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

Mr. MARSHALL introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. REGISTRATION REVIEW.

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

(A) in paragraph (1)(A)—
(i) by redesignating clauses (ii)
through (v) as clauses (iii) through (vi), re-
respectively;

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

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

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

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

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

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

(iv) in clause (vi) (as so redesig-
nated)—
(I) by striking “No registration” and inserting the following:

“(I) IN GENERAL.—No registration”;

and

(II) by adding at the end the following:

“(II) NONVOLUNTARY CANCELLATION.—In the case of a nonvoluntary cancellation of a registration as a result of the registration review process, the Administrator, with the concurrence of the Secretary of Agriculture, shall determine, prior to cancellation, whether there is a viable and affordable alternative to control the same target pest.”; and

(v) by adding at the end the following:

“(vii) LOGICAL OUTGROWTH.—An interim or final decision issued as part of a registration review shall be a logical outgrowth of the applicable proposed interim decision.

“(viii) REVIEW REQUIREMENTS.—

“(I) OMB REVIEW.—The Director of the Office of Management and Budget shall conduct an interagency review of any 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 Administrator 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
(2) by adding at the end the following:

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

“(1) In issuing a decision that would result in more restrictive changes to a pesticide label, including a revocation or cancellation of a registration, the court shall allow the continued use of the registration through the following growing season.

“(2) Before issuing a decision that would result in more restrictive changes to a pesticide label, including a revocation or cancellation of a registration, the court shall conduct a de novo review to determine whether there is a viable and affordable alternative to control the same target pest.”.

SEC. 3. SCIENTIFIC ADVISORY PANEL.

Section 25(d)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(d)(1)) is amended—

(1) in the eighth sentence, by striking “12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation,” and inserting “16 nominees, 6 of whom shall be nominated by the National Institutes of Health, 6 of whom shall be nominated by the National Science Foundation, and 4 of whom shall be nominated by
the Secretary of Agriculture (of whom 2 shall be
representative of the conventional agricultural indus-
try and 2 shall be from agricultural land-grant uni-
versities and have a specialty in agronomy or crop
production),”; and

(2) in the nineteenth sentence, by striking “the
Environmental Research, Development, and Demo-
stration Authorization Act of 1978.” and inserting
“section 8 of the Environmental Research, Develop-
ment, and Demonstration Authorization Act of 1978
(42 U.S.C. 4365).”.

SEC. 4. SCIENCE ADVISORY BOARD.

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

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

“(g) CONSULTATION AND COORDINATION
WITH SCIENTIFIC ADVISORY PANEL.—

“(1) IN GENERAL.—In carrying”;

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

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

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

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