

# What Seed Vendors, Sales Representatives and Custom Seed Treaters Need to Know about Ontario's New Regulatory Requirements to Protect Pollinators



What seed vendors and sales representatives need to know

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A growing body of scientific evidence shows that neonicotinoid insecticides are highly toxic to honey bees and other beneficial insects.

In addition, neonicotinoid insecticides are persistent, meaning that they do not break down quickly in soil. They are water soluble and have the potential to easily run off into local watercourses, where they can potentially harm aquatic insects.

In Ontario, there is widespread use of neonicotinoid-treated seeds, in some cases, without evidence of pest problems. Close to 100 per cent of corn seed and 60 per cent of soybean seed sold in the province are treated with neonicotinoid insecticides.

On July 1, 2015, new regulatory requirements for the sale and use of neonicotinoid-treated seeds in Ontario will come into effect and be phased in over a period of time. The requirements will support the Province's target to reduce the number of acres planted with neonicotinoid-treated corn and soybean seed by 80 per cent by 2017 and are focused on ensuring that neonicotinoid-treated corn and soybean seeds are used only when there is a demonstrated pest problem. Reducing neonicotinoid use in these two crops presents the greatest opportunity to decrease pollinator exposure to this neurotoxic insecticide.

This document outlines what farmers need to know to meet these new regulatory requirements.

## **1. When do the new requirements take effect?**

On July 1, 2015, new requirements to sell neonicotinoid-treated corn and soybean seed will begin to take effect. These requirements are being phased in over time to allow vendors and farmers to adapt to the new regulatory requirements.

## **2. What is the new class of pesticides?**

The provincial government is responsible for classifying pesticides and regulating their sale, use, transportation, storage and disposal.

Treated seeds are seeds that have been coated with a pesticide. The new regulatory requirements will create a new class of pesticides—Class 12—for corn and soy-

bean seeds treated with the following neonicotinoid insecticides:

- imidacloprid
- thiamethoxam
- clothianidin

This new class of pesticides applies to corn seed grown for grain or silage and soybean seed.

The regulation does not apply to popping corn, sweet corn or corn used for the production of seed. Nor does it apply to soybean seed planted for the purpose of producing a soybean seed crop of certified status under contract. Corn seed and soybean seed treated only with fungicide are not classified as Class 12 pesticides under the regulation.

There are new requirements for vendors who sell, offer for sale, or transfer Class 12 pesticides and special requirements for others, such as treated seed sales representatives and direct-to-farm vendors. There are also reporting and other requirements that apply to custom seed treaters who provide neonicotinoid seed treatment services to farmers.

## **3. Who is considered a vendor?**

In general, vendors must hold a licence to sell pesticides in Ontario. For the purpose of the new regulatory requirements, a vendor is considered to be someone or a business who sells, offers to sell or transfers pesticides. In this case, a treated seed vendor is someone who sells, offers to sell or transfers corn or soybean seed treated with imidacloprid, thiamethoxam and/or clothianidin.

A treated seed sales representative is an individual who represents a person who is required to hold a treated seed vendor's licence and has direct contact with the buyers of neonicotinoid-treated seed and facilitates the sales transaction for a vendor. Treated seed sales representatives have special responsibilities under the regulation but do not require a licence.

If eligibility criteria are met, direct-to-farm vendors do not require a licence but they have some regulatory responsibilities similar to those that apply to treated seed sales representatives. See Question 4 for more details on direct-to-farm vendors and the applicable criteria.

## 4. Does a vendor need a licence to sell Class 12 pesticides?

Yes. Licences are required for persons selling, offering for sale, or transferring pesticides in Ontario.

Starting August 31, 2015, a vendor of a Class 12 pesticide will need to obtain a new treated seed vendor licence from the Ministry of the Environment and Climate Change by submitting the Application Form for Treated Seed Vendors.

The cost for the licence is \$200 and is valid for five years. This cost is similar for other types of licences to sell pesticides in Ontario. If you hold another licence to sell a different class of pesticides in Ontario, you will still need to obtain a treated seed vendor licence to sell Class 12 pesticides.

If vendors do not sell neonicotinoid-treated corn or soybean seeds (i.e. Class 12 pesticides), they do not need to obtain a treated seed vendor's licence.

## 5. Once licensed, what else do vendors need to do to sell neonicotinoid-treated seeds?

In order to sell Class 12 pesticides, vendors will need to submit a List of Class 12 Pesticides Submission Form to the Ministry of the Environment and Climate Change for Class 12 pesticides that they will have available for sale to customers through their operation by July 31 every year, starting in 2015. Using this information, the Ministry of the Environment and Climate Change will make an aggregated list that will be available on the Government of Ontario website on August 31 of each year.

