S T A T E O F N E W Y O R K

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I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. ENGLEBRIGHT, ESPAILLAT, EDDINGTON, SCHIMEL -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, COLTON, COOK, DINOWITZ, HOOPER, MAYERSOHN, ORTIZ, PERRY, PHEFFER, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to registration of pesticide products

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 4 and 5 of section 33-0703 of the environmental conservation law, subdivision 4 as amended and subdivision 5 as added by chapter 732 of the laws of 2005, are amended and three new subdivisions 6, 7 and 8 are added to read as follows:

4. [If requested by the commissioner a] A full description of the tests made and their results upon which the claims are based, INCLUDING EFFICACY DATA TO SUPPORT EACH USE SPECIFIED ON THE LABELING. In the case of registration of a pesticide which has been registered for the previous year, a statement shall be required only with respect to information which is different from that furnished when the pesticide was last registered; [and]

5. For restricted use pesticides, if requested by the commissioner a Spanish or other language translation of the label including directions for use[.];

6. COMPLETE COPIES OF ALL STUDIES PERFORMED ON THE PESTICIDE FOR PURPOSES OF FEDERAL REGISTRATION, AS WELL AS ADDITIONAL STUDIES WHICH MAY BE REQUIRED FOR STATE REGISTRATION;

7. COPIES OF ALL REVIEW DOCUMENTS AND OTHER DOCUMENTS PREPARED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY RELATING TO THE REGISTRATION OF EACH PESTICIDE; AND

8. THE COMPLETE LABORATORY ANALYTICAL METHOD OR METHODS FOR IDENTIFYING THE ACTIVE INGREDIENT OR INGREDIENTS IN EACH PESTICIDE PRODUCT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PROPOSED FOR REGISTRATION, WHICH SHALL BE VERIFIED BY THE DEPARTMENT PRIOR TO REGISTRATION OF THE PESTICIDE PRODUCT.

S 2. Subdivision 6 of section 33-0704 of the environmental conservation law, as added by chapter 67 of the laws of 1992, is amended to read as follows:

6. ALL STATE AGENCY STAFF EVALUATIONS OF PESTICIDE REGISTRATION APPLICATIONS SHALL BE PREPARED IN WRITING AND SUBMITTED TO THE DEPARTMENT. THESE DOCUMENTS SHALL BE AVAILABLE FOR PUBLIC REVIEW UPON REQUEST. At any time during the review of an application to register a pesticide the commissioner may request reasonable additional information from the applicant with regard to any matter contained in the application when such additional information is necessary for the commissioner to make a decision on the registration application. Such request shall not extend any time period within which a registration decision must be made.

S 3. Section 33-0707 of the environmental conservation law is amended to read as follows:

S 33-0707. Disclosure of pesticide formulas.

The commissioner[, whenever he deems it necessary in the administration of subdivisions 1 through 5 inclusive of section 33-0303 and titles 5, 7, 11, 13 and 15 of this article, may] SHALL require the submission of the complete formula of any pesticide. Notwithstanding the provisions of this article, information relative to formulas of products acquired by authority of this section may be revealed, when necessary under this section, to an advisory committee, or to any federal or state department or agency [consulted], OR TO ANY RESEARCH FACILITY WHICH REQUESTS THIS INFORMATION, OR TO ANY PHYSICIAN OR HEALTH FACILITY REQUESTING THIS INFORMATION, or at a public hearing, or in findings of fact issued by the commissioner.

S 4. Section 33-0709 of the environmental conservation law is amended to read as follows:

S 33-0709. Requirements for registration.

If [it appears to] the commissioner FINDS that:

1. the composition of the pesticide is such as to warrant the proposed claims for it, [and if]

2. the pesticide and its labeling and other material required to be submitted comply with the requirements of this article, [he]

3. THE PESTICIDE, INCLUDING ITS INERT INGREDIENTS, HAS NOT BEEN CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A KNOWN HUMAN CARCINOGEN, OR A PROBABLE OR LIKELY CARCINOGEN, OR BY THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER OF THE WORLD HEALTH ORGANIZATION AS CARCINOGENIC TO HUMANS, PROBABLY CARCINOGENIC TO HUMANS OR POSSIBLY CARCINOGENIC TO HUMANS, AND

4. THE PESTICIDE HAS NOT BEEN TESTED ON HUMANS IN THE UNITED STATES OR ANY OTHER COUNTRY IN THE WORLD, THE COMMISSIONER shall register the pesticide.

