



To: Members of the House Agriculture Finance and Policy Committee

From: Riley Titus, CropLife America

Date: 3/7/2023

RE: HF 1130 (Tabke), HF 1317 (Hansen), and HF 2472 (Hansen)

Chair Vang, and distinguished members of the House Agriculture Finance and Policy Committee:

Thank you for the opportunity to submit written testimony about HF 1130 (Tabke), HF 1317 (Hansen), and HF 2472 (Hansen). We respectfully oppose each of these bills.

HF 1130 (Tabke), *Cities authorized to adopt pesticide control ordinances.*

We support and promote science-based policy and regulatory processes necessary in the regulation of pesticide products at both the state and federal level. Pesticides in Minnesota are registered and regulated by the Minnesota Department of Agriculture (MDA). These regulations enforced by MDA ensure safe and proper pesticide use in the state through registration of pesticides, licensing of pesticide applicators, and through research and enforcement activities. The Minnesota Office of the Legislative Auditor (OLA) evaluated MDA's pesticide regulation activities in 2006 and 2020 and concluded that the Department is more than satisfactorily performing its function to regulate pesticides.

Current Minnesota law comprehensively regulates virtually all aspects of labeling, distribution, sale, storage, transportation, education, use and application, and disposal of pesticides in the state. State regulation of pesticides also ensures uniformity with federal regulation, and between states and their municipalities to avoid confusion that may endanger public health or the environment from differing requirements across municipalities and resulting increased compliance costs to the people of Minnesota. Granting the authority to regulate or ban pesticides to cities who may lack the expertise and resources to make science-based decisions on highly regulated products may cause unintended consequences, particularly when considering products with stringent use and safety rules. It would also create confusion in the marketplace and take away important health and safety tools for consumers to control pests.

Pesticides are important public health and environmental tools, protecting people, pets and property from pests and insect-borne diseases, invasive and non-native plants, and providing safe and healthy places to live, work and play. Pesticides play an important role in agriculture and IPM (Integrated Pest Management). Crop protection tools and technologies are vital to protect farmers' crops and enable farmers to grow more food using less land and resources, therein protecting farmers' investments and making food more affordable. Pesticides are rigorously reviewed, evaluated, and approved for sale and use at the state and federal levels on an ongoing basis, ensuring they meet the most current scientific and safety standards. The manufacture, sale, and use of pesticides is extensively regulated by the MDA and the U.S. Environmental Protection Agency (EPA).

HF 1317 (Hansen), *Terms defined; Use, storage, disposal, and sale of pesticide-treated seed regulated; label statements for pesticide-treated seed required; consumer guidance required; rulemaking required; and money appropriated.*

Mandating additional cautionary statements on the label of treated seeds is redundant and unnecessary for seed labels with existing cautionary statements already mandated by EPA as part of its registration requirements under

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Section 3 of the Federal Insecticide Fungicide Rodenticide Act (or “FIFRA”) for the pesticides used in seed treatment. Furthermore, requiring additional Minnesota-only instructions on the labels of seeds treated with federally labeled and registered pesticide products moving through interstate commerce would likely violate the Interstate Commerce Clause of the Constitution and unduly burden manufacturers of seed supplied to one state when the same seed coatings are subject to uniform regulations by the EPA and the U.S. Department of Agriculture (USDA), and supplied in a consistent manner to all other states. There would be multiple supply-chain disruptions to treated seed that could be initially destined for one state but ultimately purchased or needed in Minnesota. This would likely result in a supply chain void (reduced treated seed availability) to Minnesota growers.

Seed treatments are an important tool that provide farmers with an economical means of protecting seeds and seedlings against early-season insect pests and diseases. There is no question that today’s seed treatments are enabling America’s farmers to realize greater yields and healthier crops than ever. At the same time, seed treatment technology is reducing potential risks to the environment, thanks to their highly targeted approach to controlling pests. It is important to note that pesticides applied as seed treatments undergo rigorous testing and review by federal and state regulators to ensure their safety to applicators, wildlife, and the environment.

