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Legislative Comment

Date: March 13, 2024

BILL NUMBER: HB 1190

SHORT TITLE: Pesticides – PFAS Chemicals – Prohibitions

MDA POSITION: LETTER OF INFORMATION

House Bill 1199 would prohibit a person from selling a pesticide that has PFAS chemicals listed as an active ingredient on certain labeling accompanying the pesticide; prohibiting, beginning on a certain date, a person from using a pesticide that has PFAS chemicals listed as an active ingredient on certain labeling; and generally relating to pesticides and PFAS chemicals.

The bill would add section to § 5-210.6 to the pesticide applicators law to prohibit the selling of a pesticide formulation with an active ingredient that meets the following definition: “...**a class of fluorinated chemicals that contain at least one fully fluorinated carbon atom, including perfluoroalkyl and polyfluoroalkyl substances.**” EPA has a PFAS roadmap to address PFAS concerns in the environment from various contamination sources. EPA also has an extensive review process for the approval of new active ingredients in new formulations of pesticides. The agency is also reviewing PFAS under a new rule in the TSCA, and has published a definition in the Federal Register, Vol. 88, No. 195, pp. 70516 – 70559, Section III, A, 1.

There are 9,000+ per- and polyfluoroalkyl substances (PFAS) in existence, which makes studying and regulating PFAS individually, or even as small mixtures, infeasible. Multiple PFAS definitions based on structure have been proposed, yet these definitions do not consider the implications for the full suite of organofluorine chemicals. The inclusion of the CF₃ (trifluoromethyl, fully fluorinated carbon atom) would include certain industrial chemicals, pharmaceuticals, and pesticides. Industrial chemicals would include fluoroform, trifluoroethane, trifluoropropane, etc. Many of these are precursors for other manufactured chemicals, or precursors that can be used to manufacture pharmaceuticals, pesticides, or other compounds.

For example, organofluorine pharmaceuticals, whose use may be essential and are found in human serum and wastewater, would be included in the definition. There are 92 pharmaceutical compounds that meet the definition of PFAS in the bill. The following are some examples of therapeutic areas of the pharmaceuticals: antibiotic, anticoagulant, antidepressant, antidiabetic, antiemetic, antihypertensive, neoplastic agents, antipsychotics, contrast agents for medical imaging, NSAIDS, to name a few. The definition does not distinguish between classes of compounds, or their uses. Many of these are major drugs used in the treatment of anxiety, cholesterol, diabetes, etc. Prozac (antidepressant), and Lipitor (cholesterol lowering) are the most prescribed drugs that fit the definition, 24,110,302 and 112,104,359 prescriptions respectively.

Pesticides have a finite half-life in soil, water, vegetation, and in animal metabolism. These half-lives are much shorter than PFAS/PFOA in the environment, animals, and humans. The half-life of these compounds is between a few hours and 4-5 months, on average. Many of these are not mobile in the environment and will not leach into the water table. They also have a low volatility, which means they will not move from where they are applied once they reach the target, i.e., soil, plant material, etc. These pesticides have gone through rigorous testing for toxicity, environmental impact, etc., that the USEPA reviews before granting a registration.

If you have additional questions, please contact Rachel Jones, Director of Government Relations, at Rachel.Jones2@maryland.gov or (410) 841-5886.