



Environmental Council of the States

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Press Release:

State Environmental Regulators Urge Caution in Water Certification Debate

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Washington, DC, August 15, 2018 – Three prominent environmental associations weighed in today on the proper scope of the Clean Water Act provision that lets states protect their waters from the impacts of federal permitting decisions.

The Environmental Council of the States (ECOS), a nonpartisan group that represents the heads of state environmental agencies, along with the Association of Clean Water Administrators (ACWA) and the Association of State Wetlands Managers (ASWM), sent a [joint letter](#) to congressional leaders in advance of an August 16 Senate Environment & Public Works Committee hearing on the *Water Quality Certification Improvement Act*. Committee Chairman John Barrasso (R-WY) introduced this bill recently to clarify issues states can consider in exercising their authority under Section 401 of the Clean Water Act.

Section 401 allows states to review federal agencies' permitting decisions to ensure that permitted activities don't lead to violations of water quality standards. Craig Butler, Ohio Environmental Protection Agency Director and Chair of the ECOS Water Committee, explained that the provision is "built on the principle of cooperative federalism: Congress recognized that states are in the best position to decide whether granting a federal permit will lead to violations of water quality standards."

Under cooperative federalism, states take the lead in implementing federal environmental laws and achieving environmental objectives, and federal laws give states the flexibility to set stricter environmental standards if they believe it necessary to protect the environment and public health. Butler said that because states use Section 401 authority in a variety of contexts, "Congress should be careful to avoid unintended consequences, and it should always respect principles of cooperative federalism."

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ECOS is the national nonprofit, nonpartisan association of state and territorial environmental commissioners. For more information, visit www.ecos.org.

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