

117TH CONGRESS
2D SESSION

S. 4585

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to modify the pesticide registration process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2022

Mr. MARSHALL introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Federal Insecticide, Fungicide, and Rodenticide Act to modify the pesticide registration process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “EPA Transparency
5 for Agriculture Products Act of 2022”.

6 **SEC. 2. REGISTRATION REVIEW.**

7 Section 3 of the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 136a) is amended—

9 (1) in subsection (g)—

10 (A) in paragraph (1)(A)—

1 (i) by redesignating clauses (ii)
 2 through (v) as clauses (iii) through (vi), re-
 3 spectively;

4 (ii) in clause (i), by striking the clause
 5 designation and heading and all that fol-
 6 lows through “The registrations” and in-
 7 serting the following:

8 “(i) DEFINITION OF NONVOLUNTARY.—In
 9 this subparagraph, the term ‘nonvoluntary’
 10 means, with respect to an action of the Admin-
 11 istrator as part of a registration review, that—

12 “(I) the registrant has not provided
 13 unbiased consent to the action; or

14 “(II) the registrant has provided con-
 15 sent to the action, but the Environmental
 16 Protection Agency has placed undue influ-
 17 ence on the registrant to obtain the con-
 18 sent.

19 “(ii) PERIODIC REVIEW.—The registra-
 20 tions”;

21 (iii) in clause (v) (as so redesignated),
 22 by striking “clause (iii)” and inserting
 23 “clause (iv)”;

24 (iv) in clause (vi) (as so redesign-
 25 ated)—

1 (I) by striking “No registration”
 2 and inserting the following:

3 “(I) IN GENERAL.—No registration”;

4 and

5 (II) by adding at the end the fol-
 6 lowing:

7 “(II) NONVOLUNTARY CANCELLA-
 8 TION.—In the case of a nonvoluntary can-
 9 cellation of a registration as a result of the
 10 registration review process, the Adminis-
 11 trator, with the concurrence of the Sec-
 12 retary of Agriculture, shall determine,
 13 prior to cancellation, whether there is a
 14 viable and affordable alternative to control
 15 the same target pest.”; and

16 (v) by adding at the end the following:

17 “(vii) LOGICAL OUTGROWTH.—An interim
 18 or final decision issued as part of a registration
 19 review shall be a logical outgrowth of the appli-
 20 cable proposed interim decision.

21 “(viii) REVIEW REQUIREMENTS.—

22 “(I) OMB REVIEW.—The Director of
 23 the Office of Management and Budget
 24 shall conduct an interagency review of any
 25 proposed interim, interim, or final registra-

tion decision regarding nonvoluntary, more restrictive changes to a pesticide label under a registration review.

“(II) EFFECTIVE DATE.—An interim decision or final decision issued as part of a registration review regarding nonvoluntary, more restrictive changes to a pesticide label, including a revocation or cancellation of a registration, shall take effect 1 year after the date on which the interim decision or final decision, as applicable, and any comments submitted by the Secretary of Agriculture, are published in the Federal Register.

“(III) GUIDANCE.—With respect to an interim or final decision that is subject to review under subclause (I), any guidance and any interim guidance, including question and answer, shall be issued 7 days after the date on which the decision is published in the Federal Register.

“(IV) GOOD FAITH REVIEW.—The Administrator shall not deny a label or labeling proposed by a registrant as part of

a registration review without conducting a good faith review.

“(V) REVIEW DEADLINES.—

“(aa) LIMIT ON EXTENSIONS.—

The Administrator shall not extend the deadline for the final review of the label or labeling proposed by a registrant as part of a registration review for more than 2 60-day extensions.

“(bb) DEEMED APPROVAL.—If

the Administrator fails to take action on the label or labeling proposed by a registrant as part of a registration review before the final deadline established in accordance with item (aa), the proposed label or labeling shall be deemed approved.”; and

(B) in paragraph (2), by adding at the end

the following:

“(C) AGRONOMIC USE DATA.—The Adminis-

trator shall base any decision issued as part of the registration review process on Department of Agriculture agronomic use data, commercially available agronomic use data, and industry agronomic use data.”; and

1 (2) by adding at the end the following:

2 “(i) JUDICIAL REVIEW.—The following shall apply to
3 the judicial review of a registration:

4 “(1) In issuing a decision that would result in
5 more restrictive changes to a pesticide label, includ-
6 ing a revocation or cancellation of a registration, the
7 court shall allow the continued use of the registra-
8 tion through the following growing season.

9 “(2) Before issuing a decision that would result
10 in more restrictive changes to a pesticide label, in-
11 cluding a revocation or cancellation of a registration,
12 the court shall conduct a de novo review to deter-
13 mine whether there is a viable and affordable alter-
14 native to control the same target pest.”.

15 **SEC. 3. SCIENTIFIC ADVISORY PANEL.**

16 Section 25(d)(1) of the Federal Insecticide, Fun-
17 gicide, and Rodenticide Act (7 U.S.C. 136w(d)(1)) is
18 amended—

19 (1) in the eighth sentence, by striking “12
20 nominees, 6 nominated by the National Institutes of
21 Health and 6 by the National Science Foundation,”
22 and inserting “16 nominees, 6 of whom shall be
23 nominated by the National Institutes of Health, 6 of
24 whom shall be nominated by the National Science
25 Foundation, and 4 of whom shall be nominated by

1 the Secretary of Agriculture (of whom 2 shall be
 2 representative of the conventional agricultural indus-
 3 try and 2 shall be from agricultural land-grant uni-
 4 versities and have a specialty in agronomy or crop
 5 production),”; and

6 (2) in the nineteenth sentence, by striking “the
 7 Environmental Research, Development, and Dem-
 8 onstration Authorization Act of 1978.” and inserting
 9 “section 8 of the Environmental Research, Develop-
 10 ment, and Demonstration Authorization Act of 1978
 11 (42 U.S.C. 4365).”.

12 **SEC. 4. SCIENCE ADVISORY BOARD.**

13 Section 8(g) of the Environmental Research, Devel-
 14 opment, and Demonstration Authorization Act of 1978
 15 (42 U.S.C. 4365(g)) is amended—

16 (1) by striking “(g) In carrying” and inserting
 17 the following:

18 “(g) CONSULTATION AND COORDINATION WITH SCI-
 19 ENTIFIC ADVISORY PANEL.—

20 “(1) IN GENERAL.—In carrying”;

21 (2) in paragraph (1) (as so designated), by
 22 striking “, as amended.” and inserting “(7 U.S.C.
 23 136w).”; and

24 (3) by adding at the end the following:

1 “(2) AGRICULTURE SCIENCE COMMITTEE.—The
2 Agriculture Science Committee of the Board, in co-
3 ordination with the Chief Economist of the Depart-
4 ment of Agriculture, shall review any decision or ad-
5 vice issued by the Scientific Advisory Panel de-
6 scribed in paragraph (1)—

7 “(A) to determine whether the decision or
8 advice would have an economic impact of more
9 than \$100,000 on the agricultural industry; and

10 “(B) if the decision or advice would have
11 an economic impact of more than \$100,000 on
12 the agricultural industry, to consider and de-
13 scribe that economic impact.”.

○