

Union Calendar No. 21

112TH CONGRESS
1ST SESSION

H. R. 872

[Report No. 112-43, Parts I and II]

To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2011

Mr. GIBBS (for himself, Mrs. SCHMIDT, Mr. BACA, Mr. MICA, Mr. LUCAS, Mr. PETERSON, Mr. SIMPSON, Mr. GRAVES of Missouri, Mr. ROSS of Arkansas, Mr. NEUGEBAUER, Mr. BOSWELL, Mr. CRAWFORD, Mr. SABLAN, Mr. HERGER, Mr. KISSELL, Mr. SCHILLING, Mr. COSTA, Mr. TIPTON, Mr. OWENS, Mr. ROONEY, Mr. CARDOZA, and Mr. HOLDEN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MARCH 29, 2011

Additional sponsors: Mr. JOHNSON of Illinois, Mr. DENHAM, Mr. SCHRADER, Mr. CONAWAY, Mrs. LUMMIS, Mr. MCINTYRE, Mrs. ELLMERS, Mr. GARY G. MILLER of California, Mr. SHUSTER, Mr. WALZ of Minnesota, Mr. KING of Iowa, Mr. GIBSON, Mr. CUELLAR, Mr. HUELSKAMP, Mr. FINCHER, Mr. DUNCAN of Tennessee, Mr. HULTGREN, Mr. COBLE, Mrs. McMORRIS RODGERS, Mrs. MILLER of Michigan, Mr. JONES, Mr. BUCSHON, Mr. FLORES, Mr. THOMPSON of Pennsylvania, Mr. FRANK of Massachusetts, Mr. DESJARLAIS, Mr. MCGOVERN, Mrs. ROBY, Mr. AUSTIN SCOTT of Georgia, Mr. RIBBLE, Mr. SOUTHERLAND, Mr. COURTNEY, Mrs. HARTZLER, Mr. LOBIONDO, Mr. WALDEN, Mrs. BLACKBURN, Mr. SMITH of Nebraska, Mr. GOODLATTE, Mr. STUTZMAN, Mr. LABRADOR, Mr. MARINO, Mrs. MYRICK, Mrs. NOEM, Ms. SEWELL, Mr. BURTON of Indiana, Mr. THOMPSON of Mississippi, Ms. JENKINS, Mr. POMPEO, Mr. FLAKE, Mr. JOHNSON of Ohio, Mr. OLSON, Mr. SCHOCK, Mr. LONG, Mr.

WALBERG, Mr. CRITZ, Mr. NUNES, Mr. PAUL, Mr. HUIZENGA of Michigan, Mr. BISHOP of Georgia, Mr. COSTELLO, Mr. MCKINLEY, Mr. LANKFORD, Mr. LANDRY, Mr. COFFMAN of Colorado, Mr. THORNBERRY, Mr. BACHUS, Mr. LATTA, Mr. CANSECO, Mr. ALTMIRE, Mr. DONNELLY of Indiana, Mr. GRIFFIN of Arkansas, Mr. SHIMKUS, Mrs. EMERSON, Mr. PETRI, Mr. STIVERS, Mr. FARENTHOLD, Mr. MICHAUD, Mr. BARTLETT, Mr. BOREN, Mr. SHULER, Mr. SIRES, Mr. TIBERI, Mr. LATOURETTE, Mr. AUSTRIA, Mr. SCALISE, Mr. HURT, Mr. BONNER, Mr. BOUSTANY, Mr. CLEAVER, Mr. FORBES, Ms. GRANGER, Mr. CARTER, Mr. MCCLINTOCK, Mr. ROKITA, Mr. BARROW, Mr. KLINE, Mr. ROGERS of Alabama, Mr. BARLETTA, Mr. BERG, Mr. REED, Mr. CAMP, Mr. WILSON of South Carolina, Mr. POSEY, Mr. CRAVAACK, Mr. HASTINGS of Washington, Mr. COLE, Mr. PENCE, Ms. FOXX, Mr. FORTENBERRY, Mr. MULVANEY, Mr. NUNNELEE, Mr. GOWDY, Mr. PALAZZO, Mr. DOLD, Mr. DENT, and Mr. MCHENRY

MARCH 29, 2011

Reported from the Committee on Transportation and Infrastructure with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

MARCH 29, 2011

Reported from the Committee on Agriculture with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in **boldface roman**]

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, 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 “Reducing Regulatory
5 Burdens Act of 2011”.

