because we have unemployment at 9.2 percent and rising.

I think it is important for people to have an opportunity to have a job and economic opportunities. We need the Federal Government to create the environment for what I call the job creators to have that confidence, to make

those investments and start hiring people back and growing their businesses.

This bill is really important to encourage cooperative arrangements working among the Federal EPA and the State EPAs.

I was really floored in the committee hearings we had where we had State EPAs come in—and some of them were from the other side of the aisle from me—and testify against the Federal EPA on their actions and their overreach.

You know, a strong economy—some people don't understand this, although I say this a lot. A strong and growing economy will provide the resources to invest and protect and enhance the environment. An economy that is struggling right now, it makes it tougher to have those resources. As an example, you look at some Third World countries where their biggest challenge is feeding their people, they don't have the resources to build sewage treatment plants and water filtration systems and do other things to protect the environment. We have the resources, and we have a strong, growing economy, and we should be working with those businesses because most businesses and most people want to do the right thing. Everybody wants clean water and clean air.

So I take exception to the comments of my colleague from Oregon who said that we are not protecting the environment. I think a strong, growing economy does protect the environment, and I think the regulatory policies are in place at the State levels because the States are set up to do it now, different than 40 years ago, to regulate and also enforce environmental protection laws, whether it is mountaintop mining or whatever it is. We have the rules in place.

In Ohio, when I was in the State Senate 2 years ago, we passed comprehensive legislation to add additional regulation on the oil and gas industry to protect our groundwater, our water aquifers, and our surface water. And we did.

I am really encouraged now, the potential we have with the Utica shale and the Marcellus shale to make us closer to being energy independent and not dependent and shipping almost a trillion dollars a year away to other countries, some of which don't really like us very much. We have an opportunity to have a strong, growing economy and provide the energy, but also protect the environment at the same time. We just have the regulatory process in place, and I think this enables a stronger regulatory process because it emboldens the State EPAs to do their job and work cooperatively with their partners in Washington, D.C.

Mr. PRICE of North Carolina. Mr. Chair, today, the House is considering H.R. 2018, the so-called Clean Water Cooperative Federalism Act. This bill, which represents the latest attempt by the House to weaken the Environmental Protection Agency, could just as easily be called the "Dirty Water Act."

Since 1972, the Clean Water Act, which is one of the nation's most successful and effective environmental laws, has protected the waterways Americans depend on for fishing, swimming, and clean drinking water. H.R. 2018 would overturn almost 40 years of federal protection by preventing the Environmental Protection Agency from safeguarding public health and protecting water quality. It also would undermine the agency's authority to ensure that state water quality standards comply with the law. What's at stake here is not federal oversight versus state's rights, but rather clean water versus dirty water.

In case anyone is wondering why the Congress might consider such a bill, consider this example: coal companies want to conduct mountaintop removal mining in Appalachia and dump the waste they generate into Appalachia's streams and waterways. The EPA has rightly declined to classify this waste as fill material. Should the financial interests of a few coal companies outweigh the environmental and public health interests of the people of the entire region?

Rather than weakening our federal clean water protection laws, we should be strengthening these laws to protect our oceans, rivers, lakes and streams. I urge my colleagues to vote against H.R. 2018.

Mr. VAN HOLLEN. Mr. Chair, I rise in strong opposition to today's legislation, the so-called "Clean Water Cooperative Federalism Act," which represents another effort on the part of this Republican Majority to systematically dismantle environmental protections by eroding EPA authority under the Clean Water Act.

The Clean Water Act is a partnership between federal and state authorities to maintain water quality standards across the nation. But it also provides a federal backstop if states cannot or will not effectively enforce those standards.

As we all know, water does not stop at the state line. Policies in one state upstream will affect water quality in another downstream. This is a serious issue in my state of Maryland, where the Chesapeake Bay feeds from a watershed that includes six states and the District of Columbia. Inadequate environmental protection in any of those states can have grave consequences for the health of the nation's largest estuary.

It is not difficult to imagine the costs of dismantling Clean Water Act authority. Prior to its enactment in 1972, our nation's waters were in crisis. Lake Erie could not support aquatic life. A floating oil slick on the Cuyahoga River caught fire. Industrial polluters used lakes and streams as dumping grounds for dangerous chemicals and two-thirds of our nation's lakes, rivers, and coastal waters were unsafe for fishing or swimming.

The Clean Water Act was a simple and powerful solution—a baseline for water quality with a federal safety net in the event of state inaction. For nearly 40 years, this approach has helped preserve access to safe water to all Americans. There is no reason or justification to roll back those protections today. I urge my colleagues to vote against this bill.

Mr. KUCINICH. Mr. Chair, I rise in strong opposition to H.R. 2018, which would be more appropriately titled the "Giveaway to Developer and Coal Company CEOs Act."

This bill removes protections for our nation's waters that were absolutely essential to the progress we have shown so far in cleaning up

Lake Erie and the rest of the Great Lakes. The Great Lakes comprise 21 percent of the world's fresh water supply. Lake Erie is the shallowest and smallest, and therefore the most vulnerable of the Great Lakes and it is our primary water source in Northeast Ohio. We cannot afford to go back to days when the Cuyahoga River caught fire because it was so polluted. Already, 77 percent of all stream-miles in the Lake Erie basin are unprotected.

Lake Erie is not only crucial to our health, but to our economy. It generates 10 billion dollars per year in revenue through travel, tourism, wildlife watching, boating, sport and commercial fishing and other activities. One out of every ten jobs in the state is connected to Lake Erie. This economic activity generates 676 million dollars in federal tax revenue, 410 million dollars in state tax revenue and 347 million dollars in local tax revenue annually. Lake Erie is our Golden Goose. We must protect it at all costs.

This bill also removes the EPA's ability to clamp down on the worst mountaintop removal polluters. These coal mines, which remove entire mountains to get at the coal, are on their way out. There is no room in this country's energy portfolio for coal. Coal is a major contributor to the environmental, national security, and economic problem that is global warming. It would be difficult to underestimate the urgency of shutting down coal power plants immediately for that reason alone. But coal also devastates communities with open toxic waste holding ponds and with air emissions that create or exacerbate asthma and respiratory disorders. Coal mines kill its miners and leave them with Black Lung. Mountaintop removal fills streams and destroys entire ecosystems, contaminating drinking water supplies with carcinogens and other toxic chemicals in the process. Coal is the single biggest reason that so many of the fish species that were an important part of the diet for billions of people are contaminated with mercury levels that are so high, they can cause IQ loss and birth defects. This bill will take the woefully inadequate environmental protections in place and weaken them.

Coal is not even defensible from an economic standpoint. More jobs are created by renewable energy creation, which is being explored in many mountaintop mining communities, than by coal-based energy.

If communities, workers, the health of families, the ecosystems on which we rely, drinking water and atmospheric stability do not benefit from this bill, who does?

Developers will be able to build in more areas that are critical for drinking water protection and protection from floods, even though we are now saddled with a surplus of housing and commercial unit availability because of the bursting of the housing bubble. And mountaintop removal mining companies will be able to spend even less on protecting the communities from which they siphon money, livelihoods, and health. Profits and shareholder returns, undoubtedly, will benefit handsomely.

Bills like these take the wealth of this country and funnel it upward. I urge my colleagues to reject this bill.

Mrs. ADAMS. Mr. Chair, I rise in strong support of H.R. 2018, the Clean Water Cooperative Federalism Act of 2011. The Clean Water Act was designed to be a partnership between the federal government and individual states

to keep our nation's waterways healthy and safe. For too long, however, the Environmental Protection Agency has imposed burdensome regulations that harm job creation and are not realistic in implementation.

Recently, Florida has been at the center of a fight over water quality standards with the EPA, a federal regulatory agency that has attempted to impose impractical federal water quality standards over the State's objections. Rather than adhering to the state-federal partnership originally established under the Clean Water Act, the EPA has repeatedly undermined that partnership to the detriment of states like Florida. Should their regulatory overreach be allowed to continue, tens of thousands of jobs throughout Florida would be affected, hurting both Central Florida families and small businesses.

H.R. 2018 preserves the authority granted to each state by the Clean Water Act and halts the EPA's proposed "numeric nutrient" regulations. Congress has a responsibility to the states to ensure that regulations which hamper job growth and stifle our economy are removed. For these reasons, I am proud to support this much needed legislation.

Mr. LEVIN. Mr. Chair, I rise in strong opposition to the bill before the House today. The authors of this bill call it "The Clean Water Cooperative Federalism Act," but this legislation has nothing whatsoever to do with clean water. A better name for this bill is "The Dirty Water Act."

In 1969, the Cuyahoga River in Ohio—one of the tributaries of the Great Lakes—caught fire, and became a symbol of everything that was wrong with the patchwork system of state water laws that existed at the time. Water pollution does not respect state boundaries and that patchwork of poorly enforced state laws nearly killed the Great Lakes and resulted in rivers and streams that were unfit to swim and fish in.

In 1972, Congress passed the Clean Water Act and replaced the state patchwork approach with a national system of water quality standards. The Clean Water Act has worked. Over the last four decades, we've made real progress in reducing water pollution and are well on the way to meeting the Act's goals of making our nation's waters fishable, swimmable, and drinkable.

In my own District in Southeast Michigan, we've seen extraordinary progress in reducing water pollution. As just one example, in the 1970s and 1980s, the Clinton River was extraordinarily polluted. The River was dying and the beaches downstream on Lake St. Clair were unsafe for swimming. Thanks to the Clean Water Act and the work of many people at the local level, the Clinton River is making a comeback. Pollution is being steadily reduced. Fish are returning, and the river is once again becoming a recreational asset to the communities along its banks. There is more work to do, but the progress is there for all to see.

The bill before the House goes in exactly the wrong direction. Instead of building on the Clean Water Act, this legislation takes us backwards to the bad old days when there was a patchwork of state water laws and little enforcement when state standards fell short. In particular, the bill would make it harder to take action against emerging threats to waterways. For example, for a number of years now, a large dead zone has formed each

summer in Lake Erie. The problem appears to be getting worse and it is not yet clear what steps will be necessary to combat it. Even now it is evident that we will need a coordinated plan of action involving many states, but this legislation will make taking concerted action that much more difficult.

I urge defeat of this bad bill.

Mr. CONNOLLY of Virginia. Mr. Chair, for the last seven months this nation's economy has stagnated while the Republican majority has passed a litany of bills repealing environmental standards on behalf of oil and coal companies. Today we have another anti-environment bill before the House, predictably misnamed, in the finest Orwellian tradition, the "Clean Water Cooperative Federalism Act." This bill is a case study in irony: After seven months of blaming economic malaise on regulatory "uncertainty," this bill would eliminate predictable and consistent national clean water standards in favor of an uncertain state-based patchwork of regulations. This bill would be more appropriately titled the "Consistency is the Hobgoblin of Small Minds Act," because its elimination of any regulatory certainty flies in the face of seven months of Republican rhetoric. On the other hand, as an assault on the environment which benefits Republican campaign donors, it is utterly consistent with the majority's modus operandi.

The majority claims to support an "all of the above" energy strategy, and that is accurate if we accept the Republican premise that coal and oil constitute the totality of America's energy portfolio. After passing countless bills to repeal clean air and water regulations for oil companies, this bill is focused on repealing clean water standards for the coal and mining industry. My colleagues who are not from Virginia, West Virginia, or Kentucky may not be familiar with the ravages of mountaintop removal, and if they aren't I would encourage them to look at a satellite photo of our region before they vote for this bill. Following Bush Administration abrogation of its responsibility to administer the Clean Water Act, destruction of the Southern Appalachian mountains has accelerated. For example, Wise County, Virginia has had 25 percent of its land area obliterated by mountaintop removal: According to the Nature Conservancy, Southwest Virginia is one of the two most biodiverse regions in America, along with Hawaii. Mountaintop removal is eliminating that region's biodiversity very efficiently. What used to be extraordinarily productive mountains in my state now resemble a moonscape of man-made plateaus and valleys filled in with rubble.

The purpose of this bill is to prevent Clean Water Act regulation of those "valley fills" which mining companies use to dispose of former mountains. Valley fills should be a clear violation of the Clean Water Act, and under the Obama Administration the EPA and Army Corps have finally begun to comply with the law and regulate them. This legislation would block that federal regulation which is necessary to protect life and property in Southwest Virginia and other parts of Appalachia.

