SOUTHERN CROP PRODUCTION ASSOCIATION

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To: Chair Feldman, Vice Chair Kagan, and Distinguished Members of the Education, Energy, and the Environment Committee

Re: Senate Bill 158, Pesticide Registration – PFAS Testing – Requirements

Thank you for the opportunity to provide written testimony regarding SB 158. This bill seeks to require new and additional testing for pesticide products regulated by the state of Maryland and by the United States Environmental Protection Agency (EPA). **We respectfully oppose this legislation and request an unfavorable vote**.

Southern Crop Production Association (SCPA) is a regional not-for-profit trade association representing pesticide registrants, agricultural retailers and distributors who supply farmers and ranchers with products and services. SCPA's membership is comprised of over 50 member companies involved in the research and development, manufacturing, and sale of agricultural inputs including crop protection products, seeds, traits and biotechnology, seed treatments and biologics in sixteen southern states. SCPA is recognized by industry, state and federal agencies, and legislative bodies as the principal regional spokesperson for the crop production industry and related trades in the southern United States.

SB 158 is not necessary due to existing rigorous federal testing requirements for pesticides. SB 158's requirement for pesticide products to "pass a PFAS test" is not necessary to protect the public and it is unclear what purpose this "PFAS testing requirement" seeks to achieve. All pesticides, including those formulated with fluorinated chemistry, must already be registered by U.S. EPA prior to applying for and receiving state registration in Maryland. Before pesticides even enter commerce in Maryland, they must already be deemed safe by EPA. To approve a new pesticide product, EPA must determine based on data that the pesticide will not, when used in accordance with the label, and with widespread and commonly recognized practice, cause unreasonable adverse effects on the environment[1] and provides reasonable certainty of no harm to human health. EPA subjects all new pesticide products to rigorous human health and environmental review and testing requirements to satisfy these standards for registration. These testing requirements include, depending on the type of pesticide, the following:

- Product chemistry
- Physical and chemical properties
- Acute toxicity
- Efficacy testing (for public health uses)
- Ecological effects
- Environmental fate
- Applicator exposure
- Residue chemistry (for food use pesticides)

[1] 7 U.S.C. §136a(c)(5).

These tests take months and years to complete and represent an investment of millions of dollars by pesticide companies in the science that supports all products available to Maryland residents, professional applicators, and growers. EPA expends significant resources to review and approve the testing data during a rigorous process. It can take more than 11 years before a new product is registered for sale due to the rigorous registration process. Further, EPA, must periodically review each registered pesticide active ingredient to ensure it continues to meet this robust safety standard. Pesticides are unique, with more scientific data available about them than for any other products available in commerce today.

The test method suggested in the bill cannot adequately test for the presence of PFAS in pesticide products. Compliance with SB 158 would be impossible for pesticide registrants and distributors because they cannot adequately test for the presence of all PFAS in pesticides (particularly at the parts per trillion or parts per billion level). The test methods referenced in the legislation are EPA's PFAS test methods for wastewater, surface water, groundwater, soil, biosolids, sediment, landfill leachate and fish tissue—not pesticides.[2] EPA has only one internally validated method for the detection of PFAS compounds in oily matrices, such as pesticides. This method can only detect 28 PFAS.[3] It is important to note that when this validated test method was used, PFAS that were previously detected with other methods, were not found in the samples.[4] Thus ensuring an appropriate method is used is critical, otherwise results obtained from the suggested method will be inconsistent and inaccurate. We also note that the presence of fluorine is not necessarily indicative of the presence of PFAS, and therefore would be an inappropriate test standard.

Even if a valid test method existed for the full diversity of pesticide products, the laboratories in the United States capable of performing PFAS testing would be overwhelmed by test requests from hundreds of pesticide registrants wanting to ensure they comply with Maryland's requirements. Commercial labs lack the capacity to handle the volume of pesticides that would need to be tested in order to be registered and sold in the state. Maryland should not impose an infeasible and highly burdensome requirement on pesticide companies that is not necessary.

