April 13, 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, Ranking Member Boozman and Ranking Member 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]](#footnote-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 would also have the effect of preventing 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 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 use of hazardous pesticide 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 preemption would also weaken the country’s pesticide laws and allow 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. When state tort law is preempted this incentive disappears and companies can avoid any safety concerns that develop.[[2]](#footnote-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 and greater 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 would 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 preemption deserves no place in this year’s Farm Bill.

Sincerely,

American Association for Justice

The Center for Biological Diversity

Earthjustice

Environmental Working Group

Farmworker Justice

1. See Beyond Pesticide’s map of local pesticide policies at: https://www.google.com/maps/d/viewer?mid=1VLpVWvifO2JOrgxf1-d1DLyDruE&ll=41.895619148810695%2C-74.18166846834136&z=5 [↑](#footnote-ref-1)
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). [↑](#footnote-ref-2)