



February 2, 2022

Senate Education, Health, and Environmental Affairs Committee

Testimony of Jason Davidson, Friends of the Earth

In Support of SB 268

Chairman Pinsky, Vice Chair Kagan and members of the Committee

My name is Jason Davidson. I am testifying on behalf of Friends of the Earth, a national environmental advocacy organization with more than 30,000 members and supporters in Maryland. Friends of the Earth has worked for a decade to address pesticide uses posing the most harm to people and pollinators.

This decade has seen great progress in some regards, and significant inaction across multiple administrations in others. **At the federal level, EPA has taken nearly no actions to significantly restrict or ban the most egregious pesticides.** While the agency did revoke all food tolerances of the neurotoxic pesticide chlorpyrifos, which Maryland has already fully banned, the decision only came after the 9<sup>th</sup> Circuit Court ordered EPA to take action.

In the halls of Congress, even less has been done. No legislation banning or restricting a pesticide has passed at the federal level in decades. As a result, **attention has necessarily shifted** in this time to focus **on two important avenues for protecting public health: state legislation** and fixing the rules by which EPA registers pesticides.

On the state front, **Maryland has been a national leader in protecting people and pollinators from pesticides.** The legislature has passed 2 bills to restrict neonicotinoids, one of the leading causes of global bee declines, and the Hogan administration banned chlorpyrifos following a long legislative effort to do so. Many other states, including Maine, Vermont, Massachusetts, Connecticut, New York, New Jersey and Minnesota have taken steps to ban or restrict neonicotinoids and chlorpyrifos over the last decade.

In regards to **EPA's process for registering pesticides, a number of loopholes, oversights and institutionalized practices have led to a dearth of protections** from some of the most harmful pesticides. As a result, Senator Booker introduced the Protect America's Children from Toxic Pesticides Act. This legislation would close many of the aforementioned loopholes, ban neonicotinoids and organophosphates, the class of pesticides chlorpyrifos belongs to, and implement important protections for farm workers.

The relationship between state action (or inaction) and EPA's registration process are clear: In the vast majority of cases, and **for the vast majority of pesticides, state regulators such as the Maryland Department of Agriculture rely heavily on EPA decisions when registering pesticides in their states.**

While states, including Maryland, have made some great strides in pesticide protections, regulation remains slow and reactive, rather than proactive. For instance, while Governor Hogan issued an



executive order calling on the Maryland Department of Agriculture to ban chlorpyrifos, the order only came after three years of legislative efforts to ban the pesticide in 2020. This, despite EPA scientists recommending a ban in 2015 and 2016. After the Trump administration reversed course in 2017, proactive state regulation may have involved regulators who were well aware of the underlying science behind the recommendations for a ban in 2015 and 2016. Proactive regulators may have been empowered to weigh that science against the political decision to reverse course, and move to ban chlorpyrifos themselves.

Instead, as was the case in multiple states, it took years of legislative efforts before agencies stepped in. While this may not reflect a lack of concern or the intent of regulators, **the reality is that Maryland's existing system of pesticide regulation, as is the case in many states, is not built to proactively protect people and pollinators from pesticides.**

SB 268 would take an important step towards more proactive protections by shifting pesticide registration authority from the Department of Agriculture to the Department of the Environment. **States whose pesticide registration authority lies under their departments of the environment, rather than agriculture, have historically been more protective of people and pollinators.**

New York, for instance, **New York's Department of Environmental Conservation has banned 6 pesticides or classes of pesticides that EPA has not, and restricted many more.** Most recently, New York banned chlorpyrifos and classified a number of neonicotinoid uses as restricted-use.

New York State conducts technical reviews of new active ingredients (NAI) and major change in labeled use patterns (MCL) of previously registered active ingredients in NYS. NAI and MCL **applications are thoroughly reviewed for potential impact to human health, non-target organisms, and environmental fate** by technical staff from the Department and from the NYS Department of Health. A complete assessment is provided in the Department registration decision letter to the applicant. If a mitigated measure is negotiated between the Department and the applicant, the measure is recorded in the registration decision letter. NAI/MCL registration decision letters can be viewed on the NYS Bureau of Pesticide Management Information Portal (NYSPAD) by searching on the active ingredient letters tab and searching by active ingredient name or chemical code. The NYS specific language statement must be located in an obvious section of the label within the directions for use or on the front panel if directed by the Department as sited in the registration decision letter.

This investment in carefully reviewing pesticide products is in line with the New York Department of Environmental Conservation's Mission, **"to conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare** of the people of the state and their overall economic and social well-being." Meanwhile, **the Maryland Department of the Environment's mission is to "protect and restore the environment for the health and well-being of all Marylanders."**



The Maryland Department of Agriculture’s mission is “...to provide leadership and support to agriculture and the citizens of Maryland by conducting regulatory, service, and educational activities that assure consumer confidence, protect the environment, and promote agriculture.”

These mission statements, along with the more proactive nature of New York’s pesticide regulations (as one example), paint a clear picture: **pairing pesticide regulation with the regulators whose mission it is to protect people and the environment from pollution can result in better protections for people, the Bay, and pollinators from pesticides.**

New York and other states whose pesticide regulations fall under their departments of environment still consult with Departments of Agriculture and take fully into account the costs and benefits associated with regulating pesticides, as does EPA. Shifting regulation to the agency with the most expertise and resources as well as the mission to protect people and the environment will allow for a more proactive approach that will ultimately benefit all Marylanders.

Friends of the Earth urges you to favorably report SN 268 out of Committee.

Thank you.

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