Please note that this list will evolve as seed choices change and as new seed varieties come to market in mid-season. Vendors are responsible for providing updated information to the Ministry of the Environment and Climate Change.

The list vendors need to submit to the Ministry of Environment and Climate Change needs to include information about Class 12 pesticides that will be sold over a 12-month period beginning on August 31 of that reporting year including;

- the pesticide's variety name

- the concentration, in milligrams per seed, of imidacloprid, clothianidin and thiamethoxam contained in the pesticide
- the name of the manufacturer of the pesticide
- the name and the class of the pesticide that was used to treat the seed that makes it a Class 12 pesticide
- the registration number assigned to the pesticide under the Pest Control Products Act (Canada).

Note that licenced vendors who offer Class 12 pesticides for sale must also offer for sale seeds of that commodity (i.e. corn or soybeans) that are not Class 12 pesticides.

## 6. Who can vendors sell Class 12 pesticides to?

The information below tells vendors who they will be able to sell Class 12 pesticides to and under what conditions. The requirements under this regulation will be phased in over time to allow vendors and farmers to adapt.

**From July 1, 2015 to August 30, 2015** you will be able to sell Class 12 pesticides with no requirements or restrictions.

**From August 31, 2015 to August 30, 2016**, in preparation for the 2016 planting season, there will be two circumstances in which vendors can sell Class 12 pesticides to a farmer or other person planting Class 12 pesticides:

1. Vendors will be able to sell a Class 12 pesticide to a farmer if the farmer signs and gives vendors a completed Seed Amount Declaration Form (see Question 10) confirming that he or she is not buying neonicotinoid-treated seed in an amount greater than what is required to plant 50 per cent of the total area in the agricultural operation where they intend to plant seeds of that commodity. Note that the calculation is completed separately by commodity for each of corn and soybeans.
2. Vendors will be able to sell a Class 12 pesticide to a farmer who wants to plant the treated seed on more than 50 per cent of the total corn or soybean crop at their agricultural operation on the condition

that the farmer has a completed pest assessment report (see Question 9) and provides that report to vendors.

**On or after August 31, 2016**, in preparation for the 2017 planting season, vendors will be able to sell a Class 12 pesticide to a farmer or another person planting a Class 12 pesticide if he or she provides:

- a certification number obtained through completion of the new integrated pest management (IPM) training (see Question 7);
- a written declaration to the vendors that the grower has considered IPM principles before purchasing a Class 12 pesticide; and
- a completed and signed pest assessment report.

All pest assessment reports relating to a crop damage assessment must be completed and signed by a professional pest advisor. This form of assessment requires specialized knowledge of pests and crop damage.

For soil pest scouting, starting on August 31, 2017, a requirement will be phased in that requires a professional pest advisor to conduct the soil pest scouting assessment and prepare the report. This requirement will be phased in over time on a geographic basis to target regions with the greatest pollinator mortality rates.

Once the professional pest advisor requirement is phased in, a professional pest advisor will need to perform or supervise the soil pest scouting assessment and complete and sign the report at least once every three years.

Please refer to the *Pest Assessment Guideline* and the *Professional Pest Advisor infosheet* for an explanation of this requirement.

Vendors need to retain the documents that are required to be presented by buyers for at least four years as they may be asked by officials to provide the documents upon request.

Treated seed sales representative and direct-to-farm vendors, they will also need to forward these documents to the licensed vendor on a timely basis (in addition to retaining their own copies).

## **7. How do vendors confirm that a buyer has completed the new integrated pest management (IPM) training?**

Integrated pest management (IPM) is an approach to managing pests that is environmentally and economically sustainable. IPM promotes the use of different methods to prevent and reduce the risk of pests and encourage beneficial insects, including pollinators. Under IPM, pesticides are used as a last resort to control pest problems.

Starting on August 31, 2016, successful completion of a new IPM training course will be required in order to purchase and plant neonicotinoid-treated corn and soybean seed. Farmers will need to provide proof that they have completed this training by submitting their certificate number to a sales representative, vendor or custom seed treater. Certification is valid for five years (i.e. farmers will only need to take course once every five years).

The IPM training will be unique in that it will include training on the importance of pollinators in the ecosystem and how to protect them from pesticide exposure. It will also include training on identifying pests and pest scouting methods, and alternatives to using pesticides. It is a separate training program from other pesticide training, such as the Grower Pesticide Safety Course.

The new IPM training will be available starting in fall 2015, and will run continuously thereafter. Following successful completion of the course, farmers will receive a certificate number.

