

Testimony: Anastasia Swearingen, Senior Director, Chemical Products & Technology, American Chemistry Council

RE: MD SB 345, Pesticides—PFAS Chemicals—Prohibitions

Position: Unfavorable

The American Chemistry Council appreciates the opportunity to provide testimony on Senate Bill 345, which requires the Maryland Department of Agriculture to develop and maintain a list of registered pesticides that list a Per- and polyfluoroalkyl substances (PFAS) as an active ingredient and phases in restrictions on the use of such pesticides.

ACC's Center for Biocide Chemistries represents manufacturers of antimicrobial pesticides, including preservatives, disinfectants, industrial biocides, and antifouling paints. These antimicrobial products are critical for protecting public health, increasing the sustainability of everyday products and construction materials, and preventing contamination in industrial processes. Active pesticide ingredients and pesticide products are rigorously tested and reviewed by the U.S. Environmental Protection Agency (EPA) and state agencies before they can be sold.

ACC opposes SB 345 as overly broad and unnecessary for the protection of public health and the environment.

Antimicrobial Chemistries are Stringently Tested and Regulated

Antimicrobial pesticides are among the most regulated chemical products. Registrants of these products submit significant data to the U.S. EPA and state pesticide regulatory authorities before any registration is approved. These include environmental and human health toxicity data, exposure information, and any required efficacy data against public health pathogens. No ingredient can be used in a pesticide product unless it has been approved by EPA. These important reviews help ensure that the antimicrobial products on the market in Maryland and across the U.S. are safe to use as directed.

EPA does not broadly regulate pesticides based on classes of chemistries—each ingredient submitted to EPA for use in a pesticide is evaluated independently based on its individual hazard and exposure profiles. States also have the authority to review each pesticide ingredient and product before those products are registered for use and sold in their states. This ingredient-by-ingredient process allows EPA and other regulatory agencies to examine the specific potential impacts of each active ingredient and pesticide product, based on its registered or proposed use sites.

PFAS Chemistries are Diverse and Provide Important Benefits

PFAS represent a very broad class of chemistries with many different chemical structures and properties. PFAS chemistries vary widely and can be solids, liquids, or gases. Not all PFAS share the same environmental behavior and toxicity profiles. There are important PFAS chemistries that break down quickly and do not persist in the environment, do not bioaccumulate, and have

low toxicity profiles. Substance by substance evaluations, rather than a one-size-fits-all, are a more scientifically justified approach, particularly for PFAS that could be used in pesticides.

Broad PFAS Definition and Regulation Leads to Confusion and Compliance Challenges

ACC notes that the EPA OCSPP working definition of PFAS is more appropriate for pesticides products than the current Maryland definition of PFAS chemicals as “a class of fluorinated organic chemicals that contain at least one fully fluorinated carbon atom, including perfluoroalkyl and polyfluoroalkyl substances.” This overly broad definition encompasses thousands of diverse chemistries, including some chemistries that are used as active ingredients in pesticides. The EPA and state authorities, however, have determined that there are no unreasonable impacts to human health or the environment when these registered active ingredients considered by some regulators to be PFAS are used as directed.

While PFAS are not widely used in antimicrobial pesticides, the patchwork of state laws and definitions pose challenges for pesticide manufacturers and their customers. Ingredients that are not considered to be PFAS by EPA or some states may be considered PFAS and subject to restriction in other states. Even when regulators use the same broad PFAS definition, they can make different determinations as to whether an ingredient meets the definition of a PFAS chemistry. This creates significant confusion for regulators, registrants, and customers, particularly as antimicrobial pesticides are often used to “treat” or preserve non-pesticide products, such as household products, paints, wood, construction materials, etc. that are sold in many states.

An overly broad definition of PFAS, with different interpretations in different jurisdictions, creates uncertainty that stifles innovation and creates a patchwork of compliance barriers for antimicrobial manufacturers and their customers. The antimicrobial pesticide industry is small, with a decreasing number of available active ingredients that can address the breadth of microbial challenges.

Specific PFAS in Pesticide Legislation is Unnecessary

ACC supports pesticide regulations that clearly address scientifically identified human health or environmental safety risks. We are not aware of any unique risks posed by PFAS in pesticides that are not addressed through the existing federal and state pesticide laws and regulations.

Legacy, long-chain PFAS with demonstrated health effects are not used in antimicrobial pesticides. As noted previously, the testing conducted and submitted to EPA allows regulators to understand whether these compounds may share similar characteristics to PFAS that have been identified as having environmental or human health effects. Pesticide chemistries are well understood and tested before they can be placed on the market, and they are further evaluated through the reporting of adverse effects and the Registration Review process. **We urge the committee members to give this legislation an unfavorable report.**