

April 28, 2023

The Honorable Debbie Stabenow
Chairwoman,
Senate Committee on Agriculture, Nutrition, & Forestry
731 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Glenn “GT” Thompson
Chairman,
House Committee on Agriculture
400 Cannon House Office Building
Washington, DC 20515

The Honorable John Boozman
Ranking Member,
Senate Committee on Agriculture, Nutrition & Forestry
141 Hart Senate Office Building
Washington, DC 20510

The Honorable David Scott
Ranking Member,
House Committee on Agriculture
468 Cannon House Office Building
Washington, DC 20515

Dear Chairwoman Stabenow, Chairman Thompson, and Ranking Members Boozman and Scott:

As organizations dedicated to environmental protection, human health and wellbeing, and access to justice we are writing in strong opposition to including any language in the 2023 Farm Bill that would preempt localities from taking action to restrict the use of pesticides in their communities, which nearly 200 communities across the country already do.¹ Federal Insecticide, Fungicide and Rodenticide Act (“FIFRA”) locality preemption would also prevent local governments, in states where they are able, from passing ordinances regulating their own use of pesticides on public property such as public playgrounds or at local schools. In addition, FIFRA locality preemption could prevent individuals from holding pesticide companies accountable when they act recklessly.

Preempting local government’s ability to take prudent measures to reduce exposure to hazardous pesticides would eliminate long-standing, local protections aimed at safeguarding human health and the environment. Local governments have considered emerging scientific evidence, the concerns of their residents, and the unique local

¹ See Beyond Pesticide’s map of local pesticide policies at:
<https://www.google.com/maps/d/viewer?mid=1VLpVWvif02JOrgxf1-d1DLyDruE&ll=41.895619148810695%2C-74.18166846834136&z=5>

environment to craft meaningful protections that target water resources, the protection of wildlife, and harms to critical pollinators. Other actions protect children from exposure by limiting the use of hazardous pesticides around parks, playgrounds, and within local schools. These commonsense measures are undermined by FIFRA preemption, as is the ability of local governments to act quickly to tailor protections that safeguard the local environment and community from pesticide exposure.

FIFRA locality preemption may also weaken the country's tort laws, allowing manufacturers to ignore safety concerns with their products. People may be poisoned by a pesticide, studies may show that the pesticide causes cancer or neurodevelopmental harm, and air monitors or human experience may demonstrate the pesticide's propensity to drift in toxic amounts to homes and schools. State tort liability is intended to fill this gap. It provides incentives for manufacturers to continue to monitor the safety of their products and ensure their labels reflect the known risks. It also affords workers and others harmed by pesticides an avenue for relief when manufacturers fail at their duty. To the extent FIFRA locality preemption may be construed as preempting state tort law, this incentive disappears and companies can avoid any safety concerns that develop.²

Legislating FIFRA locality preemption will also be a significant blow to environmental equity. Certain communities, especially farmworkers and their families, bear the brunt of greater risk of illness from pesticide exposure. And despite the fact that people of color bear a disproportionate share of the health risks from exposure to pesticides, research attention, that would normally drive policy change, has been meager. State tort law is one of the few mechanisms available to correct these inequities. State tort law provides both accountability in law as well as compensation when these communities are being impacted by harmful chemicals.

We are asking you to stand on the side of the people and the environment and allow localities – not the chemical industry – to decide for themselves whether pesticides should be used in their communities. Further, we also ask you to protect individuals' right to access the courts when they are harmed. FIFRA locality preemption deserves no place in this year's Farm Bill.

Sincerely,

Alliance for Justice
American Association for Justice
American Bird Conservancy
Bernalillo County Open Space and Growing Health and Justice Coalition
Beyond Pesticides
Breast Cancer Prevention Partners
Center for Food Safety
Center for Justice & Democracy

² The Supreme Court has held repeatedly that absent evidence to the contrary, a preemption clause's reference to state "requirements" includes state common law duties which typically form the basis of any consumer lawsuit. *Riegel v. Medtronic, Inc.*, 552 U.S. 312, 324 (2008).

Coming Clean
Consumer Federation of America
Consumer Reports
Consumer Watchdog
CRLA Foundation
Earthjustice
Endangered Species Coalition
Environmental Justice Community Action Network
Environmental Working Group
Family Farm Defenders
Farmworker Association of Florida
Farmworker Justice
Friends of the Earth
Impact Fund
LEAD for Pollinators, Inc.
Moms for a Nontoxic New York
National Association of Consumer Advocates
National Center for Health Research
National Consumers League
National Health Foundation
Northwest Center for Alternatives to Pesticides
NRDC
Pesticide Action Network North America
Protect All Children's Environment
Public Employees for Environmental Responsibility (PEER)
Public Justice
Re:wild Your Campus
Texas Watch
The Center for Biological Diversity
The Michael J. Fox Foundation for Parkinson's Research
The Xerces Society for Invertebrate Conservation
Toxic Free NC
Toxic-Free Future
USPIRG
Women's Voices for the Earth
Zone Zero Farms