This legislation would have other negative consequences beyond destroying one of America's greatest and most threatened regions. It is written in such a broad manner that it could allow unregulated destruction of intermittent and ephemeral streams, lakes and prairie potholes, and subterranean waters

such as those that are common in places like Virginia's Shenandoah Valley. I strongly encourage my colleagues to reject this legislation.

Mr. WEST. Mr. Chair, I rise to commend my colleague from Florida on his decision to withdraw his amendment to the Clean Water Cooperative Federalism Act.

Like all Floridians, I want clean and safe water. However, the EPA's new Numeric Nutrient Criteria regulations are not over whether we want clean water for Florida; it is over how we reach that goal and at what cost.

For several years now, Florida has been working to improve its water quality. Until 2009, Florida was working cooperatively with EPA to improve our water quality standards.

However in 2009, in an attempt to settle a lawsuit brought by environmental groups, EPA decided to abandon that cooperative approach, federally preempt our state water quality standards, and impose new criteria on the state.

Many are concerned that these new Numeric Nutrient Criteria are not based on sound science, including EPA's own Science Advisory Board, which has expressed serious concerns about the science used by EPA to support the regulation.

The EPA has repeatedly refused to allow third-party review of the science behind the proposed mandate, and they have failed to complete an economic analysis.

This EPA mandate will drive up the cost of doing business, double water bills for all Floridian families, and destroy jobs. By some estimates, this will cost Florida taxpayers an estimated \$21 billion and impact over 14,000 jobs in the state.

The Florida Department of Environmental Protection estimates that this federal mandate may force municipal wastewater and storm water utilities—many in my Congressional District—to spend as much as \$26 billion in capital improvements to upgrade their facilities. These costs will be passed down to the citizens of South Florida.

Given the reality of Florida's economic situation, this is completely unacceptable.

This morning I placed a call to Ron Bergeron, the Commissioner for the Florida Fish and Wildlife Conservation Commission and renowned expert on the Everglades, to discuss this amendment and the underlying EPA Numeric Nutrient Regulations.

Commissioner Bergeron told me in no uncertain terms, I quote, "The EPA is setting standards that can hardly be achieved. Water standards of 10 parts/billion required by the Numeric Nutrient Criteria is more stringent than rainwater, which is 15 parts/billion, and is a quality of water that is humanly impossible to achieve. EPA is doing things that could possibly shut down the State of Florida."

Let me repeat what Commissioner Bergeron stated—"EPA is doing things that could possibly shut down the State of Florida."

Like all Floridians, I cherish the Everglades—a unique wetland ecosystem—and want to protect and preserve it for future generations of Floridians.

I applaud my colleague from Florida for recognizing that his amendment would have been an attempt to use the Everglades as a political pawn to give the EPA the authority to have carte blanche on setting state-wide water regulations—regulations that Commissioner Bergeron said are humanly impossible to

achieve, and thus withdrawing his amendment.

EPA's flawed regulation must be set aside so that the state government can return to an effort to improve Florida's water quality that is cooperative, economically feasible, and based on sound science.

Ms. SCHAKOWSKY. Mr. Chair, I rise today to voice my strong opposition to H.R. 2018, the so-called "Clean Water Cooperative Federalism Act." This bill is neither cooperative nor does it promote clean water.

The American people expect and deserve protection from dirty air, tainted food, and polluted water. The problem with relinquishing federal authority over environmental regulations is that these threats don't stop at state borders. The EPA recently concluded an air pollution analysis demonstrating the upwind-downwind linkages between states. That study demonstrated that my home state of Illinois receives air pollution from more than 10 states as a result of wind patterns. Illinois shares water sources, including Lake Michigan and the Mississippi River, with 11 states. Much like with air, a patchwork of regulations will do nothing to ensure my constituents have access to clean water.

H.R. 2018 removes any federal baseline for what constitutes a clean water program and leaves the process entirely under state control. It is a de facto repeal of the Clean Water Act.

We know what will happen without reasonable oversight of our nation's water sources because we have seen it before. Prior to the 1972 Clean Water Act, American rivers and streams were treated like sewers and chemical pollution was so rampant that rivers caught fire. This bill would hand our waterways and drinking water sources back to corporate polluters.

Promoters of corporate pollution regularly suggest that turning a blind eye to the destruction of our waterways, air supply, and food sources is in the economic best-interest of the country. Even if this were true, it would ignore the health and welfare of the American people. But it is not true. The Office of Management and Budget has demonstrated that the cost of implementing EPA rules over the last decade have cost as much as \$29 billion, but the economic benefits of those regulations have reaped between \$82 billion and \$552 billion. The facts don't lie: EPA regulations save lives and stimulate economic growth.

I urge my colleagues to join me in opposition to H.R. 2018, a bill that offers no tangible benefits and a litany of irreversible costs.

Mr. GIBBS. I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2018

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Water Cooperative Federalism Act of 2011".

SEC. 2. STATE WATER QUALITY STANDARDS.

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

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

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

(3) by striking “The Administrator shall promulgate” and inserting the following:

“(B) The Administrator shall promulgate”;

and

(4) by adding at the end the following:

“(C) Notwithstanding subparagraph (A)(ii), the Administrator may not promulgate a revised or new standard for a pollutant in any case in which the State has submitted to the Administrator and the Administrator has approved a water quality standard for that pollutant, unless the State concurs with the Administrator’s determination that the revised or new standard is necessary to meet the requirements of this Act.”.

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

“(7) With respect to any discharge, if a State or interstate agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate determines under paragraph (1) that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307, the Administrator may not take any action to supersede the determination.”.

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

“(5) LIMITATION ON AUTHORITY OF ADMINISTRATOR TO WITHDRAW APPROVAL OF STATE PROGRAMS.—The Administrator may not withdraw approval of a State program under paragraph (3) or (4), or limit Federal financial assistance for the State program, on the basis that the Administrator disagrees with the State regarding—

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

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

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

“(5) The Administrator may not object under paragraph (2) to the issuance of a permit by a State on the basis of—

“(A) the Administrator’s interpretation of a water quality standard that has been adopted by the State and approved by the Administrator under section 303(c); or

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

SEC. 3. PERMITS FOR DREDGED OR FILL MATERIAL.

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

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

and

(2) by adding at the end the following:

“(2) Paragraph (1) shall not apply to any permit if the State in which the discharge originates or will originate does not concur with the Administrator’s determination that the discharge will result in an unacceptable adverse effect as described in paragraph (1).”.

(b) STATE PERMIT PROGRAMS.—The first sentence of section 404(g)(1) of such Act (33 U.S.C. 1344(g)(1)) is amended by striking “The Governor of any State desiring to administer its own individual and general permit program for the discharge” and inserting “The Governor of any State desiring to administer its own individual and general permit program for some or all of the discharges”.

SEC. 4. DEADLINES FOR AGENCY COMMENTS.

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

(1) in subsection (m) by striking “ninetieth day” and inserting “30th day (or the 60th day if additional time is requested)”;

(2) in subsection (q)—

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

and

(B) by adding at the end the following:

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

SEC. 5. APPLICABILITY OF AMENDMENTS.

The amendments made by this Act shall apply to actions taken on or after the date of enactment of this Act, including actions taken with respect to permit applications that are pending or revised or new standards that are being promulgated as of such date of enactment.

The CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 112-144. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1520

AMENDMENT NO. 1 OFFERED BY MS. JACKSON LEE OF TEXAS

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 112-144.

Ms. JACKSON LEE of Texas. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, strike line 3 and all that follows through line 8 on page 7.

The CHAIR. Pursuant to House Resolution 347, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. Let me thank the chairman very much.

I definitely support cooperation between the Federal Government and the State government. That is absolutely the best partnership and one that I encourage.

Having been a member of the local city council of my own city of Houston, I also know that unfunded mandates are very much difficult to overcome. But I argue vigorously against the underlying legislation because it does equate to undermining the health of Americans. We need clean water, not dirty water.

So this amendment strikes the entire legislation that causes us to ignore a partnership that has been established

between the EPA, the Environmental Protection Agency, and the National Pollutant Discharge Elimination System, which is a State system. And to my count, some 47 States have initially gotten into the system and have worked to ensure that they have clean water.

Why do I suggest that this is a very challenging approach to take that the underlying legislation has? Because it prevents the EPA from taking actions to revise outdated State water quality standards. It makes a State the final arbiter of whether an NPDES permit, a license for better water quality, is in fact to be implemented so that one State may do something that impacts negatively on another State.

These are the people we’re concerned about: a working nurse and a healthy baby, or we are concerned about a gentleman by the name of Mr. Caldario, who is a resident of Crestwood, who indicated some years ago that he was worried about the water he drank for years without knowing what it was contaminated with—“Cancer Study Triggers Fears in Crestwood,” which I will submit for the RECORD. His final sentence states, “I can’t help but wonder if what happened to me had something to do with the water.”

My amendment is straightforward. It strikes the language of this bill. It says let’s go back to the drawing table. I want to be able to help Members, but if you have 47 States that have been engaged in this process, let’s find a way that we can come together and have clean water and not dirty water.

This is a straightforward amendment that says that this is overreaching. The EPA would be prohibited from resolving conflicting State decisions on protecting water quality. Join me in supporting the Jackson Lee amendment.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Thank you, Mr. Chairman.

The intent of H.R. 2018 is to restore the balance between the States and the Federal Government in carrying out the Clean Water Act.

This amendment simply strikes the entire bill, as she stated, and ensures that the EPA can continue to unilaterally force its own one-size-fits-all Federal policies onto the States’ water quality programs, which, by the way, they previously already approved.

Under this amendment EPA will continue to pass unfunded mandates on to the States. It ensures that EPA issues interim guidance that frustrates States and permit applicants, and ensures that the EPA will continue their legally dubious activities of revoking already legally issued permits, as I stated earlier.

I urge all Members to oppose this amendment.

I yield back the balance of my time.

Ms. JACKSON LEE of Texas. I thank the good intentions of the gentleman,

but I am concerned by the interpretation.

Let me just share with you very briefly my own State. In my own State, I'm aware of how tributaries can impact the body of water they flow into. Currently there is a dead zone, an area of low oxygen where marine life cannot survive, in the Gulf of Mexico. This dead zone, estimated to reach 9,421 square miles, is due to increased levels of nitrogen and phosphorus that washed into the gulf from the Mississippi River and other tributaries. This legislation prevents the EPA from regulating criteria for pollutants that cause dead zones.

We are the protectors of America's assets, its waterways, its drinking water, the ability to have the opportunity for clean water for our fish and fishing. I ask you, let's go back to the drawing board. If we have States that are already participating, let's demand, in an administrative process, for EPA to restrain itself, but let's not take away the underlying power that is going to allow us to have clean drinking water and for someone who lives in Crestwood to be able to be possibly cancer free.

I ask my colleagues to support this amendment.

Mr. Chair, I rise today in support of my amendment to H.R. 2018 "The Clean Water Cooperative Federalism Act of 2011." My amendment restores the authority of the Environmental Protection Agency (EPA) to work with state governments to establish standards ensuring all Americans have access to clean and safe water.

My amendment strikes the entire bill. The Clean Water Act (CWA) was designed to encourage collaboration between state agencies and the Environmental Protection Agency (EPA) in order to develop acceptable standards for maintaining the safety of our nation's bodies of water. The EPA was created in 1970 to ensure that our air, land, and water receive adequate protection from pollution and we must allow them to do so for the benefit of all Americans.

The Clean Water Cooperative Federalism Act is absolutely not the way to protect our nation's water bodies. The EPA has the expertise and resources for research, standard-setting, monitoring and enforcement with regard to five environmental hazards: air and water pollution, solid waste disposal, radiation, and pesticides. EPA represents a coordinated approach to each of these problems.

Seeking to limit the extent to which the EPA can oversee the safety of our water supply threatens the health of American citizens across the country. The EPA has not only the right, but the responsibility to update state water pollution regulations and permit procedures if they discover new threats to health or the environment.

The EPA must remain involved in regulating water pollution to ensure a cohesive policy that protects all states from pollution. Should the authority to regulate water pollution levels be given solely to the states, there would be no way to regulate waterways that pass through multiple states.

