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Testimony: Michael Gruber, Senior Vice President Government Relations & Public Policy, Household & Commercial Products Association

RE: Maryland HB 319, Pesticide Registration – PFAS Testing – Requirements

Chair Pena-Melnyk, Vice Chair Kelly, and Distinguished Members of the Health and Government Operations Committee

On behalf of The Household and Commercial Products Association (HCPA)[1], we submit the following testimony regarding HB 319 (SB 158), which seeks to establish a requirement for Perfluoroalkyl and polyfluoroalkyl (PFAS) testing as a condition for pesticide registration in Maryland. **We respectfully oppose this legislation and request an unfavorable report**.

HCPA members manufacture a variety of products including household cleaning products, air care products, aerosol products, floor polishes and waxes, automotive maintenance and appearance products, and consumer pesticides which includes disinfectants and sanitizers. These products are essential tools for a wide variety of functions necessary to maintain clean and healthy homes and institutional facilities. Many products represented by HCPA, including disinfectants, sanitizers, pet care and home pest products, are registered under state and federal pesticide regulations. Thus, our industry has a direct pecuniary interest in discussion and development of requirements for registration of products in the state. We would appreciate consideration of the following key issues warranting an unfavorable report on HB 319.

Redundant Regulations:
It is important to note that the federal and state regulation of pesticide distribution, sale, and use, as well as stringent safety standards and enforcement are already established under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Maryland Department of Agriculture's Pesticide Regulation section. These statutes are designed to evolve as science advances, to support product innovation, and to provide for robust stakeholder and public input into pesticide regulations. The laws not only mandate comprehensive data package and rigorous risk assessment, but they also require review of the most current scientific data on health and environmental impacts before registration for all pesticide products. Importantly, registered pesticide products are also required to undergo periodic registration review to ensure that the health and environmental impacts of the use of the product continue to rely upon the most current science. We believe the additional information collection proposed by HB 319 adds zero value to current regulatory structures.

PFAS Information:
Within the requirements for registration, applicants are required to disclose the presence of *any* intentionally added PFAS, either on the label for an active ingredient or on the Confidential

[1] The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell $180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

Statement of Formulation (CSF) as a condition of registration. Note Maryland already receives the CSF from registrants as a condition of registration. Correspondingly, if any level of PFAS (or any other contaminant) is known to be present, the registrant is required to submit an Incident Report under FIFRA 6(a)(2), or the product is "misbranded" and subject to enforcement and/or cancellation. The need for an affidavit attesting to the presence of PFAS is unclear given that Maryland already receives information from producers if a product contains PFAS.

Capacity and Costs:
In its current form, the bill would require PFAS analysis of all pesticides in a laboratory either "Identified by the Department of the Environment as capable of testing for PFAS" or "Used by the U.S. Environmental Protection Agency for PFAS Testing." Currently, there are no laboratories certified by the EPA for determining PFAS in pesticide formulations. This would impose a cost upon the pesticide manufacturers to outsource this analysis to a private laboratory, if one eventually becomes certified, and would disproportionally affect small business owners operating in the state.

The Maryland Department of Health is the only lab in the state which has the technical capability to meet the criterion within the bill. Given the sheer number of pesticides registered in the state of Maryland — over 12,000 — the lab would quickly be overwhelmed with testing.

PFAS Nomenclature:
PFAS substances are a large, diverse group of over 1,000 chemical compounds. PFAS properties vary widely as do uses and applications. For this reason, it is important to distinguish between PFAS categories, use, function, and chemical properties as opposed to treating the substance as a single regulatory group. Chemical and structural differences among different types of PFAS may create physical chemical properties that underline legitimate concerns over potential health and environmental risks associated with some substances—this most certainly does not apply to all PFAS chemicals and applications. For this reason, PFAS should not be considered as a single group or class, especially given it is possible to scientifically define distinct categories of PFAS based on shared properties. It is not scientifically accurate nor appropriate to group all of these substances together, which is essentially how HB 319 reflects PFAS.

Conclusion:
The safety of human health and the environment is a top priority for HCPA and our member companies. HCPA supports sensible regulation to control the release of PFAS into the environment; however, we respectfully oppose the broad and technically inaccurate approach proposed HB 319. This legislation does not incorporate an evidence-based methodology to regulation and instead would impose unachievable, and unnecessary, requirements on manufacturers and distributors of products.

HCPA urges an unfavorable report on HB 319.