Disposing of treated seed is heavily regulated at various levels of government, including under the Clean Water Act, Groundwater Protection Act, and Clean Air Act. In general, a few methods for disposing of treated seed exist today, each with their own permitting or regulatory requirements already in place. Various alternatives are available for solid and waste disposal offerings, but all must be permitted in accordance with relevant water, air, or solid-waste disposal rules of that state or locality. The seed industry is fully committed to following all laws, regulations, and guidelines for the safe use and management of surplus and unused seed. Seed companies also work closely with industry and grower partners to communicate the importance of following proper guidelines at every step of the process – whether they’re involved in treating, handling, transporting or planting treated seed, or managing surplus seed. Information on these practices can be found at: www.seed-treatment-guide.com

Federal seed laws (specifically the Federal Seed Act) regulate the sale and movement of seed in the U.S., and seed companies must abide by those regulations. Within the Federal Seed Act, there are requirements governing the labeling of treated seed. The tags on a package of treated seed must include identification of what the seed has been treated with, requirements of special guidance dependent upon the toxicity classification of compounds within the treatment recipe or risk assessment, label statements based on worker protection standards, and other applicable labeling requirements.¹ State-specific laws on these matters are simply unnecessary.

HF 2472 (Hansen), New program for systemic pesticide-treated seed established, new account in agricultural fund established, and money appropriated.

Similar to our concerns with HF 1317, mandating a new regulation program for neonicotinoid treated seed is redundant and unnecessary. Seed treatments are highly regulated, just as foliar and soil-applied pesticides are. Seed-applied pesticide products undergo a thorough evaluation by the EPA, and by applicable state agencies prior to commercialization. Additionally, the seeds are regulated by state and federal seed control agencies.

The EPA assesses the potential risk for seed treatment products from treating and planting the seed (i.e., environmental fate, ecotoxicology and operator exposures), to the consumption of the harvested commodity (i.e., human health). Labels approved through EPA’s registration process include seed treatment uses that, when their instructions are followed, do not pose an “unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits”.

On September 28, 2022, EPA dismissed a petition requesting "the Agency to interpret or amend the treated article

¹ Label Review Manual: Revised September 2013, Chapter 18: Unique Product Labeling, United States Environmental Protection Agency, https://www.epa.gov/sites/production/files/2014-06/documents/chap-18_0.pdf

exemption at 40 C.F.R. §152.25(a) so that it does not cover seeds treated with systemic pesticides, and to aggressively enforce registration and labeling requirements for such treated seed."² "EPA explains in its response that it does fully assess, as part of its review of the pesticide registered for treating seed, both the use of the treating pesticide and the treated seed and impacts to human health and the environment. These assessments take into account the fate and effect of the pesticide, including the uptake and distribution into the developing seedling and plant and the availability of the pesticide on the treated seed to all taxa. In addition, in the September 28 decision the EPA explains that the treated article exemption regulatory text appropriately covers any seed treated if it meets the two regulatory conditions of the treated article exemption.

Neonicotinoids (or “neonics”) represent one of the most significant advances in insecticide technology in recent history and are among the safest pesticides for people and the environment. Initially registered as a reduced risk pesticide, neonics are an important crop protection technology and vital agricultural tools that protect a wide variety of crops. In 2013, the EPA made labeling changes to neonics labeled for outdoor foliar use to help minimize potential exposure to pollinators. The label changes included a “Pollinator Protection Box,” as well as new pollinator language to the Directions for Use section of each label, and that information is now found on every container of these products. On January 30, 2020, EPA released Proposed Interim Decisions (PIDs) for several neonics under their registration review process.³ The PIDs contained new mitigations to reduce potential ecological risks, particularly to pollinators, and protect public health. Additionally, the EPA requested that registrants implement a national stewardship program to increase grower awareness and use of best management practices to reduce ecological risks. As part of this process, the EPA published a Federal Register notice, and allowed for public comment on the proposals for 60 days. EPA is currently reviewing and responding to comments and will issue final interim decisions in early 2024. Taking any action on neonicotinoids prior to EPA releasing these interim decisions, after reviewing the most contemporary science, data and information available, is premature.

Sincerely,

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CropLife America (CLA) represents the manufacturers, formulators and distributors of crop protection products in the United States. CLA member companies produce, sell and distribute virtually all the crop protection products used by American farmers.

² EPA Responds to Treated Seed Petition,” Released on September 28, 2022, <https://www.epa.gov/pesticides/epa-responds-treated-seed-petition>

³ United States Environmental Protection Agency, Pollinator Protection, Schedule for Review of Neonicotinoid Pesticides, <https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides>