27 March 2017

SB 928 – Relating to Product Disclosures
SB 929 -- Relating to Pesticides

Honorable Committee Members:

We are writing you today in opposition to SB 928 and SB 929, which are related to neonicotinoid insecticides. We believe that these proposals are misguided and would like to provide you with the latest scientific information on neonicotinoids and bees.

Oregonians for Food & Shelter (OFS) is a grassroots coalition of farmers, foresters, and other technology users focused on natural resource issues involving pesticides, fertilizer, and biotechnology. The Oregon Association of Nurseries (OAN) represents the nursery and greenhouse industry which is the state's largest agricultural sector and the nation's second largest nursery state with over $894 million in sales. Nearly 75% of nursery stock grown in our state leaves our borders – with over half reaching markets east of the Mississippi River. Nursery association members represent wholesale and Christmas tree growers, retailers and greenhouse operations. The Oregon Farm Bureau (OFB) is the state's largest grassroots, general agriculture organization representing the interests of 7,000 farming and ranching families and over 220 different commodities in the public and policymaking arenas.

Pollinators are Important to Oregon Agriculture

The concerns around pesticide use and potential effects on bees are very important to all pesticide users, but especially those involved in agriculture. Oregon farmers depend on bees to pollinate many of their crops, but also depend on pesticide tools to control destructive pests. Similarly, commercial beekeepers rely on healthy crops to optimize their pollination services. This means that Oregon growers and beekeepers have a lot at stake in this conversation and each share a vested interest in ensuring that protecting bee health, and the use of pesticides, are not mutually exclusive. Bee health is important to all of us and nobody wants to see adverse incidents that add to bee population declines. It is easy to let emotion drive the conversation around these issues, when we should instead let science be our guide.

Cases of Misuse Should Not Drive New Regulations

While concerns about pesticides and bees have been around for several decades, two high profile incidents in Oregon during the last couple of years have brought heightened attention to the issue. We cannot stress enough that very visible adverse incidents need to be viewed in light of what happened in particular scenarios—not necessarily as evidence of a wider problem. For example, in the Wilsonville incident it is clear that the applicator did not use good judgment, which resulted in a misapplication of a product. Oregon Department of Agriculture's (ODA) investigation confirmed this and fines were issued to the offending parties. The science-based labels are the law and we regularly remind our members of the importance of reading and following them. Incidents of illegal applications should be addressed

accordingly on a case by case basis but should not be used as a reason to add more restrictions on legal use.

Unfortunately, some have used these incidents as a springboard to further restrictions on neonicotinoids. This is despite the science showing that when used according to the label, neonicotinoids pose no unreasonable risk to humans or the environment—including pollinators.

Neonicotinoid Labeling Requirements Don't Provide Meaningful Information

SB 928 has a set of labeling requirements that will not provide meaningful information. The first requirement is that pesticide products containing a neonicotinoid active ingredient be labeled with the term "neonicotinoid." Pesticide products are already required under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to list the active ingredients on the label. Anyone can look at a pesticide label now and determine whether it contains a neonicotinoid ingredient.

The additional labeling requirement under SB 928 also conflicts with federal law. Under FIFRA, a state, "shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this Act."[1] This requirement would clearly impose additional requirements on the labeling of pesticide products containing a neonicotinoid.

The second labeling requirement under SB 928 is that, "[A] container of agricultural seed, flower seed, mixed seed or vegetable seed containing, or coated with, a neonicotinoid must disclose on its face in a clear and conspicuous manner that the seed contains a neonicotinoid." Under the Federal Seed Act (FSA), every container of treated seed must already be labeled-- with a statement that the seed is, "Not to be used for food, feed and oil," and with the identity of the active ingredients used to treat the seed. Treated seed is already required to labeled with the name of the specific neonicotinoid active ingredient, so adding "neonicotinoid" would be redundant.

Going a step further, SB 928 requires seeds "containing a neonicotinoid" to be labeled. This would require all seeds to be tested for the presence of a neonicotinoid to ascertain if it needs to be labeled. There is no standard in the bill, so any detectable level of a neonicotinoid would require labeling. This information is not useful to the buyer because the plant grown from that seed may, or may not, contain a detectable level of a neonicotinoid once it germinates.

The final labeling requirement under SB 928 is to label any raw agricultural or horticultural commodity grown using a neonicotinoid insecticide to be labeled as such. This requirement makes no distinction to if there is actually any detectable neonicotinoid compound present in the final commodity. The fact that a plant has been treated with a neonicotinoid at some point in its life cycle does not mean there is any increased risk to humans or the environment from those commodities when they are sold. This label would provide no meaningful information to consumers, and only serves to spread fear.