S 5. The environmental conservation law is amended by adding a new section 33-0710 to read as follows:

S 33-0710. PRIORITIZATION OF REVIEWS OF CURRENTLY REGISTERED PESTICIDES.

EVERY PESTICIDE REGISTERED BY THE DEPARTMENT PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, WHICH HAS NOT BEEN SUBJECT TO THE REQUIREMENTS OF SECTION 33-0709 OF THIS TITLE SHALL BE REVIEWED BY THE DEPARTMENT. THESE PESTICIDES SHALL BE PRIORITIZED FOR REVIEW, BASED ON THEIR TOXICITY, THEIR POTENTIAL FOR HUMAN EXPOSURE AND THEIR POTENTIAL TO DAMAGE THE ENVIRONMENT AND NATURAL RESOURCES. THE DEPARTMENT SHALL ESTABLISH A SCHEDULE TO CONDUCT REVIEWS OF THESE PESTICIDES, SHALL ESTABLISH A SCHE-

DULE TO REQUIRE FULL DATA CURRENTLY REQUIRED FOR FEDERAL REGISTRATION AND TO MAKE REGISTRATION DECISIONS ON THESE PRODUCTS.

S 6. Section 33-0711 of the environmental conservation law is amended to read as follows:

S 33-0711. Procedure when registration is denied.

1. If the commissioner shall decide that the pesticide does not warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this article, he shall notify the applicant for registration of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with this article so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant for registration does not make the corrections, the commissioner shall refuse to register the article, and shall notify the applicant of his action and the reasons for his refusal. Whenever an application for registration is refused, the applicant, within thirty days after service of notice of such refusal, may file a petition requesting that the matter be referred to an advisory committee or file objections and request a public hearing in accordance with section 33-0717 OF THIS TITLE.

2. THE COMMISSIONER SHALL NOT REGISTER ANY PESTICIDE WHICH HAS BEEN CONDITIONALLY REGISTERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. THE REGISTRANT OF ANY PESTICIDE REGISTERED PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL HAVE A PERIOD OF FIVE YEARS FROM THE EFFECTIVE DATE OF THIS SUBDIVISION TO SUBMIT ALL OUTSTANDING FEDERAL DATA REQUIREMENTS AND STUDIES, AND ALL UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REVIEW DOCUMENTS OR OTHER DOCUMENTS RELATING TO THESE DATA REQUIREMENTS AND STUDIES, TO THE DEPARTMENT. FAILURE TO SUBMIT THE REQUIRED DATA AND DOCUMENTS SHALL RESULT IN CANCELLATION OF THE PESTICIDE BY THE DEPARTMENT. SECTION 33-0715 OF THIS TITLE SHALL NOT APPLY TO THIS SUBDIVISION.

3. THE COMMISSIONER SHALL NOT REGISTER ANY PESTICIDE WHICH CONTAINS AN INERT INGREDIENT WHICH WAS SUBJECT TO A PESTICIDE REGISTRATION CANCELLATION OR SUSPENSION BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THIS STATE.

S 7. Section 33-0713 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, IF A PESTICIDE, INCLUDING ITS INERT INGREDIENTS, IS A KNOWN OR PROBABLE HUMAN CARCINOGEN WHICH HAS BEEN PREVIOUSLY REGISTERED BY THE DEPARTMENT, THE COMMISSIONER SHALL NOTIFY THE REGISTRANT OF THE CANCELLATION, WHICH SHALL TAKE EFFECT THIRTY DAYS AFTER SERVICE OF THE NOTICE.

S 8. This act shall take effect on the ninetieth day after it shall have become a law, provided however that the amendments to subdivision 6 of section 33-0704 of the environmental conservation law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.