

State of Vermont
Agency of Agriculture, Food and Markets



Public Health & Agricultural Resource Management Division

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**Best Management Practices for the Use of
Neonicotinoid Treated Article Seeds and Neonicotinoid Pesticides**

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Table of Contents

Section 1. General	1
Section 2. Definitions	1
Section 3. Best Management Practices for the Use of Neonicotinoid Treated Article Seeds	2
Section 4. Best Management Practices for the Use of a Neonicotinoid Pesticide	5
Section 5. Severability	7
Section 6. Effective Date	7

Vermont Best Management Practices for the Use of Neonicotinoid Treated Article Seeds and Neonicotinoid Pesticides

Section 1. General

- 1.01 Enabling Legislation: These rules are adopted pursuant to 6 V.S.A. § 1105a(a)(1) and (c)(1). These rules are intended to be interpreted harmoniously with State and federal law, including the Vermont Rule for Control of Pesticides. If distinct laws are updated, cannot be interpreted harmoniously, and/or conflict, then the following order of precedence applies: 1) federal law (when it preempts state law or incorporates mandatory label requirements), 2) state statute, 3) Vermont Rule for Control of Pesticides, and 4) these rules.
- 1.02 Purpose: The following best management practices (BMPs) are established for appropriate use of neonicotinoid treated article seeds and neonicotinoid pesticides. Unless otherwise stated, these practices are recommended best practices to be used whenever reasonable and practical.

Section 2. Definitions

- 2.01 Container means a device in which a neonicotinoid treated article seed or neonicotinoid pesticide is stored, transported, disposed of, or otherwise handled.
- 2.02 Groundwater has the same meaning as defined in the Vermont Rule for Control of Pesticides.
- 2.03 Integrated Pest Management (IPM) has the same meaning as defined in the Vermont Rule for Control of Pesticides.
- 2.04 Label or Labeling means:
- (a) the written, printed, or graphic matter on, or attached to, the seed bag or pesticide, or the immediate container thereon;
 - (b) the outside container or wrapper of the retail package, if there is one, of the seed bag or pesticide; and
 - (c) the written, printed, or graphic matter that is incorporated into the label by reference.
- 2.05 Loading means any act of transferring a neonicotinoid treated article seed or neonicotinoid pesticide to or from any storage container, or planter.
- 2.06 Neonicotinoid Pesticide has the same meaning as defined in 6 V.S.A. § 1101.
- 2.07 Neonicotinoid Treated Article Seeds has the same meaning as defined in 6 V.S.A. § 1101.
- 2.08 Ornamental Plant has the same meaning as defined in 6 V.S.A. § 1101.

- 2.09 Person has the same meaning as defined in the Vermont Rule for Control of Pesticides.
- 2.10 Secretary means the Secretary of the Agency of Agriculture, Food and Markets, and designees.
- 2.11 Storage means the holding of a neonicotinoid treated article seed and/or neonicotinoid pesticide for use or distribution in an area other than the sales floor of a licensed retailer.
- 2.12 Surface Water has the same meaning as defined in the Vermont Rule for Control of Pesticides.
- 2.13 Treated Article has the same meaning as defined in 6 V.S.A. § 1101.
- 2.14 Use means:
- (a) pre-planting or pre-application activities involving the transporting and loading of a neonicotinoid treated article seed or mixing and loading of a neonicotinoid pesticide;
 - (b) planting of a neonicotinoid treated article seed or applying a neonicotinoid pesticide;
 - (c) transporting or storing a neonicotinoid treated article seed, neonicotinoid pesticide, or container that has been opened;
 - (d) cleaning equipment used for applying, transporting, or planting a neonicotinoid treated article seed or neonicotinoid pesticide; and
 - (e) disposing of any excess neonicotinoid treated article seed, neonicotinoid pesticide, equipment wash water, or container.

