



## Pesticide Bill Seeks to Ease Regulatory Burdens

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In another attempt to reign in burdensome regulations, the U.S. House of Representatives passed a bill in late May to eliminate duplicative permitting requirements for pesticide use. The Reducing Regulatory Burdens Act of 2017 has its genesis in a 2009 appellate court decision that overturned EPA's rule governing use of pesticides on or near waterways. Because of the court ruling, Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) approvals, as well Clean Water Act (CWA) permits, have been required for pesticide applications that may leave residue in Waters of the United States.

Under FIFRA, EPA regulates the registration, sale and labeling of pesticides. Registrations and labels are approved for distribution in commerce only after extensive review of data and information submitted to EPA. The CWA requires a NPDES permit for any discharge of pollutants to surface waters, unless an exception applies. In 2006, EPA issued a rule revision adding pesticides to the list of CWA exceptions, provided that the pesticides are managed in accordance with FIFRA. This avoided regulation under both statutes. EPA's action was then challenged by environmental and industry groups.

In 2009, the United States Court for the Sixth Circuit reviewed EPA's final rule exempting pesticides from NPDES permitting requirements. It determined that, contrary to EPA's view, pesticides fit the definition of pollutant under the CWA and were applied from a point source. Therefore, the Court vacated the rule.

Following the November election, farmers, businesses, pesticide applicators and others lobbied Congress and argued they were enduring significant regulatory burdens to comply with duplicative approval requirements. The House bill codifies the EPA rule and is tailored to alleviate the regulatory burden. If the bill passes the Senate and is signed by the President, it will provide much needed relief for pesticide users.

71 Fed. Reg. 68,483 (Nov. 27, 2006); *The National Cotton Council of America v. EPA*, 553 F.3d 927 (6<sup>th</sup> Cir. 2009).

Reducing Regulatory Burdens Act of 2017, H.R. 953, 115th Congress (2017-2018).

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