As a Representative from Texas, a Gulf Coast state, I am aware of how tributaries can

impact the body of water they flow into. Currently, there is a dead zone, an area of low oxygen where marine life cannot survive, in the Gulf of Mexico. This dead zone, estimated to reach 9,421 square miles, is due to increased levels of nitrogen and phosphorus that washed into the gulf from the Mississippi River and other tributaries. This legislation prevents the EPA from regulating criteria for pollutants that cause dead zones.

My Republican colleagues feel we must pass this bill urgently. They will tell their constituents, and all of the American people that the Clean Water Cooperative Federalism Act is necessary to issue permits and avoid backlog in mining facilities, factories, agriculture, and other businesses. What my friends on the other side of the aisle will not tell you is that this legislation is helping business at the risk of our nation's health.

Those who support this bill will not mention that EPA regulation prevents toxic chemicals and biological agents from entering our surface water bodies and groundwater. Apparently, those championing this legislation do not feel the American people deserve to know the serious health risks that can result from drinking or bathing in polluted water. Breathing the vapors of a polluted water source, consuming meat or vegetables affected by polluted water, and consuming fish that have been exposed to polluted water are all potentially harmful.

Mr. Chair, I offer this amendment to strike the entire Clean Water Cooperative Federalism Act to protect not only my constituents in the 18th district of Texas, but Americans across the nation from the diseases that result from water pollution. Diseases such as typhoid, hepatitis, encephalitis, and others caused by pathogens in water.

Surely the EPA, the states, and the industries involved can work together to prevent pollution levels in surface and groundwater from causing cancer, or serious damage to the liver, kidneys, nervous system, reproductive system, or endocrine system. Surely, we are not willing to sacrifice the health of this nation to pass a bill to benefit industry.

A study conducted by Cornell University concluded that water pollution accounts for 80% of infectious diseases, and 5 million deaths per year. I urge my colleagues on either side of the aisle to consider the enormous gamble this Congress is taking by reducing regulations to keep our water safe.

Supporting my amendment will strike the dangerous Clean Water Cooperative Federalism Act, and provide an opportunity for new legislation that fosters compromise between the EPA, the states, and stakeholders, without compromising water quality and endangering the health of American citizens.

[From the U.S. Environmental Protection Agency]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

SPECIFIC STATE PROGRAM STATUS

State	Approved State NPDES Permit Program	Approved to Regulate Federal Facilities	Approved State Pretreatment Program	Approved General Permits Program	Approved Biosolids (Sludge) Program
Alabama	10/19/79	10/19/79	10/19/79	06/26/91	
Alaska*	10/31/08	10/31/08	10/31/08	10/31/08	
American Samoa					
Arizona	12/05/02	12/05/02	12/05/02	12/05/02	04/01/04
Arkansas	11/01/86	11/01/86	11/01/86	11/01/86	
California	05/14/73	05/05/78	09/22/89	09/22/89	
Colorado	03/21/75			03/04/82	

SPECIFIC STATE PROGRAM STATUS—Continued

State	Approved State NPDES Permit Program	Approved to Regulate Federal Facilities	Approved State Pretreatment Program	Approved General Permits Program	Approved Biosolids (Sludge) Program
Connecticut ..	09/26/73	01/09/89	06/03/81	03/10/92	
Delaware	04/01/74			10/23/92	
District of Columbia					
Florida	05/01/95	05/01/00	05/01/95	05/01/95	
Georgia	06/28/74	12/08/80	03/12/81	01/28/91	
Guam					
Hawaii	11/28/74	06/01/79	08/12/83	09/30/91	
Idaho					
Illinois	10/23/77	09/20/79		01/04/84	
Indiana	01/01/75	12/09/78		04/02/91	
Iowa	08/10/78	08/10/78	06/03/81	08/12/92	
Johnston Atoll					
Kansas	06/28/74	08/28/85		11/24/93	
Kentucky	09/30/83	09/30/83	09/30/83	09/30/83	
Louisiana	08/27/96	08/27/96	08/27/96	08/27/96	
Maine	01/12/01	01/12/01	01/12/01	01/12/01	
Maryland	09/05/74	11/10/87	09/30/85	09/30/91	
Massachusetts					
Michigan	10/17/73	12/09/78	06/07/83	11/29/93	09/28/06
Midway Island					
Minnesota	06/30/74	12/09/78	07/16/79	12/15/87	
Mississippi	05/01/74	01/28/83	05/13/82	09/27/91	
Missouri	10/30/74	06/26/79	06/03/81	12/12/85	
Montana	06/10/74	06/23/81		04/29/83	
Nebraska	06/12/74	11/02/79	09/07/84	07/20/89	
Nevada	09/19/75	08/31/78		07/27/92	
New Hampshire					
New Jersey	04/13/82	04/13/82	04/13/82	04/13/82	
New Mexico					
New York	10/28/75	06/13/80		10/15/92	
North Carolina	10/19/75	09/28/84	06/14/82	09/06/91	
North Dakota	06/13/75	01/22/90	09/16/05	01/22/90	
Northern Mariana Islands					
Ohio	03/11/74	01/28/83	07/27/83	08/17/92	03/16/05
Oklahoma**	11/19/96	11/19/96	11/19/96	09/11/97	11/19/96
Oregon	09/26/73	03/02/79	03/12/81	02/23/82	
Pennsylvania	06/30/78	06/30/78		08/02/91	
Puerto Rico					
Rhode Island	09/17/84	09/17/84	09/17/84	09/17/84	
South Carolina	06/10/75	09/26/80	04/09/82	09/03/92	
South Dakota	12/30/93	12/30/93	12/30/93	12/30/93	10/22/01
Tennessee	12/28/77	09/30/86	08/10/83	04/18/91	
Utah	07/07/87	07/07/87	07/07/87	07/07/87	06/14/96
Vermont	03/11/74		03/16/82	08/26/93	
Virgin Islands	06/30/76	12/26/07		12/26/07	
Virginia	03/31/75	02/09/82	04/14/89	04/20/91	
Wake Island					
Washington ..	11/14/73		09/30/86	09/26/89	
West Virginia ..	05/10/82	05/10/82	05/10/82	05/10/82	
Wisconsin	02/04/74	11/26/79	12/24/80	12/19/86	07/28/00
Wyoming	01/30/75	05/18/81		09/24/91	

STATE SPECIFIC COMMENTS

Alaska*	Phased program over three (3) years. At time of program approval, Alaska will administer the NPDES program for domestic discharges (individual and general permits), log storage and transfer facilities, seafood processing facilities (individual and general permits), and hatcheries. Alaska will assume authority for federal facilities, pretreatment, and stormwater on 10/31/09.
Oklahoma**	Partial Program. It has not been authorized to issue permits for activities associated with oil and gas exploration, drilling, operations, and pipelines, and for CAFOS and certain other discharges from agriculture. EPA is the permitting authority for those facilities since it is not in Oklahoma DEQ's jurisdiction. All parts of the program within jurisdiction of Oklahoma DEQ are authorized.

[From the Chicago Tribune, Mar. 5, 2010]

CANCER STUDY TRIGGERS FEARS IN CRESTWOOD

(By Jared S. Hopkins)

Like many residents of Crestwood, Frank Caldario has been worried about the water he drank for years without knowing it was contaminated.

Caldario's concerns, however, were heightened when he was diagnosed with kidney cancer last year. The 30-year-old office worker said surgeons removed a gumball-size tumor and about 40 percent of his right kidney.

"I can't help but wonder if what happened to me had something to do with the water," said Caldario, who doesn't smoke and has lived in Crestwood since 1993.

"It's just unreal for someone my age to get that," he said.

After the state released a report Friday that found toxic chemicals in Crestwood's drinking water could have contributed to elevated cancer rates in the village, residents said they were worried about their families' health, the impact on their property values and footing the bill to defend public officials who may be responsible.

The Illinois Department of Public Health studied cancer cases in the small community of about 11,000 between 1994 and 2006 and found higher-than-expected cases of kidney cancer in men, lung cancer in men and women, and gastrointestinal cancer in men. The state's investigation was prompted by a Tribune report last year that revealed the village's secret use of a tainted well.

"Of course there's a concern. If I said it wasn't in the back of my head, I'd be lying," said Dominic Covone, 37, a resident of about six years. "You don't want to think something bad could happen from just drinking water."

In the report, researchers determined it was possible that chemicals in the drinking water might have contributed to the extra cancer cases but couldn't make a definite link.

For years, the tainted water went undetected as village officials told residents and regulators they used only treated Lake Michigan water. But they continued pumping from a polluted well for up to 20 percent of the water some months, records show.

Bill Shaughnessy, 60, a resident since 1987, said he hears concerns about a falloff in property values and the "unknown," including what may be undiscovered in water lines.

Some residents said they were annoyed about the village's use of taxpayer funds—more than \$1 million last year—to defend Crestwood officials in lawsuits. The tainted well was used under the purview of Chester Stranczek, mayor from 1969 to 2007.

"I feel deceived," said resident Tom Parhis.

Some longtime residents, however, said they still believe the water did not pose a health risk.

"That's all hogwash," said Shirley Beaver, a 44-year resident of Crestwood.

Others described the federal government's current investigation as "Gestapo tactics" against Stranczek and praised the property tax rebates he created. Village officials scrapped the rebates last year to help pay rising legal bills.

"You think he'd poison his own kids?" said Jim Leonard, 73, who has lived in the village for 47 years with his wife, Millie.

Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. GIBBS. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON LEE OF TEXAS

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 112-144.

Ms. JACKSON LEE of Texas. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 2 of the bill (and redesignate subsequent sections accordingly).

The CHAIR. Pursuant to House Resolution 347, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. I thank the distinguished chairman, and again I thank my friends on the floor of the House, and I did not acknowledge my friend the ranking member.

I offer myself as a person who seeks to collaborate and fix problems. So my second amendment says let's work together, but there are times when the heart of the matter has to be addressed.

My amendment strikes the language that really is the heart of the matter. It strikes the language in the bill, ensuring that the vital role played by the EPA in determining whether or not certain pollutants enter our waterways can still exist. Providing States with nearly unlimited authority to determine which pollutants can enter our waterways does not take into account issues that arise when States disagree.

My amendment strikes the language that allows States, 50 States, to conflict against each other and one-upmanship—I'm going to do this; no, you're going to do this. This standardizes the issue of clean water. This stands up for people like those in Crestwood, Illinois, that wonder whether the water caused cancer, kidney cancer, in a 30-year-old.

I reserve the balance of my time.

Mr. GIBBS. I wish to claim the time in opposition.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Thank you, Mr. Chairman.

By striking section 2 of the bill, this amendment would effectively gut much of the bill.

Section 2 of the bill would limit EPA from unilaterally changing approved State water quality standards and permitting decisions, or from withdrawing approval of a State water quality permitting program or limiting Federal financial assistance for the State water quality permitting program on the basis that the EPA disagrees with the State regarding a State water quality standard that EPA has approved.

By striking section 2 of the bill, this amendment would continue to allow this administration's EPA to impose one-size-fits-all Federal policies on the States' water quality programs.

We are not in favor of the EPA continuing their regulatory onslaught on the States. I urge all Members to oppose this amendment.

I reserve the balance of my time.

Ms. JACKSON LEE of Texas. I yield 1 minute to the distinguished gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank the gentlewoman from Texas for yield-

ing, and I also thank her for offering this amendment.

Mr. Chairman, I rise in support of the amendment.

The amendment would strike the provisions of the underlying bill that threaten existing Clean Water Act authority related to the discharge of pollutants under the act.

I oppose these provisions in the underlying bill, and I view this amendment as an effort to improve an otherwise very bad bill. On that basis I support the amendment.

Ms. JACKSON LEE of Texas. I thank the gentleman.

Is it my right to close, Mr. Chairman?

The CHAIR. The gentleman from Ohio has the right to close.

Ms. JACKSON LEE of Texas. I yield myself the balance of my time.

Let me refer my colleagues again to basic facts.

Forty-seven States have entered into agreements with the EPA because they have decided, in spite of the challenges that we all have on making sure that we do the right thing, that it is the right thing to do, that clean water is our priority. And I would offer as a viable picture a recollection of Americans who had to live through histories when water was not clean. We did have that era in our lifetime, or at least in the lifetimes of many. I would argue that that is not the life we would like to go back to.

