

39350 Minnesota Pollution Control Agency Request for Comments on Waste Treated Seeds Rule

Closed Jan 30, 2024 · Discussion · 9 Participants · 1 Topics · 11 Answers · 0 Replies · 9 Votes

9

PARTICIPANTS

1

TOPICS

11

ANSWERS

0

REPLIES

9

VOTES


SUMMARY OF TOPICS

SUBMIT A COMMENT

 11 Answers · 0 Replies

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Michael Stoick · Citizen · (Postal Code: unknown) · Dec 29, 2023 11:32 am

 2 Votes

As an agricultural state and environmental leader the state of Minnesota should provide open and transparent financial support to farmers to properly plant any unused treated seeds in designated fallow fields or other approved non-cropped planting area on Minnesota farms. The State also needs to require seed companies that sell treated seeds to document and report sales as well as where the seeds are transported, stored, and ultimately planted. If seed companies have excess inventory at the end of the planting season they should be required to donate those seeds to farmers that can use them or pay farmers directly to plant excess seeds in fallow fields or other approved non-cropped areas on Minnesota farms. Just like any other chemical or industrial waste they need to be regulated. It is important to keep the chemicals used to treat seeds out of our waterways, out of the food chain, away from compost facilities, out of our bodies, and out the biological world in which we live.

Laurie Schneider · Citizen · (Postal Code: unknown) · Jan 19, 2024 1:39 pm

 3 Votes

On behalf of Pollinator Friendly Alliance, please see attached PDF, "PFA comments treated seed", for MPCA Request for Comments on Waste Treated Seed Rules, Revisor's ID No. R-04806; OAH Docket No. 23-9003-39350.
We SUPPORT rulemaking governing proper and safe disposal and regulation of waste treated seed.

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Greg Larson · Citizen · (Postal Code: unknown) · Jan 20, 2024 11:03 am

👍 2 Votes

On behalf of the Minnesota Environmental Partnership, Pollinator and Wildlife Coalition, see PDF for comments on waste treated seed rules

Chris Cowen · Citizen · (Postal Code: unknown) · Jan 30, 2024 10:32 am

👍 2 Votes

The following attachments are respectfully submitted for agency consideration.

Lucas Rhoads · Citizen · (Postal Code: unknown) · Jan 30, 2024 1:18 pm

👍 2 Votes

The attached comments are submitted on behalf of the Minnesota Center for Environmental Advocacy and NRDC Action Fund. Thank you for your time and consideration of this issue.

Lucas Rhoads · Citizen · (Postal Code: unknown) · Jan 30, 2024 1:20 pm

👍 2 Votes

The attached comments are submitted on behalf of the Minnesota Center for Environmental Advocacy and NRDC Action Fund. Thank you for your time and consideration of this issue.

Rick Hansen · Citizen · (Postal Code: unknown) · Jan 30, 2024 1:42 pm

👍 2 Votes

With statutory changes relating to pesticide coated (treated) seed disposal the rules need to be updated.

Clarifying solid waste authorities within the Mn Pollution Control Agency rules can be assisted adding a pesticide coated treated seed treatment section as 7035.9200 like 7035.9100 with sub parts defining Scope, Definitions, and Required Practices.

Clarifying the roles of end users of pesticide coated treated seed in comparison with the sellers of pesticide coated treated seed and those who produce pesticide coated treated seed is needed.

The end users responsibility for disposal should also be accompanied with direction about what they can not do. For example, the burying of waste treated seed should be further restricted to protect groundwater. It should be prohibited in karst topography and coarse textured soils with a high potential of leaching to groundwater.

Disposing of by putting waste treated seed in sinkholes should be prohibited.

There should be an understanding of differences in volume of waste pesticide coated

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treated seed between home, garden, and greenhouse use and production agriculture use.

The role of pesticide coated treated seed producers and sellers should require that producers take back waste pesticide coated treated seed.


Rick Hansen · Citizen · (Postal Code: unknown) · Jan 30, 2024 1:50 pm

 1 Votes

<https://conservancy.umn.edu/handle/11299/93148>


<https://www.usgs.gov/mission-areas/water-resources/science/karst-aquifers>

George Damian · Citizen · (Postal Code: unknown) · Jan 30, 2024 2:28 pm

 0 Votes


The attached comments are submitted on behalf of Clean Energy Economy Minnesota, also known as CEEM. Please let me know if you have any questions.

RILEY TITUS · Citizen · (Postal Code: unknown) · Jan 30, 2024 3:16 pm

 0 Votes

Please find attached joint comments on Revisor's ID Number R-04806, submitted by ASTA and CLA. Thank you for your consideration and the opportunity to comment.

Margaret Levin · Citizen · (Postal Code: unknown) · Jan 30, 2024 3:48 pm

 2 Votes

On behalf of the Sierra Club North Star Chapter, we concur with the concerns and recommendations submitted by the Pollinator Friendly Alliance, Minnesota Center for Environmental Advocacy, and NRDC Action Fund.

