



## ISSUE BRIEFING

### SUBJECT:

### **H.R. 872 Reducing Regulatory Burdens Act of 2011**

**BACKGROUND:** H.R. 872, the Reducing Regulatory Burdens Act of 2011, is needed to clarify that duplicative Clean Water Act permits are not needed for applications of pesticides approved by the Environmental Protection Agency (EPA). This legislation passed the House with broad bipartisan support in March. We encourage the Senate to quickly follow suit.

Under a 6th U.S. Circuit Court of Appeals order in *National Cotton Council v. EPA*, National Pollutant Discharge Elimination System Permits (NPDES) will be required for pesticide applications to, over, or near water beginning October 31, 2011. These Clean Water Act permits are intended to regulate pollution discharges from factories and are not appropriate for pesticide applications. While the initial permit requirements relate primarily to applications of pesticides to or around water, the Clean Water Act's citizen action provisions could also leave terrestrial pesticide applicators vulnerable to lawsuits.

The EPA issued a rule in 2006, clarifying that the application of certain pesticides does not require NPDES permits, but that rule was overturned by the 6th U.S. Circuit Court of Appeals, which ordered these permits be in place by October 31, 2011. The court ruling will not only have a negative impact on lawn care companies and their customers, but will also place burdens on state agencies, cities, counties and municipalities, parks and recreation managers, utility right-of-way managers, railroads, roads and highway vegetation managers, mosquito control districts, water districts and managers of canals and other water conveyances, farmers, ranchers, and forest managers.

Every product sold in the United States must first be thoroughly evaluated by the EPA to ensure it meets federal safety standards to protect human health and the environment. Prior to approving or "registering" a pesticide, the EPA reviews more than 100 scientific studies, including the impact of the pesticide on groundwater, surface water, drinking water, and aquatic life. Requiring NPDES permits for these products will add a great deal of paperwork and reporting requirements for pesticide applicators, but it will not provide any additional environmental protections that are not already accounted for on the pesticide label. Complying with the required paperwork will be extremely complicated and costly for pesticide applicators. It will also create confusion about which applications require permits and could leave applicators vulnerable to lawsuits.

**REQUESTED ACTION:** PLANET strongly supports H.R. 872, which was passed by the House of Representatives in March. Please pass H.R. 872 in the Senate to clarify that NPDES

permits are not needed for pesticide applications. This legislation is vital to the lawn and landscape industry.