Restricting Neonicotinoid Use Doesn't Curb Pesticide Use

SB 929 would make neonicotinoids "restricted use pesticides." This classification means that the products would only be available for purchase and use by licensed pesticide applicators. This

[1]Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136v, SEC. 24.

designation is supposed to be reserved for pesticide products that pose a high risk to humans or the environment. A review of the current science does not support such a designation for neonicotinoids.

ODA already has the authority to designate a pesticide product as restricted use if they determine that it poses a high risk to humans or the environment. To date ODA has not made a "State only" restricted use designation on any pesticides in Oregon. If proponents of this bill believe that a restricted use determination is needed for these products, they should petition to the ODA for review. The experts at the state pesticide regulatory agency should be making those determinations, not the legislature.

SB 929 does attempt to allow non-certified applicators who are commercial farmers to purchase and use neonicotinoids. The problem is that there is currently no program in place to identify farmers and allow them to purchase and use these products. This will create confusion in the marketplace, and make it more difficult for them to access these important products.

If neonicotinoids are taken away for a certain segment of users, those users will simply turn to other pesticides to control insects. The main alternatives to neonicotinoids are organophosphates and pyrethroids. While effective, these products come with their own sets of tradeoffs for both humans and the environment. For example, both of them are highly toxic to bees and fish. All pest control options come with tradeoffs that must be considered.

We believe that when all things are considered, neonicotinoids may often be the best choice. Neonicotinoids have been lauded for their lower environmental impact than many of the products they replaced and keeping them as an option can play an important role in an effective Integrated Pest Management (IPM) program.

Current Regulations Already Sufficient for Neonicotinoids.

When considering regulations surrounding pesticides it is always important to look at what regulations are already in place. All pesticides used in Oregon must go through the EPA and ODA registration processes. At the federal level this happens under FIFRA. Initial and ongoing re-registration is subject to a substantial review process and registered products must meet the high standard of having "no unreasonable adverse effect on health or the environment." This means that neonicotinoid pesticides have had extensive safety testing including:

- Honeybee acute contact toxicity (all outdoor use products)
- Honey bee toxicity of residues on foliage (if high acute toxicity and exposure likely)
- Field testing for pollinators (specific conditions)

Currently EPA is reviewing neonicotinoids on an ingredient by ingredient basis to perform pollinator-only risk assessments. The draft assessments were released in January of 2017 for imidacloprid, clothianidin, thiamethoxam and dinotefuran. The draft assessments found that "most approved uses to not pose significant risk to bee colonies." In the rare cases where there is possible substantial risk, the EPA will be changing label directions to address those concerns.

Pollinator Health is a Complex, Multi-factorial Issue

While we can understand the concerns of beekeepers, and the public at large, the issue of declining bee populations unfortunately has no simple answer. In fact, research on Colony Collapse Disorder (CCD) has

highlighted a complex interaction of factors that play a role in bee health and found no singular cause of the problem. While pesticides are often noted as one factor, they are not considered the primary one.

Since reports of significant losses to bee colonies were publicized in 2006, researchers and regulators have been looking for answers to what may be the cause. A CCD Steering Committee was formed at the national level to address the concerns over bee losses. Several individuals from the Steering Committee along with Pennsylvania State University met in October 2012 for a National Stakeholders Conference on Honey Bee Health to discuss future actions to promote health and mitigate risks to managed honey bees in the U.S. In May of 2014 the U.S. Department of Agriculture (USDA) and EPA released a comprehensive scientific report on honey bee health. The report concludes that there are multiple factors that play a role in honey bee colony declines. Findings from the report include:

- Recognizes the Varroa mite as the *"single most detrimental pest of honey bees and is closely associated with overwintering colony decline"*
- Notes multiple diseases associated with CCD, many of which are amplified by the Varroa mite.
- Urges adoption of Best Management Practices (BMPs) to enhance bee health.
- Recognizes the need to significantly improve genetic diversity in U.S. bee populations.
- Recommends increased nutritional options (forage) to lessen susceptibility to stressors.
- Recommends continued research on pesticide impacts at field-relevant exposures.
- Calls for greater collaboration and information sharing among stakeholders to facilitate adoption of BMPs that are critical to improving bee health.