Section 3. Best Management Practices for the Use of Neonicotinoid Treated Article Seeds

- 3.01 Applicability
The provisions of this section shall apply to the use of neonicotinoid treated article seeds when used prior to January 1, 2031 and when used under a valid exemption order issued by the Secretary.
- 3.02 General
A person who uses a neonicotinoid treated article seed should adhere to label requirements. Where provisions of this rule conflict with label language, the label language applies.
- 3.03 Label Guidance
A person using a neonicotinoid treated article seed should follow the directions and requirements on a neonicotinoid treated article seed bag label including:

- (a) proper handling, storage, use, and disposal;
- (b) recommended rate and depth of planting; and
- (c) hazard statements related to pollinators.

3.04 Dust and Non-target Exposure Mitigation

A person using a neonicotinoid treated article seed should minimize dust generation and potential drift or other non-target exposure from the seed as follows:

- (a) avoid planting during windy conditions (>15mph) and when wind is blowing toward a nearby surface water or flowering crops;
- (b) handle seed bags carefully during transport and loading to reduce abrasion and dust generation;
- (c) use dust-reducing seed lubricants at appropriate rates and avoid using lubricants that increase dust due to abrasion;
- (d) ensure the planter is calibrated and functions properly;
- (e) avoid or reduce releasing excess dust from a seed bag, including by loading planters at least 10 yards inside field borders;
- (f) clean planting equipment without using compressed air;
- (g) clean planting equipment without contaminating surface water and pollinator attractive habitats;
- (h) dispose of excess rinse water from cleaning within the crop field and without causing surface ponding;
- (i) do not broadcast plant or scatter seeds to soil surfaces;
- (j) ensure all planted seeds are thoroughly incorporated during planting and evaluate whether additional incorporation is necessary after initial planting to thoroughly cover any exposed seeds; and
- (k) collect any seeds spilled during loading or planting and store them for subsequent planting in accordance with section 3.07, or dispose of any seeds spilled during loading or planting in accordance with section 3.08.

3.05 Integrated Pest Management

A person using a neonicotinoid treated article seed should implement integrated pest management practices including the following practices:

- (a) utilize multiple pest management methods (cultural, mechanical, biological) to avoid or reduce pest risk, whenever feasible;

- (b) learn which crop production practices increase or reduce risk of insect pest damage; and
- (c) choose an appropriate rate of neonicotinoid seed treatment that can effectively manage target pests without overapplication.

3.06 Communication and Continuous Education

- (a) A person using a neonicotinoid treated article seed should provide at least 48 hours, but no more than 90 days, advance notice to all apiculturists who have an established apiary on the premises, provided that hive locations and apiculturist's contact information are available to the person using a neonicotinoid treated article seed.
- (b) A person using a neonicotinoid treated article seed should attend reasonably available education and outreach programs, including those provided by university extension services or the seed industry related to best management practices for using neonicotinoid treated article seeds.

3.07 Storage

A person using a neonicotinoid treated article seed should:

- (a) return neonicotinoid treated article seeds that are spilled during loading or planting to the original seed lot container; and
- (b) store neonicotinoid treated article seeds away from food and feed and protect and secure the seeds to prevent unauthorized access by people and wildlife.

3.08 Disposal.

- (a) Unless being used for storage in accordance with section 3.07, a person using a neonicotinoid treated article seed should dispose of the neonicotinoid treated article seeds and/or containers:
 - (1) in accordance with the seed bag label and local requirements; or
 - (2) by returning to the manufacturer.
- (b) A person using a neonicotinoid treated article seed should not:
 - (1) recycle a neonicotinoid treated article seed container;
 - (2) compost any neonicotinoid treated article seed;
 - (3) burn or otherwise incinerate any neonicotinoid treated article seed in a stove inside a residence or outbuilding; and/or

- (4) use a treated seed for fuel or ethanol production purposes.

