

November 2, 2022

The Honorable Michal Freedhoff, Ph.D.
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
Washington, D.C. 20460

Edward Messina
Director
Office of Pesticide Programs
Environmental Protection Agency
U.S. Environmental Protection Agency
Washington, D.C. 20460

Subject: Organizational Letter in Response to EPA Pesticide Coated Seed Decision

Dear Assistant Administrator Freedhoff and Director Messina,

We the undersigned organizations are writing in response to the Environmental Protection Agency (EPA) announcement on September 28, 2022, EPA-HQ-OPP-2018-0805, to sustain pesticide coated seeds status under the Treated Article Exemption (TAE) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

We are disappointed in EPA's failure to enact the provisions of the 2017 petition submitted by Bret Adee, American Beekeeping Federation, American Bird Conservancy, American Honey Producers Association, Jeff Anderson, Lucas Criswell, Gail Fuller, David Hackenberg, Pesticide Action Network of North America, Pollinator Stewardship Council, and the Center for Food Safety.

The petition response states that EPA's "assessment of [pesticides used as coatings] is thorough and that such concerns and can are being addressed in the context of registration and registration review actions.¹" However, existing assessments have identified many chemicals used as seed treatments, such as neonicotinoids, as Likely to Adversely Affect federally listed species and critical habitats.²

Pursuant to the Endangered Species Act, mitigations may be introduced to account for these impacts. However, the scale at which they are used and the locations in which they are used are not presently understood due to the TAE. It is not possible to fully protect listed species and critical habitats with the current classification of pesticide-coated seeds.

The tendency of neonicotinoid pesticide coatings to leave seeds and contaminate the environment is well documented, with as much as 97% of a chemical leaving the seed.³ From there it kills nontarget insects,⁴ can persist in soil for up to 1,000 days,⁵ and ripples up and down trophic levels by disrupting ecosystems and natural processes.⁶ Pesticide coated seeds have been shown to interrupt a bird's migratory ability, causing immobility and decreasing body weight.⁷

The special status held by treated seeds means there has been no reliable data collected on their use since 2014. The United States Geological Survey (USGS) tracks and reports pesticide use across the country. Citing uncertainty and complexity, the USGS stopped reporting on the amount of neonicotinoid insecticide used as seed treatments beginning in 2015.⁸ Resultantly, there is no present way to measure,

and therefore no way to mitigate, the true amount of environmental contamination from pesticide use in the United States.

This loss of invertebrate life has rippling effects on ecosystems. Birds and mammals which depend on invertebrates for prey may experience massive reductions in population due to food shortages. Pollination may decrease due to pesticide-caused mortalities in pollinating insect, impacting human food supply. Normal ecosystem functions such as decomposition, soil turnover, and biological pest control may all cease.

We are grateful for EPA’s intention to:

- Determine whether or to what extent pesticide-treated seed is being distributed, sold, or used in a manner inconsistent with treating pesticide labeling
- Pursue enforcement of pesticide or pesticide-treated seed label violations
- Promulgate an advance notice of public rulemaking seeking comment on issues raised in the petition

We the undersigned are concerned with the declaration of EPA’s potential issuance of “a FIFRA section 3(a) rule to regulate pesticide-treated seed under FIFRA section 3(a) to ensure distribution, sale, and use of the treated seed is consistent with treating pesticide and treated seed labeling.”

We would like EPA to change this from a possible exploration to a definite commitment to issue such a rule. The success of such a rule would also be contingent upon stronger language on coated seed bag tags.

Seed treatments have some appropriate targeted uses, but by and large they offer negligible or no increase in crop yield. When applied preemptively, the damage and devastation they cause far outweighs any theoretical benefit. The first step in mitigating a pesticide is knowing where and how it is used. EPA’s failure to reclassify coated seeds prevents this progress and mitigation from happening.

We thank EPA for the opportunity to share our thoughts and urge the Agency to reconsider its decision. Pesticide coated seeds should not be included under the TAE. The damage to people and wildlife from pesticide coated seeds will continue to worsen without major action.

Sincerely,



Aiken Audubon
Alaska Wildlife Recovery Effort
American Bird Conservancy
Arkansas Valley Audubon Society
Audubon of Southwest Florida
Bird Ally X
Bird Conservation Network
Bitterroot Audubon Society
Black Canyon Audubon Society
Bozeman Birders
Buffalo Ornithological Society
Center for Biological Diversity
Chesapeake Wildlife Heritage
Chicago Ornithological Society
Conservation Congress
Cumberland-Harpeth Audubon Society
Eastern Monarch Butterfly Farm
Ecoan Peru
EcoMagic
Environmental Protection Information
Center- EPIC
Forest Web
Friends of Iroquois National Wildlife
Refuge
Friends of the Bitterroot
Friends of the Earth
Friends of the San Pedro River
Golden Gate Audubon Society
Great Old Broads for Wilderness
Hampshire Bird Club
Hawk Mountain Sanctuary Association
High Country Audubon Society
Illinois Council of Trout Unlimited
Illinois Environmental Council
Illinois Ornithological Society
Iowa Audubon
Los Angeles Audubon Society
Lower Columbia Basin Audubon Society
Maryland Conservation Council
Maryland Ornithological Society
Maryland Pesticide Education Network
Maryland Votes for Animals
Montgomery Countryside Alliance
Natural Resource Economics
Noel J. Cutright Bird Club
Northcoast Environmental Center
Northeast Organic Farming Association
Northwest Center for Alternatives to
Pesticides
Orleans Audubon Society
Otter Creek Audubon Society
People & Pollinators Action Network
Presque Isle Audubon Society
Public Employees for Environmental
Responsibility (PEER)
Purple Martin Conservation Association
Rockbridge Bird Club
SAFE Alternatives for our Forest
Environment
Salem Audubon Society
San Bernardino Valley Audubon Society
Santa Clara Valley Audubon Society
Save Our Sky Blue Waters
Sequoia ForestKeeper®
Sierra Club
Tennessee Ornithological Society

The International Wildlife Rehabilitation
Council
The Linnaean Society of New York
The Massachusetts Pollinator Network
The Urban Wildlands Group
Toxic Free NC
Tree Fredericksburg
Virginia Society of Ornithology

Washington Crossing Audubon Society
Western Great Lakes Bird and Bat
Observatory
Whidbey Environmental Action Network
Will County Chapter of the Illinois Audubon
Society
Zumbro Valley Audubon Society

Individuals

Albert T. Tahhan

Allan J. Mueller

Amy Stuart

Amy Stuart

Andrea Franz

Barbara Hughes

Barbara Rizzo

Barry Kaplan

Brian Hayse-Gregson

Caroline Forgason

Caroline Forgason

Carolyn Willette

Christina M Visger

Claudia Parker

Dan Rauch

Diana Van Buren

Diane M. Kastel

Dogan Ozkan

Donna Kaplan

Dr. Chris Norden

Dr. Karl E. Miller

Dr. Scott R. Derrickson

Erin Youngberg

Francis Mangels

Gail Alter

Gerri Reaves

Gretchen Whisenand

Hannah B. Suthers

Harrison Watson

Jacqueline Turner

Jane Alexander

Janet Riley

Janice Banks

Jeanne Greene

Jenny Papka

John Hockman

John R Chenault PHD

Joyce Flanagan

Judith S Anderson

Judy Meredith

Karen Yarnell

Karla Ann Stanley

Kevin Walh

Laura Neale

Laura Prugh
Linda Knight
Linda W. Pierce
Lynn Bowdery
Mary Bernat
Pat Simmons
Robert Lee Leppard
Robert Riva
Russ Schipper

Rynda Clark
Sophie Osborne - Words for Birds
Stephen Mitten, S.J.
Tamima Itani
Thomas L. Jones
Victoria Fleck

For more information, please contact:

*Hardy Kern, Director of Government Relations, Pesticides and Birds Campaign
American Bird Conservancy
412-337-4673
ehardykern@abcbirds.org*

¹ <https://www.regulations.gov/document/EPA-HQ-OPP-2018-0805-0104>

² <https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides>

³ <https://pubmed.ncbi.nlm.nih.gov/25793443/>

⁴ [https://pubs.acs.org/doi/10.1021/acs.est.7b06388#:~:text=In%20recent%20years%2C%20neonicotinoid%20insecticides,\(nAChRs\)%2C%20their%20mol.](https://pubs.acs.org/doi/10.1021/acs.est.7b06388#:~:text=In%20recent%20years%2C%20neonicotinoid%20insecticides,(nAChRs)%2C%20their%20mol.)

⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4284396/>

⁶ <https://www.nature.com/articles/nature13531>

⁷ <https://www.science.org/doi/10.1126/science.aaw9419>

⁸ https://water.usgs.gov/nawqa/pnsp/usage/maps/show_map.php?year=2015&map=IMIDACLOPRID&hilo=L&disp=Imidacloprid