Recognizing this reality, the Oregon Legislature took a proactive step to address pollinator health. In the 2014 legislative session, OFS and OAN supported House Bill 4139 which established a Pollinator Task Force which was tasked with finding collaborative solutions to pollinator concerns. The diverse 10-member board, which both OAN and OFS served on, met seven times in 2014 and released their final report with priority recommendations. The four priority recommendations were:

- Oregon should develop a strong, effective outreach and education strategy on pollinator health, including best management practices.
- Oregon should fully fund a state-of-the-art bee health diagnostic facility at Oregon State University.
- An integrated pollinator health research plan should be developed and funded to improve understanding of the many issues affecting pollinator health.
- A sustainable revenue stream to fund the proposed outreach, education and research programs is needed.

It should be noted that this diverse group of stakeholders agreed that the best way to move forward was not with more regulation of pesticides, but with collaborative approaches to education, outreach and research. This group spent over 6 months working on this issue and there were good reasons for further restrictions on neonicotinoids not being a priority, or even consensus, recommendation.

Several times over the past few years, advocacy groups and some individual beekeepers have petitioned or sued the EPA to discontinue the use of neonicotinoid insecticides, claiming these products are

harming bees. In considering these petitions, the EPA rejected such claims and in comments regarding clothianidin (a neonicotinoid pesticide), stated that[2]:

> ***…the Agency is "NOT aware of any data that reasonably demonstrates that bee colonies are subject to elevated losses due to chronic exposure to this pesticide." (02/18/11); and***
>
> ***"... is NOT aware of any data indicating that honey bee declines or the incidence of CCD in the U.S. is correlated with the use of pesticides in general or with the use of neonicotinoids in particular." (07/27/12)***

It is the latest scientific evidence that lead the UK to oppose the moratorium on use of two neonicotinoids in Europe as well. A report issued by the UK Department for Environment Food & Rural Affairs in March of 2013 concluded that;

> ***While this assessment cannot exclude rare effects of neonicotinoids on bees in the field, it suggests that effects on bees do not occur under normal circumstances. This assessment also suggests that laboratory based studies demonstrating sub-lethal effects on bees from neonicotinoids did not replicate realistic conditions, but extreme scenarios. Consequently, it supports the view that the risk to bee populations from neonicotinoids, as they are currently used, is low. [3]***

In Australia, where the Varroa mite is not present and where neonicotinoids are extensively used, the bee health situation is informative. In its recent 92-page report, the Australian Pesticides and Veterinary Medicines Authority examined the impact of that country's extensive use of neonicotinoids, concluding;

> ***"…the introduction of the neonicotinoids has led to an overall reduction in the risks to the agricultural environment from the application of insecticides" and that "Australian honeybee populations are not in decline, despite the increased use of this group of insecticides in agriculture and horticulture since the mid-1990s."[4]***

In 2015, results from a three-year bee study conducted by scientists from the University of Maryland, the U.S. Environmental Protection Agency and the U.S. Department of Agriculture confirmed what other research has already shown – that field-relevant exposures of neonicotinoids have negligible effects on honey bee colony health.

While the current research is not showing neonicotinoids as a primary factor in bee health decline, we know that it may be tempting to place restrictions on their use for precautionary reasons. Unfortunately this approach ignores the important role these products play in managing pests that can have devastating effects on the environment. Neonicotinoids provide unique environmental, economic and public health benefits, such as:

- Effective protection against invasive species which can harm important urban landscapes. (i.e. control of the Emerald Ash Borer which can devastate urban forests).

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[2] http://www.usda.gov/documents/ReportHoneyBeeHealth.pdf

[3] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221052/pb13937-neonicotinoid-bees-20130326.pdf

[4] Overview Report – *Neonicotinoids and the Health of Honey Bees in Australia* (February, 2014). Australian Pesticides and Veterinary Medicines Authority 2013. ISBN: 978-1-922188-51-9 (electronic). 92 pages.

- Systemic insect control not provided by other chemical classes.
- Lower impact on many non-target organisms than the older products they replaced, protecting natural enemies which allows for greater use of IPM strategies.
- Effective control of disease carrying vectors. They are some of the most effective tools for the control of bedbugs.
- Extended control which limits the needed number of applications, and therefore limits applicators exposure.
- Control of pests which are resistant to other chemical classes

We believe that a thorough review of the data shows that neonicotinoids are a safe, effective tool for protecting human health and property. SB 928 and SB 929 will result in less options to contain destructive pests with little, if any, benefit to bee populations. Neonicotinoids are a safe and effective tool for managing unwanted pests.

Please OPPOSE SB 928 and SB 929.

Sincerely,

Scott J. Dahlman
Policy Director
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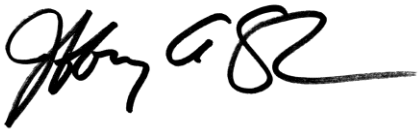

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