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(via akessler@leg.state.vt.us)

February 4, 2014

Ms. Agatha Kessler
Assistant to Senator Ginny Lyons
Vermont Senate
State House
Montpelier, VT 05633

Re: Comments on S 239

Dear Ms. Kessler:

Thank you again for returning my call last week, and for understanding our concerns regarding S 239, legislation introduced by Sen. Lyons on January 7th related to the regulation of toxic substances.

The Treated Wood Council (TWC) serves more than 400 organizations in the wood treating industry, including wood suppliers, sawmills, wood preservative manufacturers, and treating companies. Treated wood products are used by all Americans every day for home decking, fencing, highway guard rails, marine pilings, utility poles and railroad ties. These products are available throughout Vermont. By “treating” wood with US Environmental Protection Agency (EPA) registered pesticides, we extend the life of wood products many fold, and thereby reduce the need to harvest more trees.

While TWC has serious concerns about differing product regulations in potentially all 50 states, we believe that the intent of S 239 is to address chemicals (and therefore products) for which EPA is not required to assess their risks (S 239, Section 1, Paragraph (3)). That is not the case for wood preservative pesticides.

In order for wood preservative pesticides to be used, EPA must first evaluate the health and environmental risks associated with that pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act.

EPA explains in great detail the evaluation requirements for all pesticides before they can

be sold or used in the United States
(http://www.epa.gov/pesticides/regulating/data_requirements.htm).

EPA considers wood preservatives to be classified as antimicrobial pesticides, and explains the process for registering antimicrobial pesticides at its website <http://www.epa.gov/oppad001/>. EPA provides an explanation of the registration and periodic re-registration process, and the requirements for all antimicrobial pesticides. No pesticide may be used unless it has met these requirements. EPA states:

“These pesticides must be supported with a complete scientific analysis and show that they can be used without causing unreasonable adverse effects to human health or the environment.”

On May 8, 2013, EPA published a list of the agency’s data requirements for pesticide registration (<http://www.gpo.gov/fdsys/pkg/FR-2013-05-08/pdf/2013-10162.pdf>), including requirements for wood preservatives. As you can see, the requirements are extensive, and include toxicological data, environmental fate data, wildlife and aquatic organism data, and information on potential adverse effects. In order for a pesticide to receive EPA registration, it requires volumes of information and years of scientific studies.

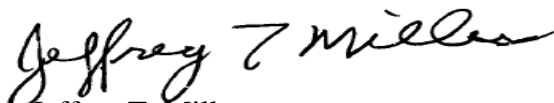
TWC Recommended Changes to S 239

TWC would like to recommend to you that one minor change be made to S 239. In the language that adds Chapter38A, we suggest a small addition to Section 1772, Paragraph (7) “Consumer Product”, as follows (addition underlined):

- (7) “Consumer Product” means any item sold for personal use, including any component or packaging. “Consumer product does not mean a food or beverage, an additive to a food or beverage, a tobacco product, a pesticide regulated by the U.S. Environmental Protection Agency or any product containing such pesticide, a drug or biologic regulated by the federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration.

Thank you again for giving us the opportunity to share our recommendations with you. Please contact me if you have any questions.

Respectfully submitted,



Jeffrey T. Miller
President & Executive Director