AGRICULTURAL RETAILERS ASSOCIATION

February 26, 2020

RE: COMMENTS ME LD 2083 (HP 1484)

Senator Dill, Representative Hickman, and Members of the Joint Standing Committee on Agriculture, Conservation and Forestry:

The Agricultural Retailers Association (ARA) is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets.

ARA submits the following comments on behalf of agricultural retailers operating in the state of Maine regarding HP 1484 – An Act to Require the Board of Pesticides Control to Annually Publish Certain Information Regarding Pesticides and to Prohibit Certain Use of Neonicotinoids.

Publication of Information

Under § 618 of HP 1484, the bill requires the Board of Pesticide Control to publish a summary of the pesticide reports it received the previous year from commercial applicators[1] by March 31st annually. These reports are to include a summary of information on the total quantity of pesticide applied and the total area treated in each county in the state. Commercial applicators are already required to compile this information, which is available to the Board of Pesticide Control. This provision seems to create unnecessary redundancy with other state regulations and requirements. It also places additional burdens on scarce state resources to properly manage the data at the expense of other agency responsibilities. If there is a perception that the general public is demanding this information to be released, which does not appear to be the case given similar efforts in other states, why not include these reporting requirements for all pesticide applicators licensed to operate in the state?

In addition to commercial pesticide applicators, the state requires an agricultural basic pesticide applicator license[2] for fruit, vegetable and grain growers who use only general use (over the counter) pesticides and annually sell more than $1,000 of plants or plant products intended for human consumption. A private pesticide applicator license[3] is necessary for anyone that wants

[1] https://www.maine.gov/dacf/php/pesticides/applicators/certification/index.shtml#comm
[2] https://www.maine.gov/dacf/php/pesticides/applicators/certification/index.shtml#agbasic
[3] https://www.maine.gov/dacf/php/pesticides/applicators/certification/index.shtml#private

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to purchase, apply or supervise application of a restricted or limited use pesticide with the intent of producing a commodity. According to the Maine Depart of Agriculture, Conservation and Forestry, typical private license holders include farmers, greenhouse operators, florists, orchardists, Christmas tree growers and foresters.

Maine state law already allows an individual to have the right to know if their next door neighbors apply pesticides to their lawn, trees or on their farm or orchards by completing a Request for Notification form (for all outdoor pesticide applications) and signing up for the Maine Pesticide Notification Registry (for most non-agricultural pesticide applications). If the point of the annual report is communication on pesticide use within the state of Maine, the program already exists under "Pesticide Notification – Your Rights & Responsibilities." [4] Burdening the Board of Pesticides Control with yet another mandate takes away funding for compliance and enforcement purposes. This proposed new mandate will also likely cause the agency to get behind the required scheduled release of the data unless the state substantially increases their budget and staff.

Classification of Neonicotinoids As Limited Use Pesticides

ARA believes that decisions made regarding the use or prohibition of pesticide products should remain with the state and federal regulatory agencies, not legislatures with no scientific expertise. Sec. 2 Classification of neonicotinoids as limited use pesticides of HP 1484 would require the Board of Pesticides Control to issue a rulemaking to prohibit the use of products containing neonicotinoids for landscape gardening by certified applicators. The bill would also authorize for limited use of a product containing neonicotinoids if the board determines that use is necessary to protect the State.

HP 1484 undermines Maine's Department of Agriculture, Conservation and Forestry's risk-based approach to the regulation of pesticides. The registration and re-registration of essential pesticide products such as neonicotinoids need to be properly founded on risk-based analysis and peer-reviewed science. The Board of Pesticides Control are the recognized experts and best suited to make the regulatory decisions for sale, storage, handling and application of pesticide products. Imposing politics in that decision-making process undermines the agency's decision-making process and creates an unpredictable registration and regulatory process.

Pesticides are highly regulated products in commercial use, with over 120 different baseline studies required for new EPA registrations. These studies assess safety to humans, wildlife, and the environment. On average it takes around 11 years for a new product to be registered, sold and used in the U.S. marketplace. All pesticides, including neonicotinoids, are required to undergo periodic evaluation to ensure they continue to meet the highest standards of safety necessary to protect human health and the environment.