6 **SEC. 2. USE OF REGISTERED PESTICIDES.**

7 Section 3(f) of the Federal Insecticide, Fungicide,
8 and Rodenticide Act (7 U.S.C. 136a(f)) is amended by
9 adding at the end the following:

10 “(5) USE OF REGISTERED PESTICIDES.—Ex-
11 cept as provided in section 402(s) of the Federal
12 Water Pollution Control Act, the Administrator or a
13 State may not require a permit under such Act for
14 a discharge from a point source into navigable wa-
15 ters of a pesticide registered under this Act, or the
16 residue of such a pesticide, resulting from the appli-
17 cation of such pesticide.”

18 **SEC. 3. DISCHARGES OF PESTICIDES.**

19 Section 402 of the Federal Water Pollution Control
20 Act (33 U.S.C. 1342) is amended by adding at the end
21 the following:

22 “(s) DISCHARGES OF PESTICIDES.—

23 “(1) NO PERMIT REQUIREMENT.—Except as
24 provided in paragraph (2), a permit shall not be re-
25 quired by the Administrator or a State under this

1 Act for a discharge from a point source into navi-
2 gable waters of a pesticide registered under the Fed-
3 eral Insecticide, Fungicide, and Rodenticide Act, or
4 the residue of such a pesticide, resulting from the
5 application of such pesticide.

6 “(2) EXCEPTIONS.—Paragraph (1) shall not
7 apply to the following discharges containing a pes-
8 ticide or pesticide residue:

9 “(A) A discharge resulting from the appli-
10 cation of a pesticide in violation of a provision
11 of the Federal Insecticide, Fungicide, and
12 Rodenticide Act that is relevant to protecting
13 water quality, if—

14 “(i) the discharge would not have oc-
15 curred but for the violation; or

16 “(ii) the amount of pesticide or pes-
17 ticide residue contained in the discharge is
18 greater than would have occurred without
19 the violation.

20 “(B) Stormwater discharges regulated
21 under subsection (p).

22 “(C) Municipal or industrial discharges
23 regulated under this section, including—

24 “(i) manufacturing or industrial efflu-
25 ent;

1 ~~“(ii) treatment works effluent; and~~
2 ~~“(iii) discharges incidental to the nor-~~
3 ~~mal operation of a vessel, including a dis-~~
4 ~~charge resulting from ballasting operations~~
5 ~~or vessel biofouling prevention.”.~~

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Reducing Regulatory*
8 *Burdens Act of 2011”.*

9 **SEC. 2. USE OF REGISTERED PESTICIDES.**

10 *Section 3(f) of the Federal Insecticide, Fungicide, and*
11 *Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding*
12 *at the end the following:*

13 ~~“(5) USE OF REGISTERED PESTICIDES.—Except~~
14 ~~as provided in section 402(s) of the Federal Water~~
15 ~~Pollution Control Act, the Administrator or a State~~
16 ~~may not require a permit under such Act for a dis-~~
17 ~~charge from a point source into navigable waters of~~
18 ~~a pesticide registered under this Act, or the residue of~~
19 ~~such a pesticide, resulting from the application of~~
20 ~~such pesticide.”.~~

21 **SEC. 3. DISCHARGES OF PESTICIDES.**

22 *Section 402 of the Federal Water Pollution Control Act*
23 *(33 U.S.C. 1342) is amended by adding at the end the fol-*
24 *lowing:*

25 ~~“(s) DISCHARGES OF PESTICIDES.—~~

1 “(1) *NO PERMIT REQUIREMENT.*—*Except as pro-*
2 *vided in paragraph (2), a permit shall not be re-*
3 *quired by the Administrator or a State under this Act*
4 *for a discharge from a point source into navigable*
5 *waters of a pesticide authorized for sale, distribution,*
6 *or use under the Federal Insecticide, Fungicide, and*
7 *Rodenticide Act, or the residue of such a pesticide, re-*
8 *sulting from the application of such pesticide.*