This particular section is protecting us against pollutants that degrade surface water, rendering it unsafe for drinking, fishing, swimming, and other activities coming from a vast variety of chemicals, industry, and other sources. By regulating the sources that dispense these harmful pollutants, the EPA is able to ensure that all States have access to safe drinking water.

□ 1530

Do you want a jobs bill? Then you create the companies that are going to help us keep our waterways clean. Put people to work cleaning water. Put people to work complying with the right thing to do to ensure that we have clean drinking water, to ensure that babies and working moms and families can turn on that faucet, and to ensure that they can drink that clean water.

We want to work with industry. We want to be able to come halfway, but we don't want to return America to a time when you would dip down. You find in developing nations the enormous number of diseases that children have because they do not have clean water. Go to some of our developing nations. See what they're washing themselves in. See what they're drinking.

That's not America.

We have the opportunity to be the kind of nation that works with our businesses but also the kind that fights for our children and provides the opportunity for clean water. I ask my

colleagues to stand with us and to strike section 2 to allow us, one, to go for a compromise if we can, but also to stand for those who would welcome clean water. Let's end diseases that can be caused in this reckless manner.

I ask my colleagues to support the Jackson Lee amendment to support clean water in America.

Mr. Chair, I rise today in support of my amendment to H.R. 2018 the "Clean Water Cooperative Federalism Act of 2011," which ensures the Environmental Protection Agency (EPA) will continue to have authority to oversee issues related to the standards for and issuance of National Pollutant Discharge Elimination System (NPDES) permits.

My amendment will strike section 2 of the bill, ensuring the vital role played by the EPA in determining whether or not certain pollutants enter our waterways. Providing States with nearly unlimited authority to determine which pollutants can enter our waterways does not take into account issues that arise when States disagree.

The EPA is a unifying body, issuing regulations that ensure all States have standards that they must follow. Bodies of water cross State lines, and the water quality standards of one State are very likely to impact neighboring States.

The Clean Water Act (CWA) requires that all wastewater discharges to surface water receive a National Pollutant Discharge Elimination System (NPDES) permit. 47 States, including Texas, where I represent the 18th Congressional District, are currently authorized to issue NPDES permits. Texas has been authorized to issue these permits since September 14, 1998.

The pollutants that degrade surface water, rendering it unsafe for drinking, fishing, swimming, and other activities, come from a vast variety of chemicals, industry and other sources. By regulating the sources that disperse these harmful pollutants, the EPA is able to ensure that all States have access to safe water bodies.

It is important that the EPA be able to set a universal standard that all States follow. States may lack the resources and funding to adequately implement the NPDES program and properly regulate sources of water contaminants. Additionally, States may not have the resources or expertise needed to continually evaluate regulations in order to ensure that water remains safe.

Preventing the EPA from regulating the levels of pollutants in bodies of water may give jurisdiction over the issuance of permits to the States, but it certainly will not allow States to set their own standards for water quality. If the EPA is not able to set universal standards, downstream States will be subject to the water quality of upstream States. Contaminated groundwater will spread beyond State borders, impacting the lakes, reservoirs, and agriculture of nearby States, putting the people and the economy of its neighbors at risk.

In 1906, Missouri sued Illinois for discharging sewage into a tributary of the Mississippi River that ultimately rendered drinking water unsafe in Missouri. Restricting the EPA from holding all States to the same standards will inevitably lead to many suits of this nature.

I believe this bill sends us in the wrong direction when it comes to protecting our nation's bodies of water. This bill leaves a false

impression that the EPA is an organization that arbitrarily picks and chooses what chemicals States can and cannot permit to enter our precious waters. Rather, the EPA has a broad responsibility for research, standard-setting, monitoring, and enforcement with regard to five environmental hazards: air pollution, water pollution, solid waste disposal, radiation, and pesticides. The EPA represents a coordinated approach to each of these problems, including an important standard for clean water.

Mr. Chair, I strongly urge opposition to this bill.

I yield back the balance of my time.

Mr. GIBBS. Mr. Chairman, I just want to reemphasize and restate that the States are operating under an already approved plan from the U.S. EPA which addresses these concerns, so I don't see how we go backwards, because they're operating within the framework that was set up. By the way, under the Clean Water Act, that plan is reviewed every 3 years.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. JACKSON LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 3 OFFERED BY MRS. CAPITO

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 112-144.

Mrs. CAPITO. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:
SEC. 6. IMPACTS OF EPA REGULATORY ACTIVITY ON EMPLOYMENT AND ECONOMIC ACTIVITY.

(a) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOYMENT AND ECONOMIC ACTIVITY.—

(1) ANALYSIS.—Before taking a covered action, the Administrator shall analyze the impact, disaggregated by State, of the covered action on employment levels and economic activity, including estimated job losses and decreased economic activity.

(2) ECONOMIC MODELS.—

(A) IN GENERAL.—In carrying out paragraph (1), the Administrator shall utilize the best available economic models.

(B) ANNUAL GAO REPORT.—Not later than December 31st of each year, the Comptroller General of the United States shall submit to Congress a report on the economic models used by the Administrator to carry out this subsection.

(3) AVAILABILITY OF INFORMATION.—With respect to any covered action, the Administrator shall—

(A) post the analysis under paragraph (1) as a link on the main page of the public Internet Web site of the Environmental Protection Agency; and

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

(b) PUBLIC HEARINGS.—

(1) IN GENERAL.—If the Administrator concludes under subsection (a)(1) that a covered action will have more than a de minimis negative impact on employment levels or economic activity in a State, the Administrator shall hold a public hearing in each such State at least 30 days prior to the effective date of the covered action.

(2) TIME, LOCATION, AND SELECTION.—A public hearing required under paragraph (1) shall be held at a convenient time and location for impacted residents. In selecting a location for such a public hearing, the Administrator shall give priority to locations in the State that will experience the greatest number of job losses.

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

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COVERED ACTION.—The term "covered action" means any of the following actions taken by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1201 et seq.):

(A) Issuing a regulation, policy statement, guidance, response to a petition, or other requirement.

(B) Implementing a new or substantially altered program.

(3) MORE THAN A DE MINIMIS NEGATIVE IMPACT.—The term "more than a de minimis negative impact" means the following:

(A) With respect to employment levels, a loss of more than 100 jobs. Any offsetting job gains that result from the hypothetical creation of new jobs through new technologies or government employment may not be used in the job loss calculation.

(B) With respect to economic activity, a decrease in economic activity of more than \$1,000,000 over any calendar year. Any offsetting economic activity that results from the hypothetical creation of new economic activity through new technologies or government employment may not be used in the economic activity calculation.

The CHAIR. Pursuant to House Resolution 347, the gentlewoman from West Virginia (Mrs. CAPITO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from West Virginia.

Mrs. CAPITO. I would like to thank the chairman of my subcommittee, the gentleman from Ohio, for his leadership on this issue.

My amendment is a simple reaction to conversations that I've had with the administrator and others at the EPA and also with the President of the United States.

In questioning the President, I asked:

Mr. President, when you're going forth on your rules and regulations at the EPA, do you consider jobs and economic impact?

He said we should and I say we should, and that is the purpose of my amendment. This requires the EPA to analyze the impact on jobs and economic activity prior to issuing a regulation, policy statement, guidance, or

prior to implementing any new or substantially altered program under the Clean Water Act.

Earlier this year, the EPA retroactively vetoed a previously approved Clean Water Act permit in West Virginia at the Spruce Mine. This came as quite a surprise, and it was very unprecedented because I don't believe the EPA—if it has, it has been maybe once or twice in its history—has ever retroactively vetoed a permit. It had a very chilling effect not only on jobs but on the economic activity in our State. This action has caused a slow bleed of jobs throughout Appalachia. Reaching back to revoke a permit is particularly concerning because it causes great uncertainty for job creators in our State. This is at a time when we have as a Nation 9.2 percent unemployment.

We need to get people to work.

Why would a company invest in a new project that has been permitted when it would think that there would be a reach-back by the EPA under the Clean Water Act which could revoke this permit? To me, this just chills job creation in our State.

The EPA's ideological war on our energy producers is manifesting itself in other ways in my district and across the country. In the eastern part of West Virginia, the EPA—listen to this—is using aerial surveillance of family farms with the goal of ensuring compliance with the Clean Water Act. According to an article in a local newspaper, the EPA is going so far as to regulate the types of sheds that family farmers can have for their cattle operations. Yet, when asked about the economic impact of this kind of regulatory overreach, the EPA's representative made it clear that jobs are irrelevant.

As the Nation faces 9.2 percent unemployment and as hundreds of thousands of jobs hang in limbo, the administration has refused to reconsider this agenda. The negative impact of the regulatory actions upon jobs is obvious. However, the EPA has been unable to give me a straight answer on whether it does or does not consider the negative impact on jobs or economic impact.

So let's put it clearly in the law:

You must consider this to strike that balance between environment and economy.

All this amendment is asking for, quite simply, is transparency. It doesn't mandate what decision has to be made when considering what jobs or economic impact is discovered. It does say that, when jobs and economic impact are negative, the EPA has to go to the local governance authority, whether it's the Governor or the smaller community, and explain this action. So it's transparency. I think it will help further clarify decisions, but it will also help our energy producers figure out how to weave the balance between the economy and the environment.

In closing, I've heard a lot of talk about our collective goal of clean air

and clean water. We all share that—and no one more than everyone on the floor who is sitting here today and those of us across the country—but we cannot afford this continued unaccountable, nontransparent assault on our American jobs, so I urge my colleagues to support my amendment.

I reserve the balance of my time.

Mr. BISHOP of New York. I claim time in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. BISHOP of New York. We have heard a great deal of how reversals on the part of the EPA have caused uncertainty in the business community—uncertainty that leads to job loss, uncertainty that leads to a lack of interest in investing. Here are the numbers:

In 40 years, the EPA has reversed 13 permits—13—out of over 2 million issued. That is a veto rate of .00065 percent.

I fail to see how a reversal rate of significantly less than 1 percent can create the kind of uncertainty that we hear about from our colleagues. In fact, that kind of reversal rate encourages a reliance on the legitimacy and the validity of a permit granted, not the questioning of it.

I would also point out that, of these 13 reversals, seven took place under the administration of President Reagan; four took place under the Presidency of the first George Bush; one under George W. Bush; and one under President Obama. I think we are hard-pressed to develop a fact-based argument that there is an assault or that there is an overreach on the part of the EPA.

Now, with respect to the subject of the amendment, itself, the EPA has testified before the Water Resources and Environment Subcommittee that it already considers the implications of its actions on jobs and on the economy. In fact, many of the requirements that bring the EPA to do that were enacted by the Republican majority when they last controlled the House. I would suggest that the enactment of this amendment will only duplicate the analysis that the EPA is already undertaking.

As a result, I fear that this amendment will only increase the opportunity for litigation relating to actions on the part of the EPA, causing a new cause of action in the Clean Water Act for third-party lawsuits. If anything, I fear that the effect of this amendment will be to tie up efforts by the EPA to protect public health and the environment in a bureaucratic morass.

On that basis, I urge my colleagues to oppose this amendment.

I reserve the balance of my time.

Mrs. CAPITO. I would just like to quickly respond in terms of the revocation of the one permit. Let's talk about the hundreds of permits that are sitting at the EPA, and try to figure out how to meet the balance here.

□ 1540

Let's look at the total picture—that's all I'm saying—of jobs and the environment.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GIBBS).

Mr. GIBBS. I urge Members to support Mrs. CAPITO's amendment. Her amendment would bring transparency to the development of regulations and require the EPA to provide a more robust analysis of the economic impacts of its regulatory actions.

This will not halt the issuance of regulations, only provide better information to those who are responsible for writing the regulations, in this case the EPA. I think we can all agree the EPA could have better information to utilize to make better regulatory decisions.

I am concerned, as I believe the Administrator of the U.S. EPA has testified, that their main concern, when they look at a regulatory issue, is public health and safety of the environment, and they don't do any cost-benefit analysis and diminishing returns and all that.

I urge support of the amendment.

Mr. BISHOP of New York. Mr. Chairman, may I inquire as to how much time I have remaining.

The CHAIR. The gentleman from New York has 2½ minutes.

Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the ranking member, the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. I thank the gentleman from New York for yielding.

I rise in support of the gentledady from West Virginia's amendment; let me state that at the very beginning. My only concerns here were attaching an economic analysis amendment to the pending legislation which is directed at the Clean Water Act interpretations.

The pending amendment by the gentledady from West Virginia—which as I say, I support—would appear to me to more broaden the direction in which this bill goes, which I think detracts from the original intent of the legislation to zero in on clean water issues.

The gentledady's amendment should be properly—I believe it is—the subject of another stand-alone bill that's been introduced in this body to judge the economic analysis. That legislation I support as well. I might add, in addition, that I brought this issue up with Cass Sunstein, who is the head of the White House Office of Regulatory Review, whose job it is to determine and to examine the economic analysis of regulations that come out of the Federal agencies. That is the White House Office of Regulatory Review's jurisdiction, not EPA's jurisdiction, as the gentledady has paraphrased the EPA administrator; and as we've all heard her say, job repercussions is not necessarily part of her job description.

The unfortunate fact is that the Office of Regulatory Review under the White House jurisdiction has very limited staff and does not have the staff availability to examine the economic analysis of every regulation that comes out of every agency of our Federal Government, which they are tasked to do,

but certainly don't have the resources to fully do their job.

So the bottom line, I do support the gentlelady's amendment. I do worry that it overly broadens this particular piece of legislation and should be properly, as it is, the subject of a separate stand-alone legislation on its own.

The CHAIR. The gentlewoman from West Virginia has 15 seconds remaining.

Mrs. CAPITO. I want to thank my colleague from West Virginia for his support because he and I are seeing firsthand—we want to see transparency; we want to see the information move forward on the economic impact. We are at a place where we need jobs, we want jobs, we just want to see the facts.

Mr. Chairman, I yield back the balance of my time, and I urge support of my amendment.

Mr. BISHOP of New York. Mr. Chairman, for the reasons I have cited, I urge my colleagues to vote “no” on this amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from West Virginia (Mrs. CAPITO).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from West Virginia will be postponed.

AMENDMENT NO. 4 OFFERED BY MS. HANABUSA

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 112-144.

Ms. HANABUSA. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:
SEC. 6. REPORTING ON HARMFUL POLLUTANTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report on any increase in waterborne pathogenic microorganisms (including protozoa, viruses, bacteria, and parasites), toxic chemicals, or toxic metals (such as lead and mercury) in waters regulated by a State under the provisions of this Act, including the amendments made by this Act.

The CHAIR. Pursuant to House Resolution 347, the gentlewoman from Hawaii (Ms. HANABUSA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Hawaii.

Ms. HANABUSA. Mr. Chair, this amendment simply seeks from the Administrator of the EPA to submit to Congress within 1 year, and then annually thereafter, a report on any increase in waterborne pathogenic microorganisms, which include protozoa, viruses, bacteria and parasites, toxic

chemicals or toxic metals, such as lead and mercury, in waters regulated by the State under the provisions of H.R. 2018, including any further amendments to this bill.

Mr. Chair, there is nothing as important to all of us, especially for those of us in Hawaii, as water quality. We are the only island State, and of course our pristine waters are very critical to us for our major economic engine, which is tourism. And I don't believe it's any different for any other State, especially those of us who have bordering oceans, and even those who may have navigable streams within our borders. Water is critical.

What H.R. 2018 does is it simply states that the States now have the right to regulate water quality. By doing that, however, we need to know what they're doing and to ensure for all of us and our constituents that the States are doing a good job. All this amendment is seeking from the States is for the EPA to report to us so we can know if in fact they're doing what this bill gives them the authority to do, which is to make the decisions regarding water quality.

For that reason, Mr. Chair, I ask for the support of this amendment.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. The Hanabusa amendment authorizes the EPA to study the effectiveness of cooperative federalism once H.R. 2018 is enacted.

While the amendment seems to carry a bias in that the EPA can only report an increase of pathogens or toxins, and not reductions, after enactment of H.R. 2018, the EPA will have very little to report upon.

H.R. 2018 will lead to better water quality decisions made at the local level, and this will benefit the environment for all of us. If H.R. 2018 would lead to water quality degradation, none of us in this Chamber would support it if that were the case.

Noting the bias in the amendment, if the sponsor would like to ask for a unanimous consent request to modify her amendment to modify line 5 after “increase” by adding the phrase “or reductions,” we then would be able to accept the amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. HANABUSA. Mr. Chair, I would accept the modification. However, I would also like to yield 1 minute to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank the gentlelady for yielding, and I thank her for offering this amendment.

I just want to simply say, as I've made clear, I do not support the underlying legislation, but this is a very prudent amendment that allows us to assess as we go forward whether or not this proposed law is in the best interests of our Nation's clean water and in

the interests of our Nation's health. So I commend the gentlelady for offering the amendment, and I am very happy to hear that this may be accepted.

Mr. GIBBS. I continue to reserve the balance of my time.

Ms. HANABUSA. Mr. Chair, I understand with our agreement to their modification, that they will accept the amendment.

With that, I yield back the balance of my time.

Mr. GIBBS. With the modification, I think this is a good amendment. I want to commend my colleague for offering it because I think we will get an accurate report from the EPA when they do their study on whether we're making progress because of H.R. 2018 or if we're going backwards. So I think it's important to have this amendment modified to provide those words “or reductions.”

Mr. Chairman, I yield back the balance of my time.

□ 1550

MODIFICATION TO AMENDMENT NO. 4

Ms. HANABUSA. Mr. Chair, I ask unanimous consent to modify the amendment.

The CHAIR. The Clerk will report the modification.

The Clerk read as follows:

On line 5, insert “or reduction” after “increase”.

The CHAIR. Is there objection to the modification?

Without objection, the modification is agreed to.

There was no objection.

The CHAIR. The question is on the amendment, as modified, offered by the gentlewoman from Hawaii (Ms. HANABUSA).

The amendment, as modified, was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. POLIS

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 112-144.

Mr. POLIS. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:
SEC. 6. PERMIT HOLDERS IN SIGNIFICANT NON-COMPLIANCE.

None of the provisions of this Act, including the amendments made by this Act, shall apply to any permit holder that is listed by the Administrator of the Environmental Protection Agency as being in significant noncompliance with any requirement of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

The CHAIR. Pursuant to House Resolution 347, the gentleman from Colorado (Mr. POLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. POLIS. Mr. Chair, our country's worst polluters don't deserve a get out of jail free card. I think that's an unintended consequence of the current language of the bill, absent this amendment. And I encourage my colleagues

on both sides of the aisle to adopt this amendment.

Regardless of one's position on the underlying bill, one thing I hope we can all agree on is that the most egregious polluters—these are polluters that Republican and Democratic State administrations, Republican and Democratic experts agree are the most egregious polluters, those who simply disregard the law knowingly, those who repeatedly ignore State regulation, are bad actors and they should not be among those who benefit from this bill. The States deserve to have the EPA back them up and help them keep tabs on these polluters who continually violate State rules.

Unfortunately, the vast majority of these polluters have escaped not only punishment but simply increased scrutiny. Polluters that continually violate the law are classified as "significant noncompliance." That's the term that's used. This classification simply puts these polluters under a greater microscope by the EPA. It doesn't change authorities. It doesn't engender some new regulatory scheme. It simply ensures that the EPA is keeping a close eye on them and ensuring that State programs are being followed.

Again, I believe it's a piece of this that's outside of this larger State versus Federal debate. It's one that is consistent with supporting States' regulation of the most egregious infractors.

States simply don't have the resources to keep our waters safe on their own. According to a 2009 New York Times investigation, State officials attribute rising pollution rates to increased workloads and dwindling resources. In 46 States, local regulators already have primary responsibility for crucial aspects of the Clean Water Act. The job needed to protect our health is simply too big for State regulators alone.

One notable example of significant noncompliance is from the Bush administration between 2001 and 2006. The Bush administration found that Massey Energy, the same company responsible for the Big Branch Mine Disaster, had accrued over 2,000 significant violations, and the State did not have the resources to hold them accountable. Under significant noncompliance, the Bush administration was able to more closely watch Massey and ensure they followed State rules.

Again, in its current form, this bill offers these most extreme polluters a get out of jail free card, unraveling the EPA's long history of backing up State authority and successfully and reasonably keeping these major polluters in check. My amendment very simply states that the EPA can keep a closer eye—that's all, a closer eye—on the most extreme violators of the law, polluters who are habitually out of compliance or significant noncompliance.

Without my amendment, this bill would mean that our Nation's worst offenders would be free from EPA scru-

tiny, with sole authority being new, less organized, and naive State programs ripe for loopholes and some of which simply don't have the scale to adequately regulate what's at stake.

Mr. Chair, if a student is disruptive in class, it's only common sense they go to the principal's office. That doesn't mean the teacher doesn't have autonomy in the class or the troubled student doesn't respect the teacher. They need to know there are greater consequences for bad behavior.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition.

The CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. The gentleman from Colorado seems to suggest that States would continue to allow polluters to pollute waters of their States under H.R. 2018 unless this amendment is adopted. Nothing could be further from the truth. If H.R. 2018 degraded water quality, none of us would support this legislation.

I also question the implementation of the amendment. If you had a permit holder who is in significant noncompliance, does that negate water quality provisions for the water body the permit holder may be polluting? Of course not. Nothing in H.R. 2018 allows a permit holder to violate the terms of a permit.

I urge all Members to oppose the Polis amendment.

I reserve the balance of my time.

Mr. POLIS. I yield 1 minute to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank the gentleman from Colorado for yielding, and I thank the gentleman for offering this, I think, very well thought-out and well-conceived amendment.

I support the amendment offered by the gentleman because it suggests that the most appropriate place for retaining Federal oversight is against polluters who have a track record on the most serious violations of the Clean Water Act, those found to be in significant noncompliance; and, thus, the retention of a Federal oversight role I think is very wise.

And let me just amplify that. In September of 2009, The New York Times ran a front-page story highlighting that, from 2004 to 2008, 506,000 violations of the Clean Water Act were reported for both major and minor facilities; and during that time, the States only took 11,000 enforcement actions, or what is basically a 2 percent enforcement rate. We need to have the Federal Government retain its oversight role. This amendment would do that.

I urge my colleagues to support it.

Mr. GIBBS. I just want to reemphasize that if there is a permit holder in violation, the States have an obligation and a responsibility to step in and take action and enforcement. If they probably didn't, I'm sure that there's some organization that would file a lawsuit against that EPA.

So I don't think this amendment does anything to help the bill. I think the bill takes care of it, and the people who would be in violation would be prosecuted under the law.

I yield back the balance of my time.

Mr. POLIS. Mr. Chair, I don't agree with what the gentleman from Ohio said. I don't believe that this should be yet another unfunded mandate on the States.

While the number of unregulated facilities has more than doubled in the last decade, many State enforcement budgets have been flat when adjusted for inflation. In New York, for example, the number of regulated polluters has almost doubled in the last decade, but the number of inspections have remained the same.

Again, my amendment gives the State the ability to send habitual bad actors to the EPA, not for the worst punishment, not for some change in authority, not for some overreach, but simply for closer scrutiny. My amendment does not affect punishment. It simply allows the EPA to keep a close eye on the frequent violator in support of the State, as is the practice with significant noncompliance.

I encourage my colleagues on both sides of the aisle to support this amendment to ensure that the worst violators are properly inspected in support of State regulation.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. POLIS).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. GIBBS. Mr. Chairman, I ask for a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. CONNOLLY OF VIRGINIA

The CHAIR. It is now in order to consider amendment No. 6 printed in House Report 112-144.

Mr. CONNOLLY of Virginia. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 6. PROTECTION OF WATERS RECEIVING FEDERAL ASSISTANCE.

None of the provisions of this Act, including the amendments made by this Act, shall apply to waters for which Federal funding is provided for restoration projects, studies, pilot projects, or development of total maximum daily loads, as determined by the Administrator of the Environmental Protection Agency.

