



To: Chair Sundin, and Members of the Minnesota House Agriculture Finance & Policy Committee

From: Riley Titus, CropLife America (CLA), and Pat Miller, American Seed Trade Association (ASTA)

Date: March 25, 2022

RE: HF 766/DE2 hearing on 3/28/22

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

Thank you for the opportunity to submit written testimony about HF 766 and the Delete Everything amendment (DE2) by the bill's author. Both HF 766 and the DE2 would require development of duplicative guidance and other labeling requirements and create unnecessary product stewardship for disposal and use of treated seeds. We respectfully oppose HF 766 and the DE2 and urge you to do the same.

Additions to the Federal labeling process are redundant and unnecessary for treated seed which is already labeled with instruction and cautionary statements regulated by EPA and required under Section 3 of the Federal Insecticide Fungicide Rodenticide Act (FIFRA). Requiring additional language on the labels of certain seed products specific to one state which are moving through interstate commerce would likely violate the Interstate Commerce Clause of the Constitution and create registration and availability challenges. The same seed coatings are subject to uniform regulations by the EPA and supplied in the same consistent manner to all 50 states.

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. Seed treatment technology provides several advantages to farmers as part of their IPM programs. Seed treatments reduce potential risks to the environment and applicators, by placing microscopic amounts of pesticide on the seed coating, rather than having to rely upon foliar application spraying of entire fields. The seed treatments are highly regulated, just as foliar and soil-applied pesticides are. Seed treatment products undergo a thorough evaluation by the U.S. Environmental Protection Agency (EPA), and by applicable state agencies prior to commercialization. FIFRA allows products that are treated with registered and approved pesticides to continue to be considered as a treated article – and this is known as the “treated article exemption.” A misnomer, because as you may have heard, it is not an exemption from regulation. All pesticide treated seeds are registered as a treated article if: 1) the article contains or is treated with a registered pesticide; 2) the pesticide is intended to protect the article itself; and 3) the pesticide is registered for that use and pest control.

Neonicotinoids 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, neonicotinoids 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 neonicotinoids labeled for outdoor foliar use to minimize 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 neonicotinoids under their registration review process.¹ 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 2022. Taking any action on neonicotinoids prior to EPA releasing their interim decisions, after reviewing the most contemporary science, data and information available, is premature.

The health of pollinators is of paramount importance to everyone, particularly CropLife America, the American Seed Trade Association, and our customer-farmers. Pesticide registrants have invested both time and resources into bee health and supporting stewardship initiatives. Comprehensive reports by U.S. Department of Agriculture (USDA) and the USDA National Agricultural Statistics Service (NASS) describe a broad range of issues or “stressors” negatively affecting bees, including habitat loss, parasites and diseases, lack of genetic diversity, climate change, pesticides, reduced forage options and pathogens. The research and data collected nationally² shows the leading stressor to honeybee colonies is overwhelmingly varroa mites. We support initiatives to promote pollinator health and believe its complexity calls for thoughtful, stakeholder engaged solutions.

Treated seed that is unused, discarded or disposed: Treated seeds that are damaged, do not meet quality specifications or have become nonviable may require disposal. Disposing of treated seed is heavily regulated at many levels of government: often times by cities, counties, states, and federal environmental protection laws (including the Clean Water Act, Groundwater Protection Act, and Clean Air Act). The regulations vary depending on the circumstances of the geography, resources, government structure and programs.

In general, four methods for disposing of treated seed exist today, each with their own permitting or regulatory requirements already in place:

- **Alternative Fuel Source for Power Plants or Cement Kilns:** There are a number of power plants and cement companies that utilize alternative fuels/feedstocks. The EPA National Electric Energy Data System includes a list of power plants utilizing biomass, municipal solid waste, or non-fossil waste as an alternative fuel.
- **Alternative Fuel Source for Ethanol Plants:** A very limited number of ethanol plants have the permits necessary to dispose of treated seed through the ethanol fermentation process. In all situations, byproducts from the ethanol production process cannot enter the food or feed channels and no measurable pesticide residues are allowed. The same situation also applies for wastewater and air emissions.

¹ United States Environmental Protection Agency, Pollinator Protection, Schedule for Review of Neonicotinoid Pesticides, <https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides>

² Honey Bee Colonies” Released August 2, 2021, by the National Agricultural Statistics Service (NASS), Agricultural Statistics Board, United States Department of Agriculture (USDA), <https://downloads.usda.library.cornell.edu/usda-esmis/files/rn301137d/8g84nk42x/00000x890/hcny0821.pdf>



- **High-temperature incineration by a licensed waste management facility:** These facilities run a disposal business and confirmation of the proper permits is required by the party disposing of the product.
- **Disposal in Approved Municipal Landfills:** This is allowed in some states, depending on the specific products used to treat the seed. State rules vary in approach. In addition, treated seed, and the resultant seed dust, are subject to solid waste regulations at state and local levels.

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

For the reasons stated herein, we respectfully urge you to oppose HF 766 and the DE2 amendment.

Sincerely,

Riley Titus

Director, State Government Relations

CropLife America

rtitus@croplifeamerica.org

(202)872-3856

Pat Miller

Director, State Affairs

American Seed Trade Association

pmiller@betterseed.org

(512) 259-2118

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.

Founded in 1883, the American Seed Trade Association (ASTA) is one of the oldest trade organizations in the United States. ASTA works on behalf of the seed industry to promote the research, development and movement of quality seed to meet the world’s demand for food, feed, fiber and fuel.