



Arizona Farm Bureau Federation

325 S. Higley Rd, Suite 210
Gilbert, AZ 85296

February 9, 2024

Submitted electronically via <https://www.regulations.gov>

RE: Docket No. EPA-HQ-OPP-2023-0420; Pesticides; Review of Requirements Applicable to Treated Seed and Treated Paint Products; Request for Information and Comments

To Whom It May Concern:

The Arizona Farm Bureau Federation represents farmers and ranchers from across Arizona. Our members produce an array of crops and livestock that contribute over \$23.3 billion of economic impact to the state. Our members are directly affected by EPA's policies with respect to the regulatory treatment of treated seeds. We appreciate your consideration of these comments in response to the EPA's advanced notice of proposed rulemaking (ANPRM) regarding the Review of Requirements Applicable to Treated Seed and Treated Paint Products. Our comments address only the treated seed aspects of the ANPRM.

We are supportive of the "treated articles and substance" exemption at 40 CFR 152.25 (a). This exemption, which has been in place for over 35 years, exempts an article from registration as a pesticide by virtue of the treated article exemption if three conditions are satisfied: (1) the article contains or is treated with a pesticide; (2) the pesticide is intended to protect the article itself; and (3) the pesticide is registered for this use. Furthermore, even with the exemption, the application of seed treatment products, such as pesticides, must be done according to instructions provided in EPA approved pesticide labels. Thus, although there is an "exemption", treated seeds (i.e., treated articles) are regulated. Labeling on commercial seed products is also required to ensure end users are aware of permitted and prohibited practices.

Since the introduction of seed treatment technology, farmers have adapted to its use, and the benefits of this technology are well documented. Treated seeds help deliver precise application to control key pests and diseases, especially below ground. In Arizona, for example, treated seed helps farmers control Bagrada bugs in broccoli production and against seed corn maggots in melon production.^{1,2} Both insects can cause significant plant damage at the very beginning of the production process, in particular when

¹ Fournier, A., Ellsworth, P., and W. Dixon. 2017. Neonicotinoid insecticide use and pollinator protection in several crops and recreational turf in Arizona and New Mexico. University of Arizona: Arizona Pest Management Center. Accessed February 5, 2024. https://cales.arizona.edu/apmc/docs/Neonicotinoids_July-2017_vf.pdf

² Palumbo, J. Jan 2024 (updated). Seed Corn Maggot in Spring Melons. UA Veg IPM Updates Vol. 13, No.2, Jan. 26, 2022. Accessed February 5, 2024. <https://vegetableipmupdates.arizona.edu/sites/default/files/2024-01/Seed%20corn%20maggot%20in%20spring%20melons%202024.pdf>

certain conditions favor infestations. Treated seed in cotton can deter feeding of pale striped flea beetles that feed on cotyledons of emerging plants and have the capacity to damage a stand, leading to economic losses.³ Consequently, treated seeds can provide early and effective controls. Furthermore, the use of treated seed may reduce the need for additional foliar applications.

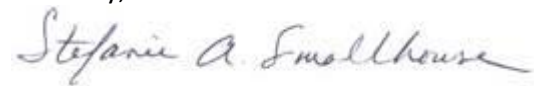
If EPA were to eliminate or significantly amend the treated articles and substances exemption, facilities that treat seeds would be subject to costly and burdensome EPA regulations and requirements with no positive impact. Under its current authority and processes, EPA assesses risks, including environmental fate, ecotoxicology, and operator exposures associated with seed treatment products. Subjecting treated seed manufacturers to FIFRA section 7 registration would lead to higher costs that are ultimately passed on to farmers, who are price takers and are not in the same position to pass on these added costs.

EPA requests comments on recommendations to increase clarity of instructions for end users. Current labeling for treated seed already instructs users on a number of safety and use measures, including storing treated seeds away from children, pets, and livestock, proper handling of excess treated seed, to not dispose equipment wash water where it may contaminate water bodies, and the use of proper personal protective equipment (PPE). If any additional instructions are needed, they should be straightforward and easy to follow. We also encourage the agency to work with registrants to promote the ASTA Guide to Seed Treatment Stewardship, which provides end users with additional information on handling, planting, and disposal of treated seed, along with a number of resources.

Given EPA's robust risk assessment of pesticides that also extends to treated articles and substances that qualify for the exemption, we urge the agency to retain regulations under the Treated Article Exemption in 40 CFR 152.25. We further urge the agency to review and address the more technical comments submitted by the American Seed Trade Association, CropLife America, and the Agricultural Retailers Association.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Stefanie A. Smallhouse".

Stefanie Smallhouse, President
Arizona Farm Bureau Federation

³ Ellsworth, P.C., and L. Brown. 2012. Pale-Striped Flea Beetles in Young Cotton Stands. University of Arizona Cooperative Extension. Accessed Feb. 8, 2024. <https://cales.arizona.edu/crops/cotton/files/FleaBeetleShort.pdf>