The CHAIR. Pursuant to House Resolution 347, the gentleman from Virginia (Mr. CONNOLLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. CONNOLLY of Virginia. Mr. Chairman, I would be remiss if I failed

to note the irony of the legislation before us today. After 7 months of ranting and raving about the lack of regulatory certainty which causes economic stagnation, the Republican majority is now attempting to pass a bill which would replace a clear, predictable, national clean water standard with an utterly unpredictable patchwork of State standards. Chaos does not federalism make, nor is one State's ability to sully a downstream State's waters consistent with the commerce clause of the United States Constitution.

□ 1600

This legislation, with the Orwellian title the Clean Water Cooperative Federalism Act, would endanger watersheds all across America, including the precious Chesapeake Bay in our region here in the National Capital Region. As my colleagues are aware, the bay watershed encompasses six States and the District of Columbia.

Logically, the Environmental Protection Agency, the Department of Agriculture, the National Oceanographic and Atmospheric Association, the U.S. Geological Survey, and other agencies work in tandem with States throughout the watershed to reduce pollution entering the bay. Since watersheds do not correspond easily to State lines, this kind of interagency cooperation is essential and efficient to restore America's largest estuary.

H.R. 2018 would unravel that partnership, balkanizing water policy and undermining bay restoration. I have drafted a simple amendment, Mr. Chairman, to exempt watersheds like the Chesapeake Bay from this bill by limiting the bill's jurisdiction to watersheds which do not receive Federal aid for watershed restoration and related activities. This amendment would allow critical efforts, such as the restoration of the bay, Long Island Sound, the Great Lakes, Puget Sound, Gulf of Mexico, San Francisco Bay, and other great waters to continue. It would acknowledge the undeniable fact that water does not stop when it reaches the State line.

This amendment is important because these great waters are an integral part of our American heritage. The Chesapeake Bay was where John Smith arrived and founded Jamestown. The first colonial exploration of Virginia, also by John Smith, used the bay to explore the rivers of Virginia and Maryland. The Chesapeake is home to the French blockade of the British Navy, which enabled George Washington to have victory at Yorktown and a successful conclusion to the Revolutionary War.

For 200 years the Chesapeake Bay was one of America's most productive fisheries, fueling the growth of coastal communities such as Alexandria, Norfolk, and Baltimore, as well as an indigenous fleet of boats such as the skipjacks, deadrisers, and bugeyes.

Unfortunately, development and overfishing wiped out many of the fish-

eries that were once so productive. When John Smith arrived in the bay, his crew had neglected to bring fishing line, but they were able to pull fish out of the bay by scooping them out of the water. Smith wrote that the oysters on the bay floor lay thick as stones and were so prolific that these filter feeders cleaned the entire volume of the bay daily. The shad runs up the James, Rappahannock, and Potomac Rivers were so immense that colonial observers noted it would have been possible to walk all the way from the James from Richmond to Manchester on the backs of fish without ever touching water.

These fish were so large and powerful that, when caught, they actually shook the first Manchester Bridge on its piers. Of course, the bay is part of a much larger watershed now that is as historic ecologically as the bay is itself.

To restore this great water body, many Federal agencies have been working in partnership with States, localities, and landowners. As written, H.R. 2018 would rupture that partnership, effectively giving any one State veto authority over the region's restoration efforts. My simple amendment would protect our ability to keep working together as a region to restore the bay.

This regional effort was first started at the Federal level by a Republican, my old friend, Republican U.S. Senator Charles "Mac" Mathias of Maryland. To the extent we are making progress today, it's a result of the partnership between Virginia, whose general assembly is investing over \$100 million annually in private land conservation, a Republican-led initiative that was expanded under a Democratic Governor. Let us not turn our backs on this 30-year partnership.

I ask for your support for this commonsense amendment to continue the improvements to America's largest and most historic estuary, as well as our Nation's other great waters.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition to the amendment.

The Acting CHAIR (Mr. McCLINTOCK). The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. The Connolly amendment says that the underlying bill will not apply to any waters for which Federal funding is provided. This would have an effect of realigning Federal funding for projects and subject States with waters for which Federal funding is provided to greater EPA imposition of Federal one-size-fits-all policies.

As drafted, the scope of the Federal funding intended to be covered under this amendment is unclear, but could be interpreted to be almost limitless in coverage. As a result, this amendment would allow EPA to determine that the amendment applies to virtually all waters, with the consequent effect of nullifying the underlying bill.

Rather than nullifying this legislation, I would rather the gentleman from Virginia join those of us who think it would be more productive to ease the burden of unnecessary regulations and provide the States more authority in carrying out the Clean Water Act. I urge all Members to oppose the Connolly amendment.

I reserve the balance of my time.

Mr. CONNOLLY of Virginia. I yield myself the balance of my time.

The Acting CHAIR. The gentleman is recognized for 30 seconds.

Mr. CONNOLLY of Virginia. Let me say to my friend who is managing on the majority side, I spent 14 years in local government. We don't consider the Federal involvement in cleaning up the bay an undue burden. We actually consider it a partnership that has paid off big time, and we need more of it.

SUPPORT THE CONNOLLY AMENDMENT TO H.R. 2018

Protect these Great Waters: Great Lakes, Chesapeake Bay, Long Island Sound, South Florida/Everglades, Mississippi River Basin, San Francisco Bay, Gulf of Mexico, Lake Champlain, Puget Sound, Casco Bay (ME), New Hampshire Estuaries, Massachusetts Bays, Buzzards Bay, Narragansett Bay, Peconic Estuary, New York/NJ Harbor, Bernegat Bay, Delaware Inland Bays, Maryland Coastal Bays, Southeast Coast, Albermarle-Pamlico Sound, Indian River Lagoon, Gulf Coast, Charlotte Harbor, Sarasota Bay, Tampa Bay, Mobile Bay, Batarala-Terrebonne Estuary, Galveston Bay, Coastal Bend Bay, West Coast, Lower Columbia River, Tillamook Bay, Morro Bay

DEAR COLLEAGUE, many of us have worked in collaboration with partners at the state and local level to protect great waters like the Chesapeake Bay, Great Lakes, Everglades, Lake Champlain, Long Island Sound, San Francisco Bay, Puget Sound, Mississippi Basin, and the Gulf of Mexico.

I have drafted a simple amendment to exempt these watersheds and others that receive federal restoration funding from H.R. 2018. This amendment would allow critical efforts such as restoration to continue in acknowledgement of the undeniable fact that water does not stop when it reaches a state line. A more complete list of watersheds that would be protected by this amendment can be found at the end of this letter.

This amendment is important because these great waters are an integral part of our American heritage. The Chesapeake Bay, for example, was where John Smith arrived and founded Jamestown. The first colonial exploration of Virginia, also by John Smith, used the Bay to explore the rivers of Virginia and Maryland. The Chesapeake is home to the French blockade of the British Navy, which enabled George Washington's victory at Yorktown and a successful conclusion to the Revolutionary War. For two hundred years the Chesapeake was one of America's most productive fisheries, fueling the growth of coastal communities such as Alexandria, Norfolk, and Baltimore, as well as an indigenous fleet of boats such as the Skipjacks, Deadrisers, and Bugeyes.

Unfortunately, development and overfishing wiped out many of the fisheries that were once so productive. When John Smith arrived in the Bay, his crew had neglected to bring fishing line, but they were able to pull fish out of the Bay by scooping them out of the water with frying pans. Smith wrote that the oysters on the Bay floor "lay thick as stones" and were so prolific that these filter

feeders cleaned the whole volume of the Bay daily. The shad runs up the James, Rappahannock, and Potomac were so immense that colonial observers noted it would have been possible to walk across the James from Richmond to Manchester on the backs of fish without ever touching water. These fish were so large and powerful that, when caught, they shook the first Manchester Bridge on its moorings. Of course, the Bay is part of a much larger watershed that is as historic and ecologically valuable as the Bay itself.

To restore this great water body many federal agencies have been working in partnership with states, localities, and land owners. As written, H.R. 2018 would rupture that partnership, effectively giving any one state veto authority over the region's Bay restoration efforts. This important amendment would protect our ability to keep working together as a region to restore the Bay and other great waters across America.

Please support this amendment and contact zack.fields@mail.house.gov (3-3122) with any questions.

Sincerely,

GERALD E. CONNOLLY,
11th District, Virginia.

Watersheds and States that would be protected from H.R. 2018:

Great Lakes—NY, PA, OH, IL, IN, MN, WI, MI

Chesapeake Bay—NY, PA, MD, DE, VA, WV

Long Island Sound—CT, NY, RI

South Florida/Everglades—FL

Mississippi River Basin—MN, ND, SD, WY, CO, NM, TX, OK, KS, NE, AR, LA, MS, TN, AL, GA, KS, IN, IL, WI, MN, IA, OH, PA, NY, NC

San Francisco Bay—CA, OR, NV

Gulf of Mexico—TX, LA, FL, AL, MS

Lake Champlain—NY, VT

Puget Sound—WA

National Estuary Programs:

Casco Bay—ME

New Hampshire Estuaries—NH

Massachusetts Bays—MA

Buzzards Bay—MA, RI

Naragansett Bay—MA, RI

Peconic Estuary—NY

New York/NJ Harbor—NY, NJ

Bernegat Bay—NJ

Delaware Inland Bays—NJ, DE, PA, MD

Inland Bays—DE

Maryland Coastal Bays—MD

Albermarle-Pamlico Sound—NC, VA

Indian River Lagoon—FL

Charlotte Harbor—FL

Sarasota Bay—FL

Tampa Bay—FL

Mobile Bay—AL

Batarala-Terrebonne Estuary—LA

Galveston Bay—TX

Coastal Bend Bay—TX

Lower Columbia River—WA, OR

Tillamook Bay—OR

Morro Bay—CA

Ms. SLAUGHTER. Mr. Chair, I rise today in strong support of the Connolly Amendment to H.R. 2018, Clean Water Cooperative Federalism Act and stand in strong opposition to the underlying bill. H.R. 2018 is yet another attempt to dismantle our nation's environmental protections and further jeopardize the public health and safety of our citizens.

Simply put, H.R. 2018 would return the U.S. to a structure of Clean Water laws that existed before enactment of the Clean Water Act of 1972 by undermining the Environmental Protection Agency's ability to assure state water quality standards. Before the Clean Water Act of 1972, 70 percent of our nation's waters were unsafe for fishing, swimming, or drinking.

This amendment, offered by my colleague from Virginia, would exempt states that re-

ceive federal restoration funding from H.R. 2018. It understands that ongoing cooperation among federal, state and local governments is necessary to ensure that basic water quality standards are upheld across the United States, regardless of which state you reside in.

This amendment also recognizes that our Federal Government has spent billions of dollars on regional collaborative efforts among states to repair and restore our nation's valuable waterways, and that this bill, H.R. 2018, threatens to nullify these efforts and write off valuable investment already undertaken by effectively giving any one state veto authority over a region's restoration efforts.

As a co-chair of the House Great Lakes Task Force, a bipartisan working group of members from eight states surrounding the Great Lakes, I understand how critical it is for our states to work together to save our nation's valuable waterways and that this co-operation must be guided by the underlying premise that water does not stop when it reaches the state line. The Great Lakes have received over \$800 million in federal funding over the last two years alone to undertake such restoration efforts. We must not let these efforts and our valuable nation resources go to waste.

I strongly urge my colleagues to support this amendment and oppose H.R. 2018.

Mr. MORAN. Mr. Chair, I rise in support of the amendment by my colleague from Virginia and against this bad bill.

I am troubled that the bill we are considering today seems to move us backwards to a time when some advocated states should reign supreme and could opt out of federal laws.

We tried that system of government, it was called the Articles of Confederation, and it failed miserably.

Each state did its own thing, and there was no mechanism by which disagreements among the states could be resolved.

The issue today is whether states can opt out or even veto tougher, more stringent water quality standards to protect the public's health.

This bill returns us to a time when we had no uniform national minimum clean water standard and states had conflicting policies or no policies to protect the public.

That was a time when rivers were so polluted they caught fire.

The problem with this reasoning and with this bill is that responsible downstream states suffered the consequences of lax or weak upstream states' policies.

I am sure my colleagues, who seem so enamored with this proposition and this legislation, would raise objections if we were to apply a similar proposal to our immigration policy.

Employing this same logic, states would be granted full rights to disregard federal immigration policies and opt-out or set a different policy on which immigrants to accept or reject.

Water, like immigrants, crosses state lines; and immigrants like water should be governed by a single national standard.