The extraordinarily low levels required for a pesticide to "pass a PFAS test" does not provide additional public health protections. The state of Maryland has not demonstrated that the presence of PFAS at extremely low levels in a pesticide (100 ppt or 10 ppb) presents any unreasonable adverse effects on human health or the environment. The state has not presented any exposure data showing whether people are even exposed to PFAS in using registered pesticides in accordance with their directions for use. There is no evidence that this is a growing or widespread public health concern for pesticide users. Pesticide registrants are required to report adverse effects to EPA, and we are not aware of reports of adverse effects from the use of pesticides due to PFAS being present in the products in the ppb or ppt level. EPA monitors this information to ensure that pesticides are safe for use.

Levels of PFAS this low in pesticides are not toxicologically significant. To illustrate how miniscule this threshold is, 1 ppb is equivilant to 1 drop added to a large tanker truck and 1 ppt is equivilant to 10 drops added to the Rose Bowl stadium. Before banning pesticides that contain microscopic amounts of PFAS, the state of Maryland should demonstrate that the pesticides would present unreasonable adverse effects to the environment or impact the reasonable certainty of no harm standards for human health standards. EPA has approved fluorinated pesticide products and has not indicated it plans to take any action to withdraw approvals of these products. Maryland should not take action at this time or, at the very least, defer until EPA completes the evaluations necessary to determine whether restricting PFAS in pesticides is necessary.

SB 158 will disadvantage Maryland residents and growers because they will likely lose access to critical pest protection products. Pesticides provide critical protection against harmful, invasive species that can be detrimental to human health and our environment. Consumers rely on household pesticides to control pests and protect their families and their personal property. Insects, rodents, and weeds can threaten the health and well-being of our communities. Pesticides protect us from diseases carried by insects such as West Nile virus and Lyme disease, illnesses caused by contact with rodent and cockroach droppings, urine, or dander, or caused by poison ivy or oak and ragweed.

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[2] See Summary of EPA Method 1633: https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas. See also EPA Methods for determining PFAS is drinking water by liquid chromatography/tandem mass spectrometry: https://www.epa.gov/pfas/epa-pfas-drinking-water-laboratory-methods.

[3] See https://www.epa.gov/pesticides/updates-epa-efforts-address-pfas-pesticide-packaging.

[4] See https://www.epa.gov/system/files/documents/2021-09/epa-pfas-mda-report_0.pdf. LC-MS/MS analyses led to a false positive that likely resulted from matrix interference.

SB 158 may jeopardize Maryland residents' access to pesticides currently registered for sale in the state. The new stringent testing requirements may result in a de facto ban on these important pesticide products–even if the products do not contain any PFAS. Companies will be forced to make difficult business decisions, which may result in diverting their products to other states due to the massive costs and burdens associated with creating and conducting tests as required by SB 158. All this could be avoided by relying on the rigorous testing already done by EPA. This would ensure that Maryland residents have access to pesticides for their own critical uses.

Maryland residents and growers will have no protections from pests, invasive species, and non-native pest species. SB 158 will seriously disadvantage Maryland residents and the state itself from lost access to critical pesticides used to protect people and animals from mosquito-borne diseases through the activities of Maryland's public health officials as well as use of topical mosquito repellent sprays and lotions. Because they are public health tools, mosquito control pesticides are supported by additional scientific study requirements as part of the federal registration process. It would be impossible to manage mosquito populations in the state without pesticides.

Essential products for protecting against termites, bedbugs, cockroaches, mice, and rats at home, in schools, in restaurants, in commercial buildings, and in public places would not be registered. Natural resource, utility, and transportation managers would no longer have the pesticide tools necessary for keeping rights of way clear, creating fire breaks in forests, and managing invasive insect and aquatic species that impact Maryland's environment and economy. The state's agricultural producers would not have access to products available to competitors in neighboring states or have the ability to manage unique pest pressures in Maryland crops. Access to veterinary health products would also be impacted, putting family pets, companion animals, livestock, and poultry at risk from disease and nuisance pests.

We respectfully oppose this legislation as it is not necessary due to existing federal testing requirements, as the test method cannot adequately test for the presence of PFAS, as the extraordinarily low levels required does not provide additional public health protections, as it will disadvantage Maryland residents and growers with no protections from pests, invasive species, and non-native pest species. Thank you for the opportunity to provide our perspective on SB 158. We urge you to vote no on SB 158.

Sincerely,

John G. Campbell
State Affairs Director