



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

**From:** Jon Gaeta, RISE (Responsible Industry for a Sound Environment)  
Riley Titus, CropLife America

**Date:** 3/28/2023

**RE:** HF 2278 - Oppose Article 2, Sec. 14, Sec. 51

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Dear Chair Vang, Vice Chair Pursell, and distinguished members of the Committee on Agriculture Finance and Policy,

On behalf of RISE (Responsible Industry for a Sound Environment)<sup>®</sup> and CropLife America, we respectfully oppose HF 2278 Article 2, Sec. 14 and Sec. 51. The current regulatory framework within the Minnesota Department of Agriculture (MDA) and United States Environmental Protection Agency (EPA) is appropriate for regulating all aspects of pesticide sales and use within the state, including the sale and use of fluorinated pesticides. The pesticide ban proposed in Section 14, based upon a registered pesticide product's chemical composition, is unnecessary and inappropriate. Similarly, seed treatments, and the seed applied pesticides that are applied to them, are highly regulated at both the state and federal level, so Section 51 is both duplicative and unnecessary.

Article 2, Sec. 14

Pesticides registered by MDA under Chapter 18b, including those containing fluorinated chemistry, are essential to protecting public health and safety, communities, ecosystems, and crops grown in Minnesota. Pesticides are applied in Minnesota by professional applicators, growers, and consumers to manage mosquito and tick populations, create fire breaks, maintain roadway lines of site, keep transportation and utility rights of way clear of vegetation, manage invasive and non-native species on land and in water, and to grow important food crops.

**Pesticides are rigorously regulated under existing federal law.** Pesticides are unique substances, with more scientific data available about them than for any other products available in commerce today. Pesticide products are subject to regulation and oversight from five federal agencies: EPA, Department of Agriculture, Food and Drug Administration, Fish and Wildlife Service, and National Marine Fisheries Service. This multi-agency federal regulatory framework is focused on ensuring products can be used safely. This framework is also the foundation of the federal and state pesticide regulatory partnership.

To approve a new pesticide under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA must determine that, when used in accordance with the label, it will *not* cause unreasonable adverse

effects on the environment and *does* provide a reasonable certainty of no harm to human health.<sup>1</sup> EPA must periodically review registered pesticides to ensure they continue to meet this robust safety standard.

EPA subjects all new pesticide products to rigorous human health and environmental review and testing requirements to satisfy these standards for registration. These testing requirements include, depending on the type of pesticide, the following:

- Product chemistry
- Physical and chemical properties
- Acute, sub-chronic, and chronic toxicity
- Efficacy testing (for public health uses)
- Ecological effects
- Environmental fate
- Applicator exposure
- Residue chemistry (for food use pesticides)

These tests take months and years to complete and represent an investment of millions of dollars by pesticide companies in the science that supports all products available to Minnesota residents, professional applicators, and agricultural producers. EPA expends significant resources to review and approve the testing data during a rigorous process. It can take more than 10 years before a new product is registered for sale due to the rigorous registration process.

The federal and state regulation of pesticide distribution, sale, and use, as well as stringent safety standards and oversight, are well established federally under FIFRA and in Minnesota under Chapter 18b. The statutes are designed to evolve as science advances, to support product innovation, and to provide for robust stakeholder and public input into pesticide regulation. The statutes require the review of the most current scientific data on health and environmental impacts for all pesticide products and impose requirements to minimize any risks before they are made available for sale and use.

All pesticides, including those formulated with fluorinated chemistry, must already be registered by EPA prior to applying for and receiving a state registration from MDA. Before pesticides even enter commerce in Minnesota, they must already be deemed safe by EPA.

**Regulators have broad authority to regulate pesticides.** EPA and MDA have broad authority to change the availability and use status of any pesticide product at any time for a range of safety and scientific reasons. These regulatory processes and options should not be superseded by the pesticide ban proposed in the legislation.

Further, there is no exposure data showing whether people are even exposed to PFAS in using registered pesticides in accordance with their directions for use. Under FIFRA's Section 6(a)(2), pesticide registrants are required to report any adverse effects to EPA from the use of a pesticide, and we are not aware of any incident of adverse effects from the use of pesticides due to PFAS in Minnesota or any other state. EPA monitors this information to ensure that pesticides are safe for use.

**Recent action by EPA shows the current regulatory framework for pesticides works.** The EPA approves and maintains a list of non-food inert ingredients that could be used in pesticide formulations and other types of products. In December 2022 the agency announced it was finalizing the removal of 12

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<sup>1</sup> 7 U.S.C. §136a(c)(5).

chemicals from the list that had been previously approved as non-food inert ingredients for use in pesticide products. This proposal was open for public comment and resulted in inerts “not currently used in any pesticide products,” being removed from the list with the caveat that new scientific data would have to be presented to the agency to support their future use. This agency action clearly shows the system works.

#### Article 2, Sec 51

Mandating a new regulation program for systemic 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 U.S. Environmental Protection Agency (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 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." "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, EPA explains that the treated article exemption regulatory text appropriately covers any seed treated if it meets the two regulatory conditions."

We find the pesticide ban and treated seed regulation proposed in this legislation to be unnecessary given the science-driven regulatory programs administered and enforced by the MDA and the United States EPA and ask the committee to oppose inclusion of these sections in the broader House Agriculture Omnibus bill.

Sincerely,

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RISE (Responsible Industry for a Sound Environment)® is the national trade association representing manufacturers, formulators, distributors, and other industry leaders engaged with specialty pesticides and fertilizers used by professionals and consumers. Learn more at [www.pestfacts.org](http://www.pestfacts.org).

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. Learn more at [www.croplifeamerica.org](http://www.croplifeamerica.org).