



washington dc update

April 11, 2011

Pesticide/Waters of the US Legislation Advances in Congress

Legislation moving through the Congress seeks to address a recent court order that USEPA require any party using insecticides as a part of their operations to apply for and secure a permit under the Clean Water Act. This would be required if these pesticides could be expected to come into contact with a “water of the US,” and even if the activity could be shown to be in compliance with FIFRA [Federal Insecticide, Fungicide, and Rodenticide Act].

Summary & Take-Away .

CWA Permitting of Pesticide Use

In an effort to reverse a recent court order, Legislation is moving through Congress that would allow, without a CWA permit, pesticide use in conformance with FIFRA standards.

Take-Away

WESTCAS will send a letter in support of Legislation. WESTCAS is in the unique position to point out scientific and technical merits of FIFRA controlling pesticide use as well as the consequences of the “waters of the US” issue.

This creates a huge problem both for agricultural interests and also water resource agencies who may regularly use pesticides and who must now jump through an entirely new regulatory hoop to be able to continue to do so. EPA has even argued that it does not have the personnel to process the huge number of permit applications that would be expected if this court order takes effect.

Congressional legislation making its way through Congress would allow the application of pesticides as long as this is in full compliance with FIFRA. A second permit would not be required. H.R. 872 passed the House on March 30 by a bi-partisan majority of 292 to 130. Companion legislation, S. 718, was introduced in the Senate on April 4th and has been referred to the Agriculture Committee.

The Senate language is very plain and direct:

“Notwithstanding any other law, no permit shall be required for the use of a pesticide that is registered or otherwise authorized for use under this Act [FIFRA].”

Any issue that involves “waters of the US” is of great interest to the arid west. The WESTAS Board of Directors has approved sending a letter in support of this legislation to the Congress. This letter is currently being drafted and will be shared with the membership.

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