

**VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS (AAFM)
AGRICULTURAL INNOVATION BOARD (AIB)**

MEETING MINUTES

DATE: October 28, 2024

LOCATION: Vermont Agency of Agriculture, Food and Markets 94 Harvest Lane, Williston, VT 05495 –
Conference Room 210 / Virtual Microsoft Teams Meeting

| Member | Present | Absent |
|--|----------------|---------------|
| St. Pierre, Amanda | | x |
| Beckford, Roy | | x |
| Nourse, Nate | | x |
| Chamberlin, Jonathan | x | |
| Pajak, Abbi | | x |
| Kemp, Brian | x | |
| Rebozo, Ryan | | x |
| Schubart, Steven | x | |
| Wadman, Pam | x | |
| Harper, Wendy Sue | x | |
| DiPietro, Laura | x | |
| Dwinell, Steve | x | |
| Griffith, Morgan | x | |
| Guests in Attendance | | |
| Stephanie Smith Pam Bryer Dillon Gabbert (Crop Life America / RISE) Jill Goss Clark Parmelee Gene Harrington (Biotechnology Innovation Organization) Rosemary Malfi (Xerces Society) Jared Carpenter (Lake Champlain Committee) George Sabbagh (Bayer) | | |

Meeting called to order: 1:00 PM EST

Meeting adjourned: 2:29 PM EST

Next meeting: Monday December 9, 2024, 1-4PM

Agenda:

1:00 PM – Welcome & introductions

1:05 PM – Agenda, previous meeting minutes

1:10 PM – AAFM update

1:15 PM – National Update on Regulations, Laws, and Bills Relevant to Neonicotinoid Pesticides and Treated Seeds – Gene Harrington, Senior Director, State Government Affairs, Agriculture & Environment, Biotechnology Innovation Organization

2:15 PM – Neonicotinoid Treated Article Seeds and Neonicotinoid Pesticides Best Management Practices Discussion and Recommendations

3:50 PM – Public Comments

4:00 PM – Adjourn

New Action Items

| Action | Responsible Party | Complete? (date) |
|--|-------------------|------------------|
| Provide Morgan with additional suggestions for next topics for AIB to address | AIB Members | |
| Review draft neonicotinoid BMP rule and leave comment or let Morgan know you have no further comment after review | AIB Members | |
| Review recommended neonicotinoid BMP document provided by Xerces Society and provide comments to Morgan, including specific BMPs or information to include in draft BMP rule | AIB Members | |
| Share Act 31 PFAS phase out report and proposed legislation to AIB members | Morgan Griffith | |
| Invite Emily May, Xerces Society, to present in detail the recommended BMPs provide to AIB | Morgan Griffith | |

Ongoing Action Items

| Action | Responsible Party | Complete? (date) |
|---|--------------------------|------------------|
| AIB members let Morgan know if eligible for per diem reimbursement to receive necessary paperwork | All eligible AIB members | |
| | | |

Welcome & Introductions, agenda & previous meeting minutes

- Introduced new members
 - Pam Wadman, Senior Environmental Health Risk Assessor with Vermont Department of Health. Replaces Dr. Sarah Owen
 - Brian Kemp, Farm Manager at Mountain Meadows Farm an organic beef farm in Sudbury, VT. Replaces Earl Ransom
- Meeting minutes from August accepted without edits

AAFM Update

- Act 31 PFAS consumer products PFAS ban
- Over summer DEC conducted meetings that AAFM participated in and produced a draft document of proposed legislation and accompanying report

- Pam will send these documents to Morgan and **Morgan will share with AIB
- Documents were made public and 21 comments were received, to be reviewed this week
- Documents will be passed along to general assembly in the next week or two
- If members are interested in discussing further let Morgan know and we can add as future agenda item
- Notable highlights for AIB
 - Consumer product ban as proposed currently has a proposed exemption for FIFRA registered pesticides, because have already been through risk review and have been held to a higher standard than other consumer products
 - Definition of PFAS has exemption for anything toxicological similar to PFAS – so if FIFRA registered chemical that behaved similarly to PFAS then it would not be exempt from the ban
 - Consumer product ban has broad definition of intentionally added PFAS, essentially as written if PFAS concentration is high enough it is assumed to be intentionally added
 - Have asked that food not be included as “consumer product” for this portion of the ban. Everyone is concerned about PFAS in food, but it went beyond the development of this proposal
 - This proposed legislation directs Agency of Ag to develop a response/report to General Assembly with a recommendation of how the State should try to deal with PFAS in food in Vermont.

