SFIREG

State FIFRA Issues Research and Evaluation Group

August 31, 2022

Edward Messina, Director
Office of Pesticide Programs
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave NW
Mail Code: 7508P
Washington, DC 20460

Re: SFIREG Treated Seed Regulation Issue Paper

Dear Mr. Messina,

The State FIFRA Issues Research and Evaluation Group (SFIREG) and its working committees provide a platform for the states and US Environmental Protection Agency (EPA) to resolve challenges for successful implementation of pesticide programs and policies. SFIREG serves as a permanent standing committee of the Association of American Pesticide Control Officials (AAPCO), which works to represent states in the development, implementation, and communication of sound public policies and programs related to the sale, use, transport, and disposal of pesticides.

On behalf of SFIREG members, we wish to express our concerns regarding the regulatory framework and impacts related to treated seeds. Concerns and questions have been raised by State Lead Agencies (SLA's) over the regulatory framework governing pesticide treated seeds. Various states and the Joint Working Committees (JWC) of SFIREG have had considerable concerns about the exemption under 40 C.F.R. § 152.25(a), which has been interpreted as to exclude seeds that are treated with pesticides, intended to kill pests of the seed and plant, from being regulated uniformly throughout the nation. The topic has been discussed at numerous SFIREG meetings and the JWC of the Environmental Quality Issues (EQI) and Pesticide Operations Managers (POM) since at least 2019. Region 2 developed a white paper to characterize concerns discussed in this timeframe, which is currently posted to the SFIREG JWC website (Treated Seed Issues- EQI https://aapco.org/wp-content/uploads/2022/06/State-Lead-Agencies-Issues-with-Treated-Seed-Regulation-SFIREG-EQI-June-2022.pdf . At the June 2022 SFIREG meeting, the full SFIREG agreed an official issue paper should be developed. The EQI Working Committee has assisted in developing the enclosed issue paper to characterize the environmental concerns related to treated seeds and describe the regulatory challenges faced by

the states. The goal of this letter and issue paper is to communicate to EPA the identified areas of concern and request official EPA review for regulatory resolution. A summary of our issue and recommended priority action items is contained in our issue paper that is included with this letter.

We encourage EPA to organize and respond to this important issue paper and topic and to work quickly to amend 40 C.F.R. § 152.25(a) which currently excludes seeds for planting coated with systemic pesticides intended to kill pests of the plant. Working to properly regulate treated seeds is complex and very urgent. Clear and comprehensive regulation of treated seeds will provide the opportunity for SLAs to ensure safe and proper use while supporting agriculture in the continued use of these important products and tools. SFIREG recognizes the importance of seed treatment practices in agriculture and other plant protection industries, and with a more thorough and comprehensive EPA approach to the issues, American agriculture will hopefully retain the safe use of these plant protection tools.

SFIREG and SLAs are focused on providing science based information and consistent regulations to the public, stakeholders, and industry. The issues are an indication that the exemption under FIFRA has led to numerous SLA concerns for uniform regulation and protection of human health and the environment in production agriculture. SLAs and SFIREG request that EPA resolve these issues to successfully regulate and manage the issue. This letter provides an opportunity for SFIREG to express our concerns on this issue and to formally request action on these topics by EPA.

We look forward to working with EPA and providing assistance. Thank you for your attention to this issue which has become a high priority for our pesticide state lead agencies.

Sincerely,

Gary Bahr
SFIREG Chair

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