



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 2, 2022

The Honorable Paul Pinsky, Chair
Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, 2W
Annapolis, Maryland 21401

Re: Senate Bill 268 – Pesticide Regulation - Transfer to Department of the Environment

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or Department) has reviewed SB 268, *Pesticide Regulation - Transfer to Department of the Environment* and would like to provide additional information regarding this legislation.

SB 268 proposes to transfer Title 5 of the Agriculture Article to Title 18 of the Environment Article, transferring the Maryland Department of Agriculture (MDA) Pesticide Regulation to MDE. The legislation transfers to MDE four programs: pesticide, mosquito, plant protection, and State Chemist.

Regarding the programmatic transfers, these would be new areas of regulatory responsibility for MDE that are outside of the Department's expertise. For example, MDE currently regulates the use of pesticides as they may be discharged to waters of the state or disposed of on land as a waste, but has no expertise concerning their registration, labeling, or other uses. MDE also has no expertise over the regulation of plant diseases.

While SB 268 transfers the Pesticide Fund and Plant Protection Fund to MDE, the bill does not transfer the State Chemist Fund, which funds at least, in part, the inspections for pesticide registration and labeling under Subtitle 1 of the Agriculture Article. Furthermore, SB 268 requires any penalties for these violations to still be paid into that fund while it remains within the Agriculture Article and continues to support activities under its Title 6 (relating to Commercial Feed and Fertilizer and Agriculture Liming Materials) regulated by MDA.

The change in oversight of these programs would require existing licenses to be updated at an additional expense to MDE. The public could experience undue hardship and potentially a delay in issuing licenses while transitioning the programs to MDE. The current process through the MDA provides remote office locations to address the needs of the community. MDE has a limited number of field offices across the state, many of which are not equipped to be licensing offices open to the public. Shifting office locations to MDE would certainly cause some confusion for the public and require additional planning and customer service accommodations.

Also, while the bill transfers all employees within MDA “primarily” assigned to the regulation of pesticides, plant diseases, and mosquitoes, some of its employees, such as inspectors, may have responsibilities in other regulatory areas. Thus, they may not be “primarily” assigned to those programs and not subject to the transfer, potentially leading to a lack of personnel at MDE to sufficiently administer

these programs. SB 268 also does not account for legal resources within the Office of the Attorney General devoted to providing advice to MDA on these regulatory areas.

Thank you for your consideration. We will continue to monitor SB 268 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: Lee Currey, MDE, Director, Water and Science Administration
Kaley Laleker, MDE, Director, Land and Materials Administration