112TH CONGRESS

1ST SESSION

H. R. ______

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

Mr. Mica (for himself and Mr. Rahall) introduced the following bill; which was referred to the Committee on __________________________

A BILL

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

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Clean Water Coopera-
5 tive Federalism Act of 2011”.

(Original Signature of Member)
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 sec-
tions 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 Pro-
grams.—The Administrator may not withdraw ap-
proval 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 ad-
ditional 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 depart-
ment 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.’’.