9 “(2) *EXCEPTIONS.*—*Paragraph (1) shall not*
10 *apply to the following discharges containing a pes-*
11 *ticide or pesticide residue:*

12 “(A) *A discharge resulting from the appli-*
13 *cation of a pesticide in violation of a provision*
14 *of the Federal Insecticide, Fungicide, and*
15 *Rodenticide Act that is relevant to protecting*
16 *water quality, if—*

17 “(i) *the discharge would not have oc-*
18 *curred but for the violation; or*

19 “(ii) *the amount of pesticide or pes-*
20 *ticide residue contained in the discharge is*
21 *greater than would have occurred without*
22 *the violation.*

23 “(B) *Stormwater discharges regulated under*
24 *subsection (p).*

1 “(C) *The following discharges regulated*
2 *under this section:*

3 “(i) *Manufacturing or industrial efflu-*
4 *ent.*

5 “(ii) *Treatment works effluent.*

6 “(iii) *Discharges incidental to the nor-*
7 *mal operation of a vessel, including a dis-*
8 *charge resulting from ballasting operations*
9 *or vessel biofouling prevention.”.*

10 **SECTION 1. SHORT TITLE.**

11 **This Act may be cited as the “Reducing**
12 **Regulatory Burdens Act of 2011”.**

13 **SEC. 2. USE OF AUTHORIZED PESTICIDES.**

14 **Section 3(f) of the Federal Insecticide,**
15 **Fungicide, and Rodenticide Act (7 U.S.C.**
16 **136a(f)) is amended by adding at the end the**
17 **following:**

18 **“(5) USE OF AUTHORIZED PESTICIDES.—**
19 **Except as provided in section 402(s) of**
20 **the Federal Water Pollution Control Act,**
21 **the Administrator or a State may not re-**
22 **quire a permit under such Act for a dis-**
23 **charge from a point source into navigable**
24 **waters of a pesticide authorized for sale,**
25 **distribution, or use under this Act, or the**

1 **residue of such a pesticide, resulting**
2 **from the application of such pesticide.”.**

3 **SEC. 3. DISCHARGES OF PESTICIDES.**

4 **Section 402 of the Federal Water Pollution**
5 **Control Act (33 U.S.C. 1342) is amended by**
6 **adding at the end the following:**

7 **“(s) DISCHARGES OF PESTICIDES.—**

8 **“(1) NO PERMIT REQUIREMENT.—Except**
9 **as provided in paragraph (2), a permit**
10 **shall not be required by the Adminis-**
11 **trator or a State under this Act for a dis-**
12 **charge from a point source into navigable**
13 **waters of a pesticide registered under the**
14 **Federal Insecticide, Fungicide, and**
15 **Rodenticide Act, or the residue of such a**
16 **pesticide, resulting from the application**
17 **of such pesticide.**

18 **“(2) EXCEPTIONS.—Paragraph (1) shall**
19 **not apply to the following discharges con-**
20 **taining a pesticide or pesticide residue:**

21 **“(A) A discharge resulting from**
22 **the application of a pesticide in viola-**
23 **tion of a provision of the Federal In-**
24 **secticide, Fungicide, and Rodenticide**

1 **Act that is relevant to protecting**
2 **water quality, if—**

3 **“(i) the discharge would not**
4 **have occurred but for the viola-**
5 **tion; or**

6 **“(ii) the amount of pesticide**
7 **or pesticide residue contained in**
8 **the discharge is greater than**
9 **would have occurred without the**
10 **violation.**

11 **“(B) Stormwater discharges regu-**
12 **lated under subsection (p).**

13 **“(C) Municipal or industrial dis-**
14 **charges regulated under this section,**
15 **including—**

16 **“(i) manufacturing or indus-**
17 **trial effluent;**

18 **“(ii) treatment works effluent;**
19 **and**

20 **“(iii) discharges incidental to**
21 **the normal operation of a vessel,**
22 **including a discharge resulting**
23 **from ballasting operations or ves-**
24 **sel biofouling prevention.”.**

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