Neonicotinoids are a modern class of insecticides that have been widely adopted by ARA members and their customers to manage some of the most destructive insect pests. These products are being used in place of older insecticides because of their effectiveness against pest management programs and favorable environmental profile and mammalian safety. The

[4] https://www.maine.gov/dacf/php/pesticides/public/notification.shtml

important pesticide is used on many crops such as soybeans, wheat, cotton, sorghum and canola. It is also used on many smaller-acreage horticultural crops, ornamental plants, lawns, and even on pets for flee control. Neonicotinoids insecticides help ensure beneficial insects remain available to keep other potential pests in check due to their selective control of target pests.

ARA is an active member of the Honey Bee Health Coalition (HBHC), which is focused on collaborative solutions that will help to achieve a health population of honeybees and other pollinators in the context of productive agricultural operations. There is an extensive body of scientific research that definitively shows neonic insecticides are not linked to honey bee colony decline when the products are applied according to the directions on their U.S. Environmental Protection Agency (EPA) FIFRA approved label. For example, Australian honey bee populations are not in decline and neonicotinoids are regularly used in that country. The main threat to honey bees is the Varroa mite, a deadly parasite that lives on the outside of its host. The mite feeds on the brood and adult honey bees. When left untreated, honey bee colonies may die within months. This deadly parasite has spread to all inhabited continents except Australia. Many studies and field tests have followed the long-term health of colonies and found no adverse effects on survival, brood development or foraging behavior, under normal field condition use. Most scientists and experts agree that bee health is impacted by many factors, including parasites, disease, lack of proper forage and nutrition, weather, hive management practices, and pesticides when EPA's FIFRA approved label directions are not properly followed.

According to a 2017 report by the U.S. Department of Agriculture (USDA), honeybee populations are on the rise. As of April 2017, USDA estimated 2.89 million bee colonies existed across the United States, which is an increase of 3 % compared to April 2016. Globally honey bee colonies have increased 45% since the 1960s. U.N. Food and Agriculture Organization statistics show that the world's honeybee population rose to 80 million colonies from 2011 from 50 million in 1960.

The EPA's screening-level assessments found no real-world negative impact on birds and mammals from neonicotinoid insecticides from many years of widespread use. The agency's unreasonable assumptions of a negative impact were made under an unrealistic scenario of a 100% diet of a single feed item contaminated with the highest residues eating treated seed everyday over its entire lifetime. Modern planting equipment minimizes seeds remaining above ground that could be available for feeding. In addition, the agency's aquatic assessments found no issues with fish/amphibians, or aquatic and terrestrial plants. The agency's indication of potential risks is based on a laboratory study of a single sensitive species and not representative of real-world effects. The EPA assessments indicated no issues or concerns to human health.

ARA believes risk decisions and benefit assessments by EPA needs to be based on actual data and real-world situations that can be properly peer reviewed. Industry stakeholders should play a critical role in any sensible mitigation process to ensure they are realistic and achievable, while continuing to allow access to these critical insecticide products.

In January 2020, the EPA released proposed interim decisions[5] for several neonicotinoid products (acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam). In the proposed interim decision, EPA is proposing the following –

- management measures to help keep pesticides on the intended target and reduce the amount used on crops associated with potential ecological risks;
- requiring the use of additional personal protective equipment to address potential occupational risks;
- restrictions on when pesticides can be applied to blooming crops in order to limit exposure to bees;
- language on the label that advises homeowners not to use neonicotinoid products; and
- cancelling spray uses of imidacloprid on residential turf under the Food Quality Protection Act (FQPA) due to health concerns.

Additionally, the agency is working with industry on developing and implementing stewardship and best management practices. ARA urges your committee to allow the state and federal agencies with regulatory authority over pesticide products to make their decisions based on a risk-based analysis following peer-reviewed science. Thank you for your review and consideration of our comments.

Sincerely,

Richard D. Gupton

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Senior Vice President, Public Policy & Counsel

[5] https://www.epa.gov/pollinator-protection/epa-actions-protect-pollinators#Proposed-Interim-Decisions