Section 4. Best Management Practices for the Use of a Neonicotinoid Pesticide

4.01 Applicability

- (a) The provisions of this section apply to the use of neonicotinoid pesticides used after July 1, 2025 under a written exemption order issued by the Secretary unless otherwise provided for in an exemption order.
- (b) The provisions of this section apply to the agricultural use of a neonicotinoid pesticide after July 1, 2025, the use of which is not otherwise prohibited by law.
- (c) In addition to the provisions of this section, any use of a neonicotinoid pesticide shall be made in accordance with product labels and the Vermont Rule for Control of Pesticides.

4.02 Integrated Pest Management

A person using a neonicotinoid pesticide should implement integrated pest management practices, including the following practices:

- (a) learn which crop production practices, including crop variety selection and crop rotation, increase or reduce the risk of insect pest damage;
- (b) scout crops regularly and use economic thresholds to help determine if, when, and where, to apply;
- (c) utilize multiple pest management methods (cultural, mechanical, biological) to avoid or reduce pest risk, whenever feasible;
- (d) use perimeter trap-crop treatments, refuge plantings, and other methods that prevent the entire field or population from being treated to help preserve susceptible non-target species;
- (e) choose the lowest appropriate labeled application rate that can effectively manage target pests without overapplication or risking increased insecticide resistance;
- (f) time applications to target the most vulnerable life-stage of the target pest; and
- (g) target applications to specific areas of a crop or field utilizing spot spraying, directed sprays, and band applications based on scouting.

4.03 Drift Prevention

A person using a neonicotinoid pesticide should implement measures to reduce drift, including the following practices:

- (a) use a nozzle that produces medium or coarser droplet sizes;

- (b) apply during favorable weather conditions;
- (c) use a drift retardant or spray additive within label guidance;
- (d) use a shielded sprayer, provided that the shield does not compromise uniform deposition;
- (e) maintain at least a 25-foot spray buffer zone between the application area and surface water for ground applications, and a 150-foot spray buffer zone for aerial applications;
- (f) maintain a boom height no more than four feet above the canopy for ground applications;
- (g) comply with Vermont Rule for Control of Pesticides and all applicable permit conditions for aerial applications;
- (h) spray when wind direction is pointed away from non-target areas of concern, such as pollinator attractive plants; and
- (i) ensure that application equipment is calibrated and functions properly.

4.04 Spills

A person using a neonicotinoid pesticide should implement measures to prevent spills, including the following practices:

- (a) mix and load away from waterbodies and ditches;
- (b) use a designated spill containment surface or otherwise maintain a 25-foot buffer from potential surface to groundwater conduits; and
- (c) maintain an incident response plan.

4.05 Runoff and Prevention

A person using a neonicotinoid pesticide should implement measures to prevent runoff, including the following practices:

- (a) avoid applications during rain or when soil is saturated;
- (b) avoid foliar applications if rain is predicted in the next 24 or 48 hours;
- (c) avoid disposal of leftover pesticide down a drain or in a single spot in a field; maintaining grass or vegetative buffers near tile outlets, in drainage ways, and along field boundaries; and
- (d) implement residue management practices (e.g. conservation tillage, cover crops, filter strips, or vegetative buffers) as applicable to slow runoff.

4.06 Pollinator Protection

A person using a neonicotinoid pesticide should implement measures to prevent exposure to pollinators, including the following practices:

- (a) avoid applications during unusually low temperatures or when dew is forecast;
- (b) communicate with apiculturists and growers to determine the presence of potential hives or colonies on site;
- (c) follow label restrictions for the maximum amount of neonicotinoid allowed per acre, per application, per season, or per year;
- (d) consider that neonicotinoids applied as seed treatments count towards maximum application rates; and
- (e) leave a buffer strip of two-to-three feet between neonicotinoid treated turf and the border of any landscape bed to minimize the potential of flowering ornamental roots taking up neonicotinoids.

Section 5. Severability

If any provision of this rule or its application to any person or circumstance is determined to be invalid or in violation of the Constitution or laws of the United States or Vermont, that determination shall not affect any other provision or application of this rule that may be given effect without the invalid provision or application, and to that end all provisions of this rule are severable.

Section 6. Effective Date

This rule shall become effective on [15 days after adoption].