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Lindsey Schreier, LCAR Committee Assistant  
Legislative Committee on Administrative Rules  
by email

REVISED Comments on LCAR Rule No. 25P031, Best Management Practices for  
Neonicotinoid-treated article seeds and Neonicotinoid Pesticide Use.

Dear Members of the Legislative Committee on Administrative Rules:

I am submitting additional comments, which contain new relevant information about neonics in VT waters and revised rationale to consider.

According to criteria stated by Legislative Counsel for accepting or rejecting rules, you can reject rules if they are *contrary to* the intent of Legislature. I was interested in Mr. O'Grady's comments to LCAR about "intent of the Legislature" on Jan 8. Isn't Act 182 clear on its intent to phase out toxic pesticides in order to protect pollinators and other life? We are not talking about the intent of individuals, but that of the legislative body in passing this law.

Act 182 enacts an eventual ban on the use of these endocrine-disrupting<sup>1</sup>, neurotoxic, persistent, mobile pesticides in Vermont in order to protect pollinators, wildlife, the environment<sup>2 3</sup> and public health.<sup>4</sup>

I name below several serious problems with the BMPs as presented.

1. Language: Using the verb "should" renders the BMPs discretionary and will not provide accountability or enforceability of the BMPs, nor achieve the goals of Act 182. The word "shall" must be substituted for "should" throughout the document.
2. Aerial applications: While the law is silent on the issue of aerial use, Section 1 Finding #7 states: "sublethal exposure to neonicotinoids is likely to be the main culprit for the occurrence of colony collapse disorder in honey bees." Notice to beekeepers is crucial in protecting bees from any applications exposing pollinators to neonics at sublethal amounts, including aerial

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<sup>1</sup> Baines, D et al, 2017 <https://doi.org/10.1038/s41598-017-10489-6>

<sup>2</sup> [https://biologicaldiversity.org/w/news/press-releases/epa-neonicotinoid-pesticides-harm-vast-majority-of-all-endangered-species-2021-08-26/?gad\\_source=1&gad\\_campaignid=20613662605&gbraid=0AAAAAD3I-HPFRQNHYPfM7OxyVqfD4T\\_\\_J&gclid=Cj0KCQiAsNPKBhCqARIsACm01fSFaiChEMJfgBE6HRPUWJ9yJkYzM](https://biologicaldiversity.org/w/news/press-releases/epa-neonicotinoid-pesticides-harm-vast-majority-of-all-endangered-species-2021-08-26/?gad_source=1&gad_campaignid=20613662605&gbraid=0AAAAAD3I-HPFRQNHYPfM7OxyVqfD4T__J&gclid=Cj0KCQiAsNPKBhCqARIsACm01fSFaiChEMJfgBE6HRPUWJ9yJkYzM)  
[Khttps://data.usgs.gov/datacatalog/data/](https://data.usgs.gov/datacatalog/data/)

<sup>3</sup> <https://data.usgs.gov/datacatalog/data/USGS:627954a8d34e8d45aa6e3c0a>

<sup>4</sup> <https://www.nrdc.org/bio/jennifer-sass/two-new-papers-reveal-startling-human-health-risks-neonicotinoid-pesticides#:~:text=Data%20obtained%20from%20the%20EPA,for%20children%20and%20pregnant%20women.&text=I%20recently%20coauthored%20two%20articles,water%2C>

spraying. Contrary to the advice of pollinator experts, the BMPs allow aerial spraying of neonics which endangers bees, butterflies, beneficial insects, birds, and possibly humans.

3. Failure to require adequate notice to beekeepers: Notice to beekeepers is not addressed in the law, but is absolutely necessary for protecting pollinators. The BMPs do not provide adequate notice to beekeepers of intended neonic application within *one mile* when pollinators are least active. Applications within *two miles* when plants are blooming will further endanger pollinators and the livelihoods of beekeepers.

4. Failure to protect water resources: BMPs must *forbid* neonic applications or treated seed plantings within designated buffers for water resources, even *with notice, which protects nothing* (See item 4 in Section 1, Findings).

See data from USGS monitoring in Lake Champlain in 2021 for neonic contamination of Waters of the State below:

Clothianidin: detected at the mouth of Potash Brook at **10.2 ppb** in August, and at **8.2 ppb** in October.

Imidacloprid: detected at the mouth of Potash Brook at **60.4 ppb** in June, **8.9 ppb** in July, and **13 ppb** in August; also detected also at the outflow of Burlington Wastewater Treatment Facility at **101 ppb** in August and at **35 ppb** in September.

*See reference in footnote 3 above.*

5. In the BMPs, IPM (undefined) is *combined* with continued use of treated seeds, but these uses are described as *incompatible* (See Finding #5 of Act 182).

6. While Act 182 does not mention per- or polyfluoroalkyl substances (PFAS), their increasing use as unidentified or active ingredients in pesticides makes pesticide reduction more urgent than ever.

7. Please note that at least one member of the Agricultural Innovation Board has used his influence as a pesticide salesperson (or crop consultant) to advocate FOR aerial spraying, contrary to the advice of pollinator experts. The Public Health and Agricultural Resource Management Division (PHARM) and members of AIB must not allow persons with conflict of interest to subvert laws meant to protect pollinators, wildlife and public health. Such persons with economic interests at stake may provide useful information about pesticides, but must not undermine the legislative mandate of the Board to develop the Best Management Practices and to establish ways to reduce pesticide use in Vermont.

CONCLUSION: As a member of VT Pesticide and Poison Action Network, VT PFAS Coalition and Anthropocene Alliance (A2), I strongly urge you to reject the BMPs for the reasons stated above. They are not consistent with Act 182 and allow neonics to continue harming pollinators, Vermonters, and the world we all share. We cannot allow vested interests to hold us captive to toxins in Vermont. The AIB must make significant changes to comply with Act 182.

Thank you for your attention to my comments.

