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TESTIMONY BEFORE THE JOINT COMMITTEE ON
AGRICULTURE, CONSERVATION AND FORESTRY

Neither For Nor Against LD 316

An Act To Prohibit the Use of Chlorpyrifos

March 2, 2021

Senator Dill, Representative O'Neil, and honorable members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Megan Patterson, and I am the Director of the Board of Pesticides Control speaking on behalf of the Board and the Department of Agriculture, Conservation and Forestry, Neither For Nor Against LD 316, "An Act To Prohibit the Use of Chlorpyrifos."

This testimony will address two points: the Board's rulemaking process and some concerns regarding the bill's structure and implementation.

Board Process

In recent legislative sessions, a number of bills have proposed a legislative solution for a specific pesticide policy issue instead of tasking the Board of Pesticides Control (BPC) with a more thorough analysis of the issue. LD 316 will require the Board to conduct rulemaking to accommodate both the prohibition of use and the temporary permitting process outlined. The Board's structure, member experience, as well as its required robust public input process make it well-suited to address the directive presented in this bill. The Board is a public volunteer board appointed by the Governor where members from diverse professional and personal backgrounds apply their collective expertise to help guide pesticide policy and regulation. In addition, the Board has the ability to enforce its rules and regulations, which is an important consideration. By following the administrative procedures act and utilizing the experience of the BPC members and the capable expertise of Board staff, we believe that the BPC is the appropriate body to address the prohibition of use outlined in LD 316. Additionally, the routine technical rulemaking process allows for adjustments, should they be needed, more readily and timely than the legislative process.

Bill Structure and Implementation

To date, the State of Maine has never banned a pesticide. However, a number of pesticides have been restricted, limited, or prohibited from use pursuant to existing state regulations. Details of those state regulations may be found in departmental rules chapters 40 and 41.

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Hence, while prohibiting the use of chlorpyrifos is possible, the bill, as currently written, raises the following issues and concerns:

- Working with agricultural producers/industries to identify alternatives is necessary and may take considerable time. Cooperative Extension will likely play a role in this as they provide pest management education to industry/agriculture/the public.
- There is a need to identify metrics by which transition to lower risk alternatives can be measured. If the goal of this bill is to remove a higher toxicity pesticide from limited use, it is essential to ensure that alternative pest management methods are as effective and are not applied in greater quantity or in a way that increases exposure to people or non-pest organisms, thereby nullifying any anticipated reduction in risk.
- Ensuring that existing stocks are either used or disposed of properly may be difficult with the timeline identified. When product registrations are canceled, those products are immediately unlawful to distribute or use. The Board can use its public input process and rulemaking to identify a method or methods of regulatory implementation that minimizes the production of waste to be disposed of through hazardous waste contractors and landfilling.
- Board staff will need time to provide educational outreach to the applicator community. Should this bill become law, it will do so at the end of the growing season in Maine. It is unclear if this will provide sufficient time for people to use existing stocks and/or identify alternative approaches to pest management.

I will conclude by inviting the bill sponsor and the members of this Committee to sign up for the BPC's mailing list and to attend the Board's public meetings.

Thank you for your time. I am happy to answer any questions you may have now or at the work session.