The landmark Clean Water Act provides states full flexibility for meeting the federal standards, and it also allows states flexibility to set higher standards.

The amendment my colleague from Virginia is offering would at least allow Virginia and the other states that are part of the Chesapeake Bay watershed and some of this nation's other

great bodies of water—waters that are the primary source of millions of Americans' economic livelihood and drinking water—to proceed with their plans to reduce harmful pollutants that threaten to degrade these great waters and allow current restoration measures to proceed.

Mr. CONNOLLY of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. GIBBS. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CONNOLLY of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 112-144.

AMENDMENT NO. 8 OFFERED BY MR. COHEN

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in House Report 112-144.

Mr. COHEN. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 6. PIPELINES CROSSING STREAMBEDS.

None of the provisions of this Act, including the amendments made by this Act, shall be construed to limit the authority of the Administrator of the Environmental Protection Agency, as in effect on the day before the date of enactment of this Act, to regulate a pipeline that crosses a streambed.

The Acting CHAIR. Pursuant to House Resolution 347, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. Mr. Chairman, while on this 4th of July most Americans were partaking in American pastimes like barbecuing and watching ball games, Montanans were immersed in a new American tradition, unfortunately, cleaning up an oil spill. In this case, Montanans were working, and are still working, feverishly to clean up a 40,000 gallon leak from ExxonMobil's Silvertip pipeline, a spill that's having a devastating impact on the residents, economy, and environment in the State of Montana.

As written, this legislation opens the door for more destructive events like the Yellowstone spill. This is why I proposed a simple, zero-cost amendment that will resolve this issue and continue protecting the American people, its environment, our economy, our water system from the harmful effects of pipeline spills.

The investigation into the Yellowstone spill has made it clear that the

spill occurred because the pipeline was not buried deep enough below the streambed. Having only been buried 5 feet below the river, years of the Yellowstone River's powerful flow removed much of the sediment covering the pipeline to the point where the pipeline was directly exposed. Once exposed, the pipeline was weakened by the elements rapidly moving down the Yellowstone River.

In order to bury a pipeline beneath a streambed, the company building the pipeline often has to rely upon and apply to the Corps of Engineers for a permit to dredge and fill. While the Corps has the authority to issue the permit, EPA has the ability to exercise oversight and ensure that the pipeline is sited safely and buried appropriately. This oversight authority is an effective, nonburdensome safety feature of the permitting process that serves as a backstop to Federal and State regulators and protects the health and safety of the American people.

All this amendment does is ensure that this bill does not prevent the Environmental Protection Agency from exercising this authority. It does not create a new permitting requirement or process. Historically, the siting of pipelines has not been an issue where the Federal Government has exercised much oversight. And this amendment does not call for enhanced oversight, create a new process, or require anything more from pipeline owners or builders. Rather, it simply preserves the existing right of the Environmental Protection Agency to exercise oversight in egregious cases.

Every piece of oil infrastructure, whether it's a pipeline or a drill rig, has backup safety features that are critical to ensure the safe operation of the infrastructure. Those safety backups, like the dead man switch on a drill rig, only function when the first set of safety features fail. The EPA's oversight of the Corps' dredge and fill permits for pipelines is just like the dead man's switch on an oil rig. It is only there as a backup protection in case the Corps might fail.

And if the oil industry uses layer upon layer of backup safety systems, why should the Federal Government not do the same? We are the ultimate protector of the water of our people. With the demand for oil in the United States increasing, more and more pipelines are being proposed. Many of these pipelines will cross economically critical, environmentally sensitive bodies of water like the Yellowstone River. Significant pipeline spills like the million gallon Enbridge pipeline spill last year in Michigan are serious events that have real implications for real people. Just ask the citizens of Kalamazoo, Michigan, who almost a year later are recovering from that spill.

□ 1610

In order to avoid similar tragedies in the future, the Federal Government

needs to retain the existing protections built into the permitting process. This amendment does that by just maintaining EPA's existing authority to protect the American people and ensure their waters are not contaminated.

I urge passage of this important safety amendment, which will ensure that our Nation's pipelines are as consistent and as safe and reliable as Old Faithful, which resides in Yellowstone Park and whose river is being threatened, and I ask for support.

I yield back the balance of my time.
Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition, although I am not opposed.

The Acting CHAIR. Without objection, the gentleman from Ohio is recognized for 5 minutes.

There was no objection.

Mr. GIBBS. EPA's role in regulating pipelines is minimal as compared to the role of other agencies. This bill would have little effect on regulating pipelines. Therefore, we can accept this amendment.

Mr. COHEN. If the gentleman will yield, I thank the gentleman for accepting the amendment.

Mr. GIBBS. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. BLUMENAUER

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in House Report 112-144.

Mr. BLUMENAUER. Mr. Chairman, as the designee of the gentleman from Massachusetts (Mr. MARKEY), I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:
SEC. 6. PROTECTION OF WATERS PROVIDING CERTAIN BENEFITS.

None of the provisions of this Act, including the amendments made by this Act, shall apply to waters that, as determined by the Administrator of the Environmental Protection Agency—

- (1) provide flood protection for communities;
- (2) are a valuable fish and wildlife habitat that provides benefits to the economy; or
- (3) are coastal recreational waters.

The Acting CHAIR. Pursuant to House Resolution 347, the gentleman from Oregon (Mr. BLUMENAUER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. BLUMENAUER. I yield myself 3 minutes.

This amendment ensures protection for waters and wetlands that provide flood protection or economically valuable habitats for our coastal recreation waters.

Healthy streams and wetlands provide vital public benefits for flood pro-

tection, commerce and public health. As there is an effort on the part of my friends on the other side of the aisle to eliminate these critical protections, it's important to keep that in mind.

Pollution destroys habitat and cripples local fishing and tourism. There has been talk about economic development.

Well, it costs money to deal with treating polluted waters. There are 40 million recreational anglers in America that generate \$125 billion in economic output, including \$45 billion in retail sales and pay \$16.4 billion in State and Federal taxes.

The sport supports over 1 million American jobs right here in the United States. And when a wetland is filled with sediment or drained, it can no longer protect towns from devastating floods.

We have had witness over the last couple of years of this devastating impact. An acre of wetland provides more than \$10,000 per person in public benefits. If you lose 1 percent of a watershed's wetland, it can increase flood volume by almost 7 percent. These are nature's sponges that we need to protect.

It's also important to point out that not all States protect the quality of their water. Some States just simply don't care as much as other States; some States are not as capable of protecting it.

In those States where protection is lax, the EPA must have the authority to step in to protect the economy, the environment, and human welfare for residents in that State as well as the States that are downstream that would also be affected. We shouldn't have Americans held hostage to the lowest common denominator of people who are simply not going to maintain the standards.

This amendment preserves that authority for the EPA to protect communities who rely on water for fishing and other economic benefits, along with wetlands that create vital flood protection.

Mr. Chairman, the American public strongly supports clean water. This has been one of the most popular pieces of legislation since it was enacted in the Nixon administration. It, until now, has had pretty broad bipartisan support.

The legislation here represents the most aggressive attack on it, in my memory, in 15 years in Congress. My amendment, at least, would clarify this particular item.

I urge its adoption.

I reserve the balance of my time.

Mr. GIBBS. I wish to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Mr. Chairman, I must strongly oppose this amendment because it basically aims to gut the underlying bill.

This amendment is designed to ensure that the EPA can continue to unilaterally force its own one-size-fits-all

Federal policies onto the States' water quality programs.

The underlying bill, H.R. 2018, reestablishes the States' balanced role in carrying out the provisions of the Clean Water Act; but this amendment, in effect, says that the underlying bill will not apply virtually anywhere the Clean Water Act applies.

Implicitly, this amendment also says that the States cannot be trusted in protecting the quality of their waters and the health of their citizens, and the Federal Government knows best.

Once States have approved clean water programs, they are capable of administering their programs and caring for the welfare of their citizens. EPA needs to be more respectful of the decisions made by the States in those circumstances.

H.R. 2018 is a good bill that restores balance to an out-of-control U.S. EPA. The intent of this amendment is to make the bill completely unworkable. I would also add that I think that the Clean Water Act has worked until now when the States have been usurped of their authority and ability to enforce the State and Federal EPA environmental laws.

I urge all Members to oppose this amendment.

I reserve the balance of my time.

The Acting CHAIR. The gentleman from Oregon has 2 minutes remaining.

Mr. BLUMENAUER. Mr. Chairman, I would yield 1 minute to my friend and colleague from Oregon (Mr. DEFAZIO), a gentleman who deeply understands the importance of this amendment.

Mr. DEFAZIO. Well, the gentleman that just preceded me said this would gut this bill. He is right, it would gut this bill which deserves to be gutted.

This bill would take us back to pre-Clean Water Act standards. He says, oh, the States, if they have standards, shouldn't be bothered by the EPA. Well, this bill says if a State has adopted standards on paper, but they choose not to enforce them and they are out of compliance, the EPA can take no action.

It further says that if we discover a new harmful pollutant, as we did recently when we upgraded the standards for arsenic, most of us don't want our kids drinking arsenic in the water. The EPA cannot enforce new national standards if we discover a new dangerous pollutant unless the State agrees. It's optional; it's up to the State.

And then, of course, if you happen to be a State downstream from a State that is choosing to kind of stick it to its own people by not adopting the highest standards, or not even enforcing their existing standards, you are downstream, you don't have any choice. You have no recourse.

This bill is absurd in terms of the fact that it is just designed to totally gut the Clean Water Act and turn back the clock to the good old days when we had rivers that burned.

Mr. GIBBS. I continue to reserve the balance of my time.

Mr. BLUMENAUER. I yield the balance of my time to the distinguished gentleman from Long Island, New York (Mr. BISHOP), who has some experience with problems of water pollution and erosion.

The Acting CHAIR. The gentleman from New York is recognized for 1 minute.

Mr. BISHOP of New York. I thank the gentleman for yielding, and I thank the gentleman for offering this amendment, along with Mr. MARKEY and Mr. DEFAZIO.

Mr. Chairman, if H.R. 2018 were enacted as drafted, it would restrict the EPA's ability to protect the Nation's waters from pollution. As we know, if pollution is allowed to increase due to the dueling interests of States, many sources of clean drinking water would be imperiled, valuable fish and wildlife habitat would be endangered and coastal recreational waters, like the shores of my Long Island, would be at risk, along with all the economic benefits these resources provide.

The Markey-DeFazio-Blumenauer amendment simply restricts the provisions of this bill from endangering waters that provide flood protection for communities, our valuable fish and wildlife habitat or our coastal recreational waters that are the backbone of my district's economy. In fact, my district will face real economic danger if this bill is not amended, not to mention the environmental danger that my district and districts all over this country will face.

I strongly urge my colleagues to support this amendment.

□ 1620

Mr. GIBBS. Mr. Chairman, I would just like to comment on the comments from my colleague from Oregon talking about a new pollutant. Well, under H.R. 2018, if there's a new pollutant out there and it comes in and it is not in an already State-approved plan, the State has to take action, and the EPA and the State have to work cooperatively to develop a new plan to address that issue. So I think if the issue of arsenic came up, they would have to work that out cooperatively.

And the comment about States won't take action, I can't believe that a State EPA is not going to take action. Oregon—maybe they're not going to take action in Oregon. It's hard for me to believe that. But I don't think this amendment is necessary, and I oppose the amendment.

Ms. HIRONO. Mr. Chair, I rise today in strong support of the amendment offered by Mr. MARKEY, of which I am proud to be a co-sponsor.

Many of us have seen iconic images of the Cuyahoga River burning in the 1950s. Sadly, this was not an isolated event—the Cuyahoga caught fire numerous times. The reason for these fires was that the river was heavily, heavily contaminated with flammable industrial waste.

This water was dangerous to drink and to swim in. Fish and wildlife could not survive.

Flooding in this river would have spread pollution onto shore and into neighborhoods and homes. In short, this pollution was dangerous for the health of the people and communities that depended on the river.

It was incidents like these that helped raised public awareness of the dangers of water pollution.

Ultimately, that awareness became government action—including the creation of the EPA in 1970, and passage of the Clean Water Act in 1972.

The EPA's purpose is simple: to protect human health and the environment. It does this by acting as a referee between the states—working to ensure minimum standards for water quality nationwide. These standards help to ensure an even playing field for states and businesses, while preserving safe, adequate water supplies for our children and communities.

