

Excerpts from March 17, 2011 BNA Daily Report for Executives

House Transportation Committee Approves Bill to Bar Clean Water Act Pesticide Rule

The House Transportation and Infrastructure Committee approved legislation March 16 by a 46-8 vote that would prevent implementation of a court order requiring pesticide applications in and around U.S. waters to be covered by National Pollutant Discharge Elimination System permits under the Clean Water Act.

The court-ordered deadline for the Environmental Protection Agency to promulgate the new permitting process for pesticides is April 9.

The legislation (H.R. 872) would exempt from EPA's NPDES permitting process discharges to waters involving the application of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act when the pesticide is used for its intended purpose and the use complies with pesticide labeling requirements.

Under the bill, public and private entities would no longer need to obtain an NPDES permit for discharges of pesticides from point sources except in cases when the application of the pesticide would not fall under FIFRA, or in cases when the discharge is regulated as a stormwater, municipal, or industrial discharge under the Clean Water Act.

"This bill prevents states and a wide range of public and private pesticide users from facing duplicative, unnecessary financial and administrative burdens in order to comply with the new permitting process," said Rep. Bob Gibbs (R-Ohio), chairman of the House Transportation and Infrastructure Subcommittee on Water Resources and Environment.

DeFazio said during the markup that he did not expect the Senate to take up the bill.

Senate Intentions Unclear.

A House Republican aide told BNA following the vote that the Senate Environment and Public Works Committee is "aware of what's going on here," but added that House staff have not yet discussed strategy with Senate staff. "We anticipate interest on the Senate side," the aide said.

A House Agriculture Committee aide told BNA there has been some discussion with Senate staff about the legislation.

However, BNA was unable to confirm with Senate committee staff March 16 whether either the Senate Environment and Public Works Committee or Senate Committee on Nutrition and Forestry intends to take up the House bill, to introduce similar legislation, or to take no action.

H.R. 872 would reverse a 2009 decision of the U.S. Court of Appeals for the Sixth Circuit in *National Cotton Council v. EPA* ([05 DER A-16, 1/9/09](#)).

The March 16 committee vote followed action by the Agriculture Committee, which on March 9 approved the FIFRA portion of the bill ([47 DER A-10, 3/10/11](#)). The portion of the bill approved by the Transportation and Infrastructure Committee, which has jurisdiction over the Clean Water Act, would amend the Clean Water Act. The portion approved by the Agriculture Committee would amend FIFRA.

By [Linda Roeder](#)