IPM training will be made available in a classroom at various locations or online through the University of Guelph, Ridgetown campus. To encourage participation, IPM training will be offered free of charge until September 2016.

## **8. What do vendors need to report at the end of the year?**

In order to track progress on meeting Class 12 reduction targets, vendors will need to submit a report by October 31 of each year with information about the Class 12 corn and soybean seed and non-Class 12 corn and

soybean seed sold to purchasers other than licensed treated seed vendors. This report must include the following information with respect to corn seed and separately with respect to soybean seed:

- the total amount of each Class 12 pesticide sold or transferred for the 12 month period;
- the total mass of imidacloprid, clothianidin and thiamethoxam in kilograms, in all of the Class 12 pesticides sold or transferred
- the total number of acres on which each Class 12 pesticide sold or transferred could have been used
- the total amount of non-Class 12 corn and soybean seed sold or transferred during the 12 month period
- the total number of acres on which the non-Class 12 pesticides sold or transferred could have been planted.

Vendors are asked to submit their report to the Government of Ontario.

Treated seed sales representatives do not need to submit separate reports for each year. To help vendors fulfil their reporting obligations, and to comply with the new regulatory requirements, sales representatives must submit all sales documentation to the licensed vendor that they represent in a timely manner.

Vendors are also required to submit copies of completed and signed pest assessment reports each year to the Ministry of Agriculture, Food and Rural Affairs

## 9. What is the pest assessment report that vendors need to collect?

A pest assessment report is documented proof that there is a pest problem requiring the use of neonicotinoid-treated seed to control the pests.

In order to purchase neonicotinoid-treated corn and soybean seed, a person (i.e. a farmer) must provide a pest assessment report to a vendor, sales representative or custom seed treater.

There are two kinds of pest assessments: soil pest scouting and crop damage assessment. A report must verify findings from your pest assessment.

**Soil pest scouting** is a method that confirms the presence of an average of two or more grubs or one

wireworm in soil at a farm property (see the Conducting a Pest Assessment for Use of Class 12 Pesticides guideline for more information on pest thresholds). A report must verify that pest thresholds have been met or exceeded.

A farmer can choose when to do soil pest scouting. This is often done in the spring or fall.

From August 31, 2015 to August 31, 2016, any farmer can do soil pest scouting, perform a pest assessment and prepare a report.

Starting August 31, 2016 until August, 31, 2017, farmers will be able to perform a pest assessment and prepare a report if they have a certificate number from completion of the new integrated pest management (IPM) training.

Starting on August 31, 2017, a requirement that a professional pest advisor conduct a soil pest assessment and prepare a report will begin to be phased in. This requirement is being phased in over time on a geographic basis to best target regions with the greatest pollinator mortality rates.

**Crop damage assessment** is a method that confirms:

- at least a 15 per cent stand loss in corn caused by pests
- at least a 30 per cent stand loss in soybean caused by pests.

If a farmer believes they have experienced crop damage from pests, they can choose to conduct a crop damage assessment. A professional pest advisor will be required to conduct this assessment, as this method requires specialized knowledge of pests and crop damage.

Pest assessments must be done according to the Pest Assessment Guideline. A copy of the guideline is available at [www.ontario.ca/neonics](http://www.ontario.ca/neonics) or can be requested by contacting the Ministry of the Environment and Climate Change.

The guideline outlines how assessments are to be conducted, sets out the minimum thresholds, and explains how to calculate the application area where the neonicotinoid-treated seeds are to be planted at the farm property.

Beginning on August 31, 2017, a professional pest advisor must be independent. To qualify at that time, they cannot derive a financial benefit from a person (including a business corporation) manufacturing or

selling a Class 12 pesticide or the pesticides used to manufacture Class 12 pesticides.

## 10. Do vendors have to train their sales representatives?

Yes. Since a sales representative has direct contact with the buyer to facilitate the sale of a Class 12 pesticide on their behalf, they will need to understand the new regulatory requirements and the necessary documentation to be reviewed and retained before facilitating the sale.

Sales representatives must be trained about the relevant regulatory requirements. It is also a requirement that vendors provide each sales representative with vendor identification. It is up to the vendor to determine the appropriate training for their sales representatives.

## 11. What do vendors need to provide to a sales representative who are selling on their behalf?

As a licenced treated seed vendor, vendors must ensure that each treated seed sales representative receives training on requirements set out in the regulation. Vendors must also keep a record of the name of the treated seed sales representative and the date of training.

Any person facilitating the sale of Class 12 pesticides on a vendor's behalf must:

- carry identification provided by the vendor
- give the vendor copies of the documents that must be provided by buyers of Class 12 pesticides, such as a completed and signed pest assessment report, a Seed Amount Declaration Form and an IPM Written Declaration Form
- keep copies of the Seed Amount Declaration, pest assessment reports and Declaration of Consideration of IPM Principles for at least two years.

