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On July 15, the House Transportation Subcommittee on Water Resources and Environment held a hearing to discuss the Environmental Protection Agency's (EPA) permit veto authority under the Federal Water Pollution Control Act, otherwise known as the Clean Water Act. On June 12, Chairman Bob Gibbs (R-OH) introduced the Regulatory Certainty Act (H.R. 4854) to amend the Clean Water Act, limiting the veto authority of the EPA.

Chairman Gibbs stated that the EPA can veto a project even if it hasn't violated a permit issued under Section 404, which regulates discharge of dredged or fill material into waters of the United States. Chairman Gibbs called the situation a "property rights issue." In response, Ranking Member Timothy Bishop (D-NY) cited statistics that the EPA has only used its veto authority 13 times in the 2.5 million permits issued since the Clean Water Act was passed in 1972.

The majority of the witnesses, representing academia, industry, and nongovernment organizations, voiced objections to the alleged expansion of EPA authority. They stated that the process is a burden on transportation projects and new infrastructure, and has grown longer and more complicated, generating more civil suits. Only Mr. Parenteau, professor of law at Vermont Law School, contended that the EPA has interpreted its veto power exactly as it was stipulated in 1972. He contended that the EPA's ability to veto a permit before, during, or after allocation "has been written into the rule since the beginning." He stated that it has been exercised very rarely, with positive results.

The bill was approved by the committee and will now move on to the House.

Sources: House Transportation Subcommittee on Water Resources and Environment
