112TH CONGRESS
1ST SESSION

H. R. 2018

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

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2011

Mr. MICA (for himself, Mr. RAHALL, Mr. SHUSTER, Mrs. CAPITO, Mr. COBLE, Mr. BARLETTA, Mr. LANDBEY, 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

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 Federalism Act of 2011”.

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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 dis-
charge 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 desir-
ing 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)”; and

(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.”.