



PPC

PESTICIDE POLICY COALITION
A Coalition Working for Sound Pest Management Policies

March 26, 2019

OPP Docket, Environmental
Protection Agency Docket,
Mail Code: 28221T
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Submitted electronically via www.regulations.gov

Re: Petition Seeking Rulemaking or a Formal Agency Interpretation for Planted Seeds Treated with Systemic Insecticides; Docket No. EPA-HQ-OPP-2018-0805, 83 Fed. Reg. 66260 (December 26, 2018)

The Pesticide Policy Coalition (PPC or “the Coalition”) appreciates the opportunity to provide comments on the petition filed by Center for Food Safety (CFS) requesting that the U.S. Environmental Protection Agency (EPA) either initiate a formal rulemaking or issue a formal Agency interpretation (the Petition) for planted seeds treated with systemic insecticides (hereinafter “treated seeds” or “seed treatments”). The Petition raises issues that affect the timely availability of safe, effective, and affordable seed treatments relied on by PPC members to produce food and fiber which benefits all Americans.

The PPC is an organization of food, agriculture, forestry, pest management and related industries, including small businesses/entities, which support transparent, fair and science-based regulation of pest management products. PPC members include: nationwide and regional farm, commodity, specialty crop, and silviculture organizations; cooperatives; food processors and marketers; pesticide manufacturers, formulators and distributors; pest and vector-control operators; research organizations; equipment manufacturers; and other interested stakeholders. PPC serves as a forum for the review, discussion, development and advocacy around pest management regulation and policy.

PPC members rely on the timely and reliable availability of a variety of pesticide technologies, including treated seeds. Seed treatments are a critical crop protection tool that is especially effective for controlling below ground pests. Seed treatments provide a precise application that protects seeds from insects and diseases during early developmental stages. Treated seeds are also a critical component of integrated pest management as they reduce

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exposure to non-target pests, and facilitate lower application rates compared to other application methods. Crops produced using treated seeds may also reduce supplemental foliar pesticide applications at later growing stages.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), a seed may not be treated with a pesticide unless EPA has specifically approved the pesticide for use as a seed treatment on that crop. EPA's pesticide registration approval process is rigorous, science-based, and resource intensive. EPA often requires in excess of 100 safety assessments before it will approve a pesticide and its specific end uses, including seed treatments.

FIFRA regulations include a "treated article exemption" (40 C.F.R. § 152.25) which prevents unnecessary and duplicative pesticide regulations that provide no added environmental or safety benefits. The "treated article exemption" applies if the following three criteria are met: 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. As they meet the requisite criteria, EPA has historically applied this exemption to treated seeds.

Following its related unsuccessful challenge in federal court, CFS now brings this petition seeking to exclude treated seeds from the "treated article exemption" via an EPA reinterpretation of 40 C.F.R. § 152.25 or a rulemaking to revise existing pesticide registration regulations. In the case of the latter, CFS seeks a rule that would require each treated seed be considered a pesticide product with a separate registration and label if the seed coating includes a systemic pesticide.

For the reasons addressed in PPC's comments below, EPA should deny the Petition.

COMMENTS

As cited above, seed treatments meet the criteria for the "treated articles exemption," and requiring separate product registrations for each treated seed would be unnecessarily duplicative and result in no measurable environmental benefits. Under the current registration review process, EPA assesses risks associated with seed treatment products—including environmental fate, ecotoxicology, and operator exposures—from the treating and planting of seeds to human health effects from consumption of the harvested commodity. EPA's FIFRA label approval process also requires that all uses, including seed treatment, do not pose an "unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits." Additionally, bags of treated are tagged with treatment information and associated restrictions.

Requiring an additional regulatory review for treated seeds would also result in undue and unnecessary regulatory burdens for both pesticide registrants and end users, including agricultural producers. As implemented, the revised requirements sought by CFS, could result in separate registration procedures, including data development, for each and every batch of seed treated with inoculants, colorants, polymers and various other pesticide ingredients separately registered and approved for seed treatment end uses. This would further compound the resource and time-intensive road to market for pesticide technologies, creating delays and additional costs

that would adversely impact growers that rely on the timely availability of pesticide products, again with no increase in protection of human health or the environment.

In addition to unnecessary resource burdens associated with the resulting uptick in registrations, both seed treatment facilities and farm operations where seed treatments take place could be required to register with EPA as pesticide manufacturing facilities. This additional set of requirements would subject these facilities and farms to additional extraordinary regulatory burdens associated with registration, reporting, and recordkeeping.

The changes sought by CFS to the treated article exemption would also trigger separate state registration requirements for the sowing and movement of treated seed. These state registrations would come with their own regulatory requirements and associated costs. Duplicative regulatory processes would also create burdens and decrease flexibility to tailor applications to meet local needs as each unique batch of treated seeds would require individual registration approval.

For the reasons cited above, PPC encourages EPA to deny the Petition and appreciates review of the Coalition's input on this important matter.

Sincerely,



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