National Update on Regulations, Laws, and Bills Relevant to Neonicotinoid Pesticides and Treated Seeds – Gene Harrington, Senior Director, State Government Affairs, Agriculture & Environment, Biotechnology Innovation Organization

- 2024 state/federal Neonic treated seed legislative/administrative activity
- Recent Federal Regulatory Activity
 - Sept 2022 EPA dismissed 2017 petition requesting they regulate treated seed
 - EPA reasoning was that it already takes into account potential risk from treated seed during the pesticide registration and registration review process
 - Plan to work further with states and investigate further ways to more closely regulate treated seed
 - Indicated they would be putting forward advanced notice of proposed rulemaking to solicit input on how EPA could and should more closely regulate treated seed
 - Oct 2023 – EPA issued advanced notice of proposed rulemaking, and accepted comments until Feb 9 2024
 - Neonics presently going through registration review process (every 15 years)
 - Will likely include new mitigations to reduce potential ecological risks, particularly to pollinators
 - Could include reduced rate on treated seeds
 - Final interim decision is expected in 2025
- Recent State activity
 - Sept 22, 2024 CA new law (California AB 1042) labeling requirements for treated seed bag labels

- Label must contain the signal word for the substance with highest level of toxicity
 - Beginning Jan 1 2027, all pesticide treated seeds labels must include
 - EPA Reg No for each substance on treated seed
 - Quantity of each substance applied by weight or amount per seed
 - In CA, ongoing litigation ???
 - Feb 2023 Natural Resources Defense Council (NRDC) filed suit against CA Dept of Pesticide Regulation (DPR) for failing to regulate neonicotinoid treated seed. Trial planned for May 2024, but suspended to allow for settlement discussions. DPR and plaintiffs have been engaged in settlement talks for last several months
 - CA has potential to impact rest of country because is large and influential state
 - Oct 15, 2024 Natural Resources Defense Council petitioned MN Dept of Agriculture (MDA) urging them to adopt rulemaking pertaining to regulation of neonic treated seed
 - MDA required to respond within 60 days
 - NY –Birds & Bees Protection Act
 - Jan 1 2029 prohibits selling Neonic treated corn, soybean, or wheat unless valid waiver is issued
 - No waiver valid for more than 2 years
 - Conditions for waiver
 - Complete IPM training
 - Pest risk assessment
 - Plant on farm property identified in risk assessment
 - Maintain current records of pest risk assessment, and of planting of treated seeds
 - NY Department of Environmental Conservation must report annually to legislature the number of waivers granted
 - NY DEC, NY Dept of Agriculture must work with Cornell to conduct research to identify practical and feasible alternatives to neonicotinoid pesticides. Results of study submitted to Legislature on or before Jan 1 2026 and posted online
 - Washington law (SB 5972) restricting consumer/residential use of neonicotinoid insecticides
 - In effect Jan 1 2026, cannot use neonics on nonproduction outdoor ornamental plants, trees, and turf in this state, unless application is made as part of licensed application, a tree injection, or during production of agricultural commodity
 - Washington is now 13th state to legislatively restrict neonic for consumer/residential use: including CA, CO, CT, ME, MD, MA, MN, NV, NJ, NY, RI, VT
- SD question: seems like increasing number of states looking at restrictions on neonics and EPA re-registration decision. Are you aware of any conversations among registrants about any stewardship programs or anything to mitigate some of the concerns for their products?
 - GH: part of re-registration process, EPA has been working with registrants for some sort of stewardship for neonicotinoid treated seed. In addition to registrants already having some stewardship programs. American Seed Trade Association does have stewardship programs and materials that they make widely available.

- Rosemary Malfi: stewardship programs are in what structure/form? BMPs? Take back programs for un-usable seeds?
 - GH: are mainly on use and disposal. Not aware of take-back programs.

