



March 7, 2023

To: Members of the Minnesota House Agriculture Finance and Policy Committee

Regarding: *HF 2472 - New program for systemic pesticide-treated seed established, new account in agricultural fund established, and money appropriated.*

The American Seed Trade Association (ASTA) is writing this letter to comment on HF 2472, which is currently pending before the Minnesota legislature, and set for hearing by the House Agriculture Finance and Policy Committee on March 9, 2023. This bill seeks to establish a new program for systemic pesticide-treated seed, create a new account in agricultural funds, and appropriate money. In essence, it would enact a state-specific requirement that is conflicting with federal laws, making the regulation difficult to manage because of its redundancy.

Founded in 1883, ASTA is one of the oldest trade organizations in the United States. Its membership consists of over 700 companies involved in seed production and distribution, plant breeding, and related industries. ASTA is a diverse organization. It represents all types of seed companies and technologies – seed from alfalfa to zucchini, technologies from organic to biotechnology, and companies from “mom and pop” to multinationals. It works on behalf of its members at the state, national, and international levels. In other words, ASTA represents every seed company that would be affected by the proposed legislation, and it works in cooperation with the rest of agribusiness and consumers, whom the proposed legislation would also impact.

This bill raises several legal concerns. Depending on the circumstances in which it is applied, the language in the bill may be preempted by federal law. In essence, the bill would impose an additional burden on the users of the currently federally regulated pesticide and seed treatments, without benefit.

EPA tests, reviews, and approves every pesticide for safety and integrity. Even after regulatory authorities approve a pesticide for use, they continue to consider new information to assess the safety of registered products. And no pesticide’s regulatory approval is permanent. As consumers ourselves, we fully support the comprehensive and science-based processes used by the EPA and other regulatory authorities around the world to ensure these crop protection tools can be used safely. The EPA carefully considers effects on many non-pest organisms when they approve new insecticides for use.

It is important to remember that seed treatment is an important practice of Integrated Pest Management (IPM) & Sustainability. IPM is “a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.” (Source EPA). In the case of seed treatment, either for soil dwelling pests or seedling pests it may not be possible to monitor the pest. However, the farmer can use other IPM tactics such as crop history, pest history and agronomic practices such as variety and planting dates as part of the overall IPM plan for the use of seed treatments. There are no rescue treatments for soil dwelling insects which is why farmers view neonicotinoid seed treatments as an important part of their pest management plan. Neonicotinoid seed treatments create less potential impact on beneficial insects in the field and decreased potential worker exposure. From a pest spectrum and resistance management perspective, having multiple tools for farmers’ pest management programs is important both for the farmer as well as for the longevity of the tools.

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With the additional, and redundant, regulations outlined in this bill the cost of the seed for farmers will increase and/or the availability of seed will decrease. Both effects would penalize unnecessarily the many Minnesota farmers producing high quality crops from such seed. It would also penalize all others in the seed supply chain, including dealers, as well as small and large companies. To the extent that increases in input and production costs are passed through the food chain, the bill would penalize Minnesota consumers, as well.

As mentioned above, seed treatment products are highly regulated, just as foliar and soil-applied pesticides are. Seed treatment products undergo a thorough evaluation by the US EPA, and by applicable state agencies, prior to commercialization. Once product approval is received from the relevant federal and state agencies, then the seed treatment product can be used as a seed-applied technology per the guidelines set forth by EPA. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) allows products that are treated with registered and approved technologies to continue to be treated as the product existed prior to the application of the technology. That is known as the "treated article exemption". This condition applies only if all three of the following conditions are met:

- i. the article contains or is treated with a pesticide,
- ii. the pesticide is intended to protect the article itself,
- iii. the pesticide is registered for this use.

It has been EPA's longstanding approach that treated seed qualifies under these conditions which are designed to prevent duplicative regulations. This position was reaffirmed on September 28, 2022, with a decision by EPA that reaffirms the Agency's longstanding, rigorous regulatory process for seed treatments. Application of the treated article exemption to seed has been challenged, undergone a thorough review by EPA, and has ultimately been upheld.

Without the Treated Article Exemption for seed, there would be a tremendous duplication of paperwork and increased bureaucratic burden on regulators, taxpayers and growers. Please note that this is not an exemption from the FIFRA regulations mentioned above.

As general information, the seed industry provides training for farmers about proper use of seed treatments and publishes user labels on every bag of seed. To learn more about the industry's efforts, go to [seed-treatment-guide.com](https://www.betterseed.org/seed-treatment-guide.com). Much more information and resources are available at [betterseed.org/treated-seeds](https://www.betterseed.org/treated-seeds)

In summary, the use of seeds improved through modern technologies, such as seed treatments, continues to grow around the world as a result of their economic, environmental, and human health benefits. Farmers' use of these seeds in Minnesota is no exception to this pattern of growth. In our view, HF 2472 as it is now drafted raises several serious legal and practical concerns. Of significance, it would add unnecessarily to the cost of doing business in Minnesota and penalize Minnesota farmers and consumers.

Please do not hesitate to contact us if you have any questions. Thank you for your consideration.

Sincerely,



Pat T. Miller
Director, State Affairs
American Seed Trade Association
pmiller@betterseed.org