

# Union Calendar No.

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2018

[Report No. 112-]

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Mr. MICA (for himself, Mr. RAHALL, Mr. SHUSTER, Mrs. CAPITO, Mr. COBLE, Mr. BARLETTA, Mr. LANDRY, Mr. DUNCAN of Tennessee, Mr. BUCSHON, Mr. CRAWFORD, Mr. GRAVES of Missouri, Mr. GIBBS, Mr. CRITZ, Mr. ALTMIRE, Mr. HOLDEN, Mr. HUNTER, Mr. GARY G. MILLER of California, Mr. YOUNG of Alaska, Mrs. SCHMIDT, and Mr. ROGERS of Kentucky) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY --, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 26, 2011]

# **A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Clean Water Cooperative*  
5 *Federalism Act of 2011”.*

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

7 *(a) STATE WATER QUALITY STANDARDS.—Section*  
8 *303(c)(4) of the Federal Water Pollution Control Act (33*  
9 *U.S.C. 1313(c)(4)) is amended—*

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

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

13 *(3) by striking “The Administrator shall pro-*  
14 *mulgate” and inserting the following:*

15 *“(B) The Administrator shall promulgate”; and*

16 *(4) by adding at the end the following:*

17 *“(C) Notwithstanding subparagraph (A)(ii), the Ad-*  
18 *ministrator may not promulgate a revised or new standard*  
19 *for a pollutant in any case in which the State has submitted*  
20 *to the Administrator and the Administrator has approved*  
21 *a water quality standard for that pollutant, unless the State*  
22 *concurs with the Administrator’s determination that the re-*  
23 *vised or new standard is necessary to meet the requirements*  
24 *of this Act.”.*

1           **(b) FEDERAL LICENSES AND PERMITS.**—Section  
2 401(a) of such Act (33 U.S.C. 1341(a)) is amended by add-  
3 ing at the end the following:

4           “(7) With respect to any discharge, if a State or inter-  
5 state agency having jurisdiction over the navigable waters  
6 at the point where the discharge originates or will originate  
7 determines under paragraph (1) that the discharge will  
8 comply with the applicable provisions of sections 301, 302,  
9 303, 306, and 307, the Administrator may not take any  
10 action to supersede the determination.”.

11           **(c) STATE NPDES PERMIT PROGRAMS.**—Section  
12 402(c) of such Act (42 U.S.C. 1342(c)) is amended by add-  
13 ing at the end the following:

14           “(5) **LIMITATION ON AUTHORITY OF ADMINIS-**  
15 **TRATOR TO WITHDRAW APPROVAL OF STATE PRO-**  
16 **GRAMS.**—The Administrator may not withdraw ap-  
17 proval of a State program under paragraph (3) or  
18 (4), or limit Federal financial assistance for the State  
19 program, on the basis that the Administrator dis-  
20 agrees with the State regarding—

21           “(A) the implementation of any water qual-  
22 ity standard that has been adopted by the State  
23 and approved by the Administrator under sec-  
24 tion 303(c); or

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

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

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

11                   “(A) the Administrator’s interpretation of a  
12                   water quality standard that has been adopted by the  
13                   State and approved by the Administrator under sec-  
14                   tion 303(c); or

15                   “(B) the implementation of any Federal guid-  
16                   ance that directs the interpretation of the State’s  
17                   water quality standards.”.

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

19           (a) *AUTHORITY OF EPA ADMINISTRATOR.*—Section  
20 404(c) of the Federal Water Pollution Control Act (33  
21 U.S.C. 1344(c)) is amended—

22                   (1) by striking “(c)” and inserting “(c)(1)”; and  
23                   (2) by adding at the end the following:

24           “(2) Paragraph (1) shall not apply to any permit if  
25 the State in which the discharge originates or will originate

1 *does not concur with the Administrator's determination*  
2 *that the discharge will result in an unacceptable adverse*  
3 *effect as described in paragraph (1).”.*

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

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

12 *Section 404 of the Federal Water Pollution Control Act*  
13 *(33 U.S.C. 1344) is amended—*

14 (1) *in subsection (m) by striking “ninetieth day”*  
15 *and inserting “30th day (or the 60th day if addi-*  
16 *tional time is requested)”;* and

17 (2) *in subsection (q)—*

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

20 (B) *by adding at the end the following:*

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

1 *of receipt of an application for a permit under that sub-*  
2 *section.”.*

3 **SEC. 5. APPLICABILITY OF AMENDMENTS.**

4 *The amendments made by this Act shall apply to ac-*  
5 *tions taken on or after the date of enactment of this Act,*  
6 *including actions taken with respect to permit applications*  
7 *that are pending or revised or new standards that are being*  
8 *promulgated as of such date of enactment.*