Maryland
Department of Agriculture

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Maryland Department of Agriculture

Legislative Comment

Date: March 2, 2022

BILL NUMBER: House Bill 570

SHORT TITLE: Pesticides – Mosquito Control Products and PFAS Chemicals

MDA POSITION: Information

EXPLANATION:

HB 570 would require the Secretary of the Maryland Department of Agriculture (MDA) to require distributors of mosquito control products to submit an affidavit stating whether the product has ever been stored in a fluorinated container and conduct laboratory testing showing whether the product contains perfluoroalkyl or polyfluoroalkyl substance (PFAS).

This legislation assumes that the industry will police itself. The bill carries no provision for the independent monitoring for these types of products. There would need to be a regulatory laboratory to perform marketplace sampling and analysis of these products to ensure that the affidavits are true.

In its current posture, the bill includes all mosquito control products, not just those for professional use. This covers pet, home and garden, professional use, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) exempt pesticides, 25b's. There are over 700 mosquito control products registered by the State of Maryland that would all require regulation and inspection for contamination. This also brings up the question whether this be done on a per lot basis or not. If it is on a per lot basis, this will significantly increase MDA's laboratories' and inspectors' workload. If the workload does increase, then expenses and personnel will increase. Further, the source of the contamination for PFAS would not readily be determined by laboratory analysis. The contaminant could come from improper sampling. Currently, there are no sampling guidelines for this contaminant in pesticide formulations.

The bill also mentions that the analysis for the contaminant be performed in a laboratory "approved" by the U.S. Environmental Protection Agency (EPA). Currently, there are no laboratories certified by the EPA for determining PFAS in pesticide formulations. This comes

from a search of certified laboratories in EPA's database. This would impose a cost upon the pesticide manufacturers to outsource this analysis to a private laboratory, if one eventually becomes certified.

HB 570 contains language for the use of an analysis method that has been validated by the EPA for the detection of PFAS chemicals. Currently, there is only one analysis method that has been validated, and that method was validated using only two mosquito control products as matrices. The method may not work on other mosquito control products that contain different inert ingredients. Differences in inert ingredients from product to product can cause false positive and false negative results.

Finally, this legislation indicates that the use of a total organic fluorine result can be used in lieu of a more advanced and specific instrumental method. There is currently no total organic fluorine method for these types of products.

Last year, MDA was made aware of the possible contamination in Permanone 30-30 via a letter from the Maryland Pesticide Education Network and Public Employees for Environmental Responsibility. In response to this information, MDA immediately consulted the EPA. **After conducting their own testing, the EPA released a statement confirming no detection of PFAS contamination in multiple samples of Permanone 30-30**. The agency also tested a sample of MDA's Permasease 30-30 inventory, which also confirmed no detection of PFAS contamination

If you have additional questions, please contact Cassie Shirk, Director of Legislation and Governmental Affairs, at cassie.shirk@maryland.gov or 410-841-5886.