## 12. Do sales representatives have any rules to follow when facilitating the sale of Class 12 pesticides?

Yes. Sales representatives will need to complete training provided by the vendor on the sale of Class 12 pesticides that the vendor deems necessary and must carry vendor identification.

When facilitating a sale, they must ensure buyers provide the required documentation and information to purchase Class 12 pesticides. This means they will need to collect the following from buyers:

- proof of IPM training in the form of a certificate number
- a pest assessment report that confirms the presence of pests in soil or crop damage at or beyond the thresholds set out in the Pest Assessment Guideline
- a Seed Amount Declaration (for the 2016 planting season only)
- a Declaration of Consideration of IPM principles (starting on or after August 31, 2016)
- a treated seed vendor's licence number if the buyer is another vendor.

Sales representatives will be required to submit a copy of the collected documents and information to the vendor they represent within 30 days after collecting the information.

It is important to keep a copy of the information/documents for at least two years as sales representatives may be asked by officials to provide the documents upon request.

## 13. What is a Seed Amount Declaration used for the 2016 planting season?

A Seed Amount Declaration is a written commitment to only plant *50 per cent or less* of the total area of an agricultural operation with neonicotinoid-treated corn or soybean seed. Note that the calculation is completed separately by commodity for each of corn and soybeans.

In order to purchase neonicotinoid-treated seed, this declaration must be provided to the person from whom farmers are purchasing their seed (or to the custom seed treater). The declaration must include:

- the acreage of land on which farmers will plant treated and untreated corn or soybean seed before August 31, 2016 at all of the farm properties that are used for their agricultural operation
- the location of each farm property, or a legal description of the property
- the total acreage of all of the application areas where farmers will plant neonicotinoid-treated seeds before August 31, 2016 at all of the farm properties that are used for their agricultural operation separately by commodity for each of corn and soybean.

A Seed Amount Declaration is valid only for seed intended to be planted in the 2016 growing seasons. The Seed Amount Declaration Form is available online for farmers.

## **14. Are there rules for advertising Class 12 pesticides?**

Yes. Vendors need to disclose in all advertising whether corn seeds and soybean seeds being sold or offered for sale are Class 12 pesticides and whether they contain imidacloprid, thiamethoxam or clothianidin.

When advertising a Class 12 pesticide that is a corn seed or soybean seed, vendors must also advertise that non-Class 12 corn or soybean seed is available for sale.

Generic advertising by a vendor that does not promote or offer for sale Class 12 pesticides is not required to meet the above requirements.

## **15. What if a company does not sell treated corn and soybean seed but merely provides the service of treating the seed? Are there any rules that apply to them?**

Yes. A custom seed treater is a person that provides a seed treating service in which neonicotinoid-insecticides are applied to seeds as a seed treatment prior to planting. This service is provided to a person that does not need to have a vendor's licence. There are requirements that custom seed treaters must follow.

Custom seed treaters will need to prepare a record for each seed treating service provided. These requirements do not apply when selling treated seeds to a vendor.

The record must contain the following information:

- the date the seed treating service was provided
- if a Seed Amount Declaration was provided, and the date it was signed
- if a pest assessment report was provided and the date that the pest assessment was conducted
- the amount of seed that was requested and the amount that was treated
- the name and class of the pesticide used to treat the seed and the registration number assigned to the pesticide under the Pest Control Products Act (Canada)
- the concentration, in milligrams per seed, of imidacloprid, clothianidin and thiamethoxam contained in the Class 12 pesticide
- the acreage on which the Class 12 pesticide is to be used.

Please note that custom seed treaters will be required to keep these records for at least four years.

In order to track progress on reducing the use of neonicotinoid-treated corn and soybean seed, custom seed treaters will need to submit a report by October 31 of each year with information about the Class 12 corn and soybean and non-Class 12 corn and soybean seed treated for persons other than licenced treated

seed vendors. This report must include the following information with respect to corn seed and separately with respect to soybean seed:

- the total amount of each Class 12 pesticide treated for the 12 month period
- the total mass of imidacloprid, clothianidin and thiamethoxam in kilograms, used to treat the Class 12 pesticides
- the total number of acres on which each Class 12 pesticide could have been used.

**To access guidelines and forms you will need to submit, please visit:**

[www.ontario.ca/neonics](http://www.ontario.ca/neonics)

Completed and signed forms must be submitted to the address specified on the form.

**For more information, please visit:**

[www.ontario.ca/pollinators](http://www.ontario.ca/pollinators)

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