Treated Seeds Talking Points for OCSPP/OECA National Pesticide Manager Meeting

In 2017, the Center for Food Safety filed a petition seeking "amendment to, or a formal re-interpretation of, the Treated Article Exemption, 40 C.F.R. §152.25(a)." to clarify that it does not apply to seeds coated with systemic pesticides, and to aggressively enforce FIFRA's pesticide registration and labeling requirements.

The petition also claims that EPA does not adequately assess the risks from use of seed treatment pesticides that have systemic properties and use of the seed treated by such pesticides.

EPA responded to the 2017 petition on September 28, 2022 and placed the response in the public docket (EPA-HQ-OP-2018-0805).

In the response, EPA explains that it fully assesses both the use of the treating pesticide and the treated seed, and impacts to human health and the environment. EPA also explains that the treated article exemption regulatory text appropriately covers any seed treated. As a result, EPA did not grant the petition requests.

However, EPA agrees with the petitioners' concerns on clearly communicating the labeling instructions to the users of the treating pesticide and the treated seed. The Agency has been reviewing labeling instructions for pesticides registered for seed treatment use(s) in registration and registration review to ensure there are complete and appropriate instructions for the distribution, sale, and use of both the treating pesticide and the treated seed.

EPA is planning to work with states and other federal agencies and to issue an advanced notice of proposed rulemaking (ANPRM) to seek additional information on pesticide seed treatment and distribution, sale, and use of pesticide-treated seed.

In that ANPRM, EPA is planning to take comment to gather more information on:

- Use and usage information
- Seed vs seedling language
- Concerns regarding other treated articles
- A potential rule under FIFRA section 3(a)[1] that would allow EPA to enforce misuse of pesticide-treated seeds without registration. The enforceable language will appear on the seed bag tag.

[1] FIFRA SEC. 3. [7 U.S.C. 136a] REGISTRATION OF PESTICIDES.
(a) REQUIREMENT OF REGISTRATION—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.