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Maryland Department of Agriculture

Legislative Comment

Date: February 2, 2023

BILL NUMBER: SENATE BILL 158

SHORT TITLE: PESTICIDES REGISTRATION- PFAS TESTING- REQUIREMENTS

MDA POSITION: INFORMATION

SB 158 would require the Secretary of the Maryland Department of Agriculture (MDA) to prohibit the registration of mosquito products starting in 2024 unless the distributor of the pesticide submits PFAS test results and an affidavit, with the remainder of the pesticide products registration prohibition beginning in 2026.

This legislation would have a tremendous impact on the pesticide industry, requiring the analysis of approximately 1,056 mosquito control products (average of FY 2010 – FY 2022) that are registered in the state of Maryland in 2024. Additionally, this legislation would require all pesticides to be tested and reported in 2026. The Pesticide Regulation Section (PRS) currently has 12,526 pesticides registered (average of FY 2010 – FY 2022). The number of packets of information would be overwhelming ultimately causing significant registration and renewal delays.

This legislation would also affect the Pesticide Data Survey, a survey of farmers and other professionals done every two years. If registrations drop, as seen in the agency statement of impact, this will lower revenues which in turn lowers the funding for the survey. This would cause the survey to go to a three year cycle from a two year cycle. Associated costs are also outlined in the impact document.

In addition, the legislation would affect several other programs in the Department. PRS, which licenses applicators and businesses, would be tasked with performing additional enforcement duties to ensure no one is selling or using products that contain PFAS or have been pulled from registration. Invasive species control would be affected as well. There are several invasive species that Plant Protection and Weed Management, and Forest Pest Management work to combat. Examples of these invasives include spotted lantern fly, palmer amaranth, emerald ash

borer, spongy moths, fire ants (come from imported plants from the south) and hemlock woolly adelgid. Also affected would be the nursery industry and Mosquito Control, who would face potential elimination of tools in the toolkit to combat vectors of human disease organisms.

The legislation also mentions that the analysis for the contaminant be performed in a laboratory "approved" by the U.S. Environmental Protection Agency (EPA) or MDE. Currently, there are no laboratories certified by the EPA for determining PFAS in pesticide formulations. No list could be found on MDE's website. This would impose a cost upon the pesticide manufacturers to outsource this analysis to a private laboratory if one eventually becomes certified. Methods would need to be developed for a large variety of pesticide formulations as an all-in-one method will not work for all pesticides that are registered.

EPA Method 1633 is a draft method for aqueous, solid (soil, biosolids, sediment) and tissue samples. It is currently undergoing revision to include the final quality control acceptance criteria for all aqueous matrices (surface water, ground water, and wastewater) with anticipated completion by the early 2023. The final version will include all matrices and should be completed later this year. This method would have to be radically modified to be able to analyze pesticide formulations. The instrument used in the development of the method is a UPLC-MS/MS (ultra-pressure liquid chromatography mass spectrometry-mass spectrometry). This is a low-resolution instrument and cannot differentiate between molecules that have similar weights. The needed instrument is one that can distinguish between weights to over 5 decimal places.

This legislation allows the use of a total organic fluorine result in lieu of a more advanced and specific instrumental method. There is currently no validated total organic fluorine method for these types of products. If a product contains a fluorinated pesticide, it will fail the limit test of 100 ppt.

If you have additional questions, please contact Steve Connelly, MDA Deputy Secretary at steve.connelly@maryland.gov or 410-841-5881.