Neonicotinoid Treated Article Seeds and Neonicotinoid Pesticides Best Management Practices Discussion and Recommendations

- AAFM drafted proposed BMPs for March 1 2024 deadline for legislature and when passed Act 182 additional requirements were added for those BMPs
- AAFM received recommendations for Neonic BMPs from Xerces Society, in collaboration with UVM
- Draft Best Management Practices rule
 - Section 1: are recommended best management practices, not enforceable standards that are prescriptive requirements.
 - Section 2: definitions are referenced to other statute or rules so to reduce confusion and then definitions included with addition of neonicotinoid treated seed
 - WSH: IPM definition was vague, included link to EPA IPM definition. Thinks should include tenets and process of IPM within this definition.
 - Are there any definitions that AIB members think are missing?
 - Section 3: BMP for Neonicotinoid Treated Article Seeds
 - Applicable when used prior to Jan 1 2029 and when used under valid exemption order
 - Should adhere to label requirements
 - Dust and non-target exposure mitigation
 - Heather Darby conducting research currently with plan to continue in 2025 to inform this mitigation
 - RR comment: examples can be given in accompanying documentation/education materials from AAFM and/or UVM. A rule is very static, where as examples and recommendations should be held in a document that can be dynamic and adjustable as new information is available
 - IPM
 - WSH: section does not follow IPM tenets, action thresholds should be set, there should be monitoring, use cultural methods first, then lastly use pesticide
 - JC: concerned if bottleneck it for producers because there is a lot of practices that producers have to do (even if they promote insect presence/increase risk) because of other program requirements, weather, or on-farm inputs (i.e. manure)
 - BK: agree with JC need flexibility for farmers, don't want to limit them by making it too definitive.
 - Communication & continuous education
 - Notify apiary on premise at least 48 hrs in advance
 - BK: planting season is very challenging and changing last minute due to weather/soil conditions. 48 hours is restrictive.
 - PW: I need more time to review and comment on this document.

- JC: is there a definition of premise?
 - This BMP is similar to the regulation about required notification when using a pesticide on a flowering crop from pesticide rule (section 5.04(a)). Premise is not defined so generally accepted definition would be on property. But this could be comment of need for clarification
 - Storage & Disposal
 - No comments given for this section
 - Section 4: neonicotinoid pesticides
 - Applicable for use of neonicotinoid pesticides when used after July 1 2025 under a valid exemption order, or after July 1 2025 when use is not prohibited by law
 - Required to follow product labels and the Vermont Rule for Control of Pesticides
 - All outdoor use neonicotinoid products are state restricted use pesticides
 - IPM
 - WSH: reorder section BMPs - put pesticide related BMP at bottom and preventative/cultural ones to the top, so they are following the tenets of IPM. Include setting thresholds
 - Drift prevention
 - No comments
 - Spills
 - No comments
 - Run-off and Prevention
 - RM: Xerces recommended BMPs include larger buffers between applications and water
 - Pollinator Protection
 - JC do we have anyone here with experience on ornamentals and turf that can comment? Crop consultants do not use neonic in this manner so no major impact
 - AAFM has had discussions with VT Nursery and Landscape Association and invited comments from them. AAFM will continue these conversations.
 - They will have opportunity to comment during rulemaking process
 - Act 182 will likely have significant impact on ornamental industry because includes all perennial plants, which is broad and extensive
 - Act 182 does not mention applications on turf, only label restrictions will apply for turf applications.
- Next meeting Dec 9
- **AIB members send comment on draft BMP rule

Public Comments

- Received letter from Xerces Society and UVM and other Universities
- Rosemary Malfi – Xerces Society
 - Worked with experts in the field for neonic treated seeds and neonicotinoid pesticides

- Some similar as draft rule, but this document goes beyond and more specific, for example with storage and disposal of treated seeds
- Have recommendations for protecting pollinator habitat
- Includes much wider water buffers
- Recommend aerial application of neonics be avoided entirely
- **Invite Emily May to return at next AIB meeting to present in detail about recommended BMPs
- WSH: thoughtful and should incorporate some of them into draft BMP
- SD: the way this is written is more appropriate (and very useful) as an Extension document/guidance document for growers to be provided by UVM, especially after Heather Darby research is finalized.
- **AIB members let Morgan know specific BMPs to add to draft rule from this recommendation document
 - Xerces would like to know what specific parts could be added to rule
- SS: things that are already under control under another rule don't need to be included again in the draft rule, but references can be made to the original rule/statute

** - indicates action items