



H.R. 897: Zika Vector Control Act (Rep. Gibbs, R-OH)

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FLOOR SCHEDULE:

H.R. 897 is expected to be considered on May 24, 2016 under a [rule](#).

TOPLINE SUMMARY:

[H.R. 897](#) would repeal Environmental Protection Act (EPA) requirements that require permitting under the Clean Water Act (CWA) for the application of EPA approved pesticides.

COST:

The [Congressional Budget Office](#) (CBO) estimates that enacting H.R. 897 would “have no significant effect on the federal budget”.

CONSERVATIVE SUPPORT:

Many conservatives will be pleased that the bill would relieve local governments and mosquito control districts from the burden of EPA permitting requirements when they apply pesticides in an effort to kill mosquitos that could be carrying (vectors) for the Zika virus.

- **Expand the Size and Scope of the Federal Government?** No, the bill would relieve burdensome federal requirements.
- **Encroach into State or Local Authority?** No, the bill would relieve local authorities from certain federal requirements.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The [Federal Insecticide, Fungicide, and Rodenticide Act](#) allows the EPA to regulate pesticides. All pesticides must be licensed by the EPA.

The [Clean Water Act](#) allows the EPA to regulate the waters of the United States. Under the CWA, National Pollutant Discharge Elimination System (NPDES) permits must be obtained from the EPA to discharge pollutants into water bodies.

In general, the EPA has not traditionally required NPDES permits for the use of FIFRA regulated pesticides. Lawsuits in the 1990's created uncertainty over whether NPDES permits would be required for the use of FIFRA regulated pesticides near bodies of water. Consequently, the EPA finalized formal regulations in 2006 to clarify that FIFRA regulated pesticides are not pollutants under the CWA and therefore did not require NPDES permitting.

After further activist lawsuits, a federal court vacated the regulation and ruled that Clean Water Act NPDES permits would be required for FIFRA regulated pesticides that are used on or near water bodies.

H.R. 897 would clarify that the EPA and states may not require a NPDES permit for the discharge of FIFRA approved pesticides. The prohibition on permits would expire on September 30, 2018.

According to the [Agriculture Committee](#), these permitting requirements could apply to about 365,000 pesticide users and could cost as much as \$50,000 each annually. Violators of the regulations could face \$37,500 per day fines, despite the fact that most FIFRA regulated pesticide users have never been subject to the NPDES permitting process before.

As a consequence, local governments and mosquito control districts that should be focused on applying pesticides and eliminating the threat of mosquitos that could be vectors for the Zika virus are instead burdened with the expensive and time-consuming experience of obtaining Clean Water Act permits and the threat of fines if they fail to comply.

OUTSIDE GROUP SUPPORT:

- [American Mosquito Control Association](#)

COMMITTEE ACTION:

H.R. 897 was introduced as the “Reducing Regulatory Burdens Act of 2015” on February 11, 2015, and referred to the Committee on Agriculture and the Committee on Transportation and Infrastructure. The Committee on Agriculture marked up and reported the bill by a voice vote on [March 19, 2015](#), by a voice vote. The [suspension print](#) of the bill changes the short title to the “Zika Vector Control Act”.

PREVIOUS CONSIDERATION:

H.R. 897 failed on suspension on May 17, 2016, by a [262 – 159](#) vote. The bill required a 2/3 majority for passage under a suspension of the rules.

In the 112th Congress, the House passed H.R. 872, the Reducing Regulatory Burdens Act of 2011, on suspension by a [292 – 130](#) vote.

In the 113th Congress, the House considered [H.R. 935, the Reducing Regulatory Burdens Act of 2014](#). On July 28, 2014, the bill failed on suspension by a [253 – 148](#) vote. On July 31, 2014, the bill passed under a closed rule by a [267 – 161](#) vote.

ADMINISTRATION POSITION:

According to the [Statement of Administration Policy](#), “The Administration strongly opposes H.R. 897, Reducing Regulatory Burdens Act of 2015, recently rebranded as the Zika Vector Control Act.”

CONSTITUTIONAL AUTHORITY:

“Congress has the power to enact this legislation pursuant to the following: Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, Section 8, Clause 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.”

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