The underlying bill we are considering, the so-called "Clean Water Cooperative Federalism Act" is deeply flawed, primarily because it seems to forget a critical point—watersheds, coastlines, and waterways don't always end at state boundaries.

Our amendment is also simple. It preserves the EPA's current role in protecting certain bodies of water. Specifically, water bodies that provide flood protection for communities, valuable fish and wildlife habitats, and coastal recreation.

Our rivers, coastlines, and wetlands are the places that we take our children to experience the wonder of our country. This is where their interests in the natural sciences and the outdoors are kindled. And this is where we should expect them to be safe from chemicals, industrial waste, and other pollutants.

Our amendment will help to preserve the natural resources that transcend state boundaries—and benefit the health and vitality of communities across the nation.

I hope that my colleagues will join us in supporting this amendment.

Ms. SLAUGHTER. Mr. Chair, I rise today to protect the Clean Water Act and in support of the amendment offered by Representatives MARKEY (MA), DEFAZIO (OR), CAPPs (CA), BLUMENAUER (OR), CAPUANO (MA), NAPOLITANO (CA) and HIRONO (HI). Since the passage of the Clean Water Act our waterways have gotten cleaner and our public health has improved. Thanks to the Clean Water Act, the United States has achieved significant gains in public health, a cleaner environment, and a stronger more sustainable economy.

The Clean Water Act, CWA, is one of our nation's greatest environmental laws, safeguarding our rivers, lakes, and streams and protecting the health and safety of our drinking water. The CWA was enacted as a bipartisan effort almost a half century ago, coming on the heels of several rivers catching on fire, including the Cuyahoga River in 1969, and the decimation of Lake Erie's fisheries due to pollution. Under the current Administration, the Environmental Protection Agency, EPA, has taken significant actions to improve the safety of our drinking water, and continues to protect our nation's waterways.

There is no right more basic than the right to safe drinking water, and that right depends on unpolluted source waters. The Clean Water Act protects our water from heavy metals such as arsenic and lead, dangerous pathogens like

E. coli, and other toxins. Clean drinking water is basic to our very survival.

The amendment before us would ensure that if this bill, H.R. 2018, ever made it into law, it would not endanger the safety protections provided under the Clean Water Act for waters that provide flood protection for communities, are a valuable fish and wildlife habitat that provide benefits to the economy, or are coastal recreational waters. We cannot sacrifice our waterways for the interests of big polluters.

The nation's fish and wildlife habitats and recreational waters are fruitful economic drivers for local communities, especially in the area I proudly represent on Lake Ontario. According to a recent study, 900,000 recreational boaters using Great Lakes harbors spend approximately \$2.35 billion annually on boating trips and another \$1.4 billion to purchase and maintain their watercraft. This supports 60,000 jobs in the region and generates \$1.7 billion in annual personal income. The CWA has served an integral part in cleaning up and maintaining the health of our waters, and therefore boosting the health of our local economies.

A strong Clean Water Act has moved us beyond the days of rivers on fire. However, there is still more to be done. State and EPA data reveal that 44 percent of assessed river and stream miles and 64 percent of assessed lake acres do not meet relevant water quality standards. Now is the time to support the efforts of the EPA as the agency works to ensure we all have access to clean water.

I urge my colleagues to support the Markey amendment so that our environment and local economies remain protected under the Clean Water Act. We must reject any effort to repeal our valuable protections, and recommit our pledge to the American people to work toward a cleaner, healthier, more prosperous future.

Mr. MARKEY. Mr. Chair, I rise in support of Amendment 9 to H.R. 2018, the Clean Water Cooperative Federalism Act of 2011 and to oppose the underlying bill, which would overturn almost forty years of Federal legislation by preventing EPA from protecting public health and water quality. H.R. 2018 will turn the Clean Water Act into the Dirty Water Act.

Let me paint a picture of what my hometown rivers, the Malden, the Mystic and the Charles, looked like forty years ago. Raw sewage flowed into the river from outmoded wastewater treatment plants. Toxic discharges from industrial facilities colored the river pink and orange. Fish kills, submerged cars and appliances, leaching riverbank landfills, and noxious odors were common occurrences.

Because of the Clean Water Act, polluted rivers are being relegated to the history books like the water-powered textile mills on these rivers that started the Industrial Revolution in the United States. Using sound science, cutting-edge technologies and by making polluters pay, EPA and its partners have made remarkable progress in restoring these rivers. The award-winning River's Edge Park on the shores of the Malden River is a testament to the economic development that follows the implementation of environmental laws.

My amendment to H.R. 2018 would ensure that any waters that EPA determines provides flood protection for communities, or are valuable fish and wildlife habitat that provide benefits to the economy, or are coastal recreational waters would continue to be protected. Our clean rivers must not return to their polluted past.

My amendment would also protect the progress made to restore fishing and swimming on sections of the Connecticut River, New England's longest river, by ensuring federal protection for rivers that run through more than one state.

The Army Corps of Engineers estimates that protecting wetlands along the Charles River in Boston saves as much as \$17 million annually in averted flood damage, and economists estimate that each acre of wetland provides more than \$10,000 per person in public benefits each year.

The song "Dirty Water" is played after every Red Sox home win. The song memorializes the polluted Charles and Boston Harbor. And while those of us in Boston love the song, we like our new, clean, healthy Charles River more. Support my amendment and keep this song as an oldie, instead of turning it into a modern hit on the demise of the Clean Water Act.

Mr. GIBBS. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BLUMENAUER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. CARNAHAN

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in House Report 112-144.

Mr. CARNAHAN. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:
SEC. 6. PROTECTION OF WATERS AFFECTED BY FLOODING DISASTERS.

None of the provisions of this Act, including the amendments made by this Act, shall apply to—

- (1) waters that are located in an area for which the President has declared, at any time during the preceding 5-year period, a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) due to flooding; or
- (2) other waters that contributed to such a declaration.

The Acting CHAIR. Pursuant to House Resolution 347, the gentleman from Missouri (Mr. CARNAHAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Missouri.

Mr. CARNAHAN. Mr. Chair, 2011 is already the costliest year for natural disasters in history. Over \$250 billion in economic damages have already been incurred around the world. In the U.S. alone, storms, flooding, wildfires, and earthquakes have already done roughly \$27 billion in damage, more than double the annual average over the last decade.

Living near the confluence of our country's two greatest rivers, the Mississippi and the Missouri, my constituents in the St. Louis region have rebuilt from floods many times, and we understand the challenges facing communities across the Nation during this unprecedented season of floods.

Even after the cleanup has begun, flood-affected communities face the prospect of public health epidemics spread by dirty water, in effect, creating a double crisis for communities already struggling to pick up the pieces. We have all seen the shocking images from cities large and small along the Mississippi this spring, and the last thing these communities need are weakened clean water standards that would put them at risk of waterborne diseases or even toxic chemicals.

My amendment to H.R. 2018 would ensure that communities recovering from devastating floods would not be burdened by the public health threats posed by dirty water. It simply states that none of the provisions of H.R. 2018 would apply where the President has declared a disaster due to flooding within the past 5 years or to waters that have contributed to such a flood.

This is a commonsense amendment. It will help reassure flood-affected communities that their water is safe and healthy. I urge my colleagues to stand up for flood-affected communities across the country by voting in favor of the Carnahan amendment.

I reserve the balance of my time.

Mr. GIBBS. Mr. Chairman, I wish to claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. GIBBS. Under the gentleman from Missouri's amendment, if a State has made a disaster declaration any time in the last 5 years, H.R. 2018 would not be applicable to waters in the area. This amendment would continue to allow the EPA to overturn State-established and U.S. EPA-approved water quality standards and unilaterally impose federally dictated permitting and other regulatory requirements on States and other disaster responders. This, in turn, would impact on the ability of States and other disaster responders to respond to and conduct cleanups after major flood disasters and would discourage States from seeking disaster assistance.

I urge all Members to oppose the Carnahan amendment.

I yield back the balance of my time.

Mr. CARNAHAN. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Missouri (Mr. CARNAHAN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CARNAHAN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by

the gentleman from Missouri will be postponed.

Mr. GIBBS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GIBBS) having assumed the chair, Mr. MCCLINTOCK, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (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, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1720

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HECK) at 5 o'clock and 20 minutes p.m.

CLEAN WATER COOPERATIVE FEDERALISM ACT OF 2011

The SPEAKER pro tempore. Pursuant to House Resolution 347 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 2018.

□ 1722

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (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, with Mr. MCCLINTOCK (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 10 printed in House Report 112-144 by the gentleman from Missouri (Mr. CARNAHAN) had been postponed.

Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 112-144 on which further proceedings were postponed, in the following order: Amendment No. 2 by Ms. JACKSON LEE of Texas.

Amendment No. 3 by Mrs. CAPITO of West Virginia.

Amendment No. 5 by Mr. POLIS of Colorado.

Amendment No. 6 by Mr. CONNOLLY of Virginia.

Amendment No. 9 by Mr. BLUMENAUER of Oregon.

Amendment No. 10 by Mr. CARNAHAN of Missouri.

Amendment No. 1 by Ms. JACKSON LEE of Texas.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON LEE OF TEXAS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 252, not voting 9, as follows:

[Roll No. 565]

AYES—170

Ackerman	Fudge	Miller, George
Andrews	Garamendi	Moore
Baca	Gonzalez	Moran
Baldwin	Green, Al	Murphy (CT)
Bass (CA)	Green, Gene	Nadler
Becerra	Grijalva	Napolitano
Berkley	Gutierrez	Neal
Berman	Hanabusa	Oliver
Bishop (CO)	Hastings (FL)	Pallone
Blumenauer	Heinrich	Pascarell
Brady (PA)	Higgins	Pastor (AZ)
Bralley (IA)	Himes	Payne
Brown (FL)	Hinojosa	Perlmutter
Butterfield	Hirono	Peters
Capps	Hochul	Pingree (ME)
Capuano	Holt	Polis
Carnahan	Honda	Price (NC)
Carney	Inslie	Quigley
Carson (IN)	Israel	Rangel
Castor (FL)	Jackson (IL)	Reyes
Chandler	Jackson Lee	Richardson
Chu	(TX)	Richmond
Ciilline	Johnson (GA)	Rothman (NJ)
Clarke (MI)	Kaptun, E. B.	Roybal-Allard
Clarke (NY)	Kaptur	Ruppersberger
Clay	Keating	Rush
Cleaver	Kildee	Ryan (OH)
Clyburn	Kind	Sánchez, Linda
Cohen	Kissell	T.
Connolly (VA)	Kucinich	Sanchez, Loretta
Conyers	Langevin	Sarbanes
Cooper	Larsen (WA)	Schakowsky
Courtney	Larson (CT)	Schiff
Crowley	Lee (CA)	Schrader
Cummings	Levin	Schwartz
Davis (CA)	Lewis (GA)	Scott (VA)
Davis (IL)	Lipinski	Scott, David
DeFazio	Loebsack	Serrano
DeGette	Lofgren, Zoe	Sewell
DeLauro	Lowe	Sherman
Deutch	Lujan	Shuler
Dicks	Lynch	Sires
Dingell	Maloney	Slaughter
Doggett	Markey	Smith (WA)
Donnelly (IN)	Matsui	Speier
Doyle	McCarthy (NY)	Stark
Edwards	McCollum	Sutton
Engel	McDermott	Thompson (CA)
Eshoo	McGovern	Thompson (MS)
Farr	McNerney	Tierney
Fattah	Meeks	Tonko
Filner	Michaud	Towns
Frank (MA)	Miller (NC)	Tsongas

Van Hollen
Velázquez
Visclosky
Walz (MN)

Wasserman
Schultz
Waters
Watt
Waxman

Welch
Wilson (FL)
Woolsey
Wu
Yarmuth

NOES—252

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Austria
Bachmann
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Billbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Buchson
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Costello
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxo
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach

Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel
E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris
Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent

Nunes
Nunnelee
Olson
Owens
Palazzo
Paul
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Rahall
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Robby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOT VOTING—9

Bishop (GA)
Cantor
Ellison

Giffords
Hastings (WA)
Hinchev

Hoyer
McCotter
Pelosi