RECEIVED

JAN 22 2024

Office of Administrative Hearings

Jan 18, 2024

William T. Moore, Administrative Rule and Applications Specialist

Re: Request for Comments on Amendments being considered for Waste Treated Seeds Rules Governing Solid Waste and Hazardous Waste, MN Rules, Under possible parts 7035.3700-7035.3900, and to include 7035 & 7045; Revisor's ID Number R-04806

Since the MPCA is required to undertake this rulemaking to comply with Laws of Minnesota 2023, Chapter 60, article 3, section 28, I ask for your support for the prohibition of insecticide coated seeds to be used for food, feed, oil, or ethanol production, and for ethical and responsible stewardship for disposal of insecticide treated seeds.

For over a decade research worldwide has documented that the use of systemic insecticides, including neonicotinoids, negatively affects native bees and honey bees, *and that aquatic invertebrates* have also been impacted from chemical runoff from agricultural fields into aquatic habitats.

In Jan 2021, there was large scale landscape contamination resulting in serious health problems in Mead NE, because excess supplies of corn seeds previously treated with insecticides, including neonicotinoids (neonics) and fungicides, were recycled and used to produce ethanol at the AltEn plant. The end products were too contaminated with pesticides to feed to animals, and some of the waste water was applied to acreage, leading to concern for residents dependent on well water. The levels of neonics found in the plant's waste water were many times higher than state recommended safety levels .

This contamination resulted in the accumulation of thousands of pounds of green mash from fermented grains that were spread on farm filed as "*soil conditioners*", and photos clearly showed large piles of the left over grain on the grounds of the AltEn plant. It was not long before poor air quality and eye and respiratory problems were reported among residents.

(over)

In addition, the EPA bench marks were exceeded many times for the levels of neonics for humans and freshwater invertebrates that were found in the fermented piles on land, as well as in wastewater lagoons, as reported by NE state officials.

The NRDC recommended that the situation in Mead calls for more strict regulations of pesticide coated seeds.

UNE scientist, Prof Wu-Smart, stated that every single honeybee hive on a university research farm within a mile from Mead died off, coinciding with AltEn's use of neonic treated seeds. She also has video recordings of what appears to be neurologically impaired birds and butterflies.

The evidence of the dangers of systemic pesticides in the environment and the implications from AltEn's poor handling of treated seeds, reach far beyond Mead NE.

We do not want to experience what happened in NE in MN. MN needs regulations that restrict the use of treated and coated seeds so they cannot be sold as food, feed, oil, or ethanol production, and that any excess seed must be properly disposed of so that no contamination occurs to soil, adjacent waterways and human and wildlife communities.

Please adopt rules under MN Statutes, Chapter 14, to provide for the safe and lawful disposal of waste treated seed, clearly identifying the regulatory jurisdiction of state agencies and local governments with regard to such seed.

Thank you for your consideration.

Margot Monson, entomologist and beekeeper
22 Ludlow Ave
St Paul, MN 55108
mpmonson.insx@gmail.com



POLLINATOR FRIENDLY ALLIANCE
PO BOX 934, STILLWATER, MN 55082
WWW.POLLINATORFRIENDLY.ORG

MPCA Request for Comments on Waste Treated Seed Rules, Revisor's ID No. R-04806; OAH Docket No. 23-9003-39350.

Date: January 19, 2024

To: State of Minnesota Office of Administrative Hearings
Minnesota Pollution Control Agency, Minnesota Department of Agriculture

I write pursuant to the MPCA request for comments on rulemaking for the disposal of treated seed.

We strongly recommend improved rulemaking and safer handling of pesticide treated seed. Pesticide treated seeds are hazardous waste. Disposal rules are critical since treated seed constitutes one of the primary uses of pesticides in Minnesota, and considering the health risks to wildlife and humans.

Currently, treated seed is NOT regulated as a pesticide in Minnesota and there are not adequate federal or Minnesota state safeguards for the health of people and the environment from pesticide contamination from treated seed. Rules and regulations are necessary to protect us, pollinators and the environment from contamination disasters and chronic pesticide contamination.

[Pollinator Friendly Alliance](#) is a Minnesota conservation organization with a membership of urban and rural residents, scientists, businesses, farmers and ecologists from around Minnesota and beyond. We urge MNPCA and MDA to step up in the absence of a fail-safe system to protect our waters, land and people from pesticide seed contamination. This is not a big ask - to simply strengthen the existing system for better stewardship. The rewards for environmental and human health are great.

Some countries have banned neonicotinoid pesticides and treated seed entirely. Some communities around the U.S. are further restricting use. Almost fifty Minnesota communities have adopted resolutions to cease neonicotinoid pesticide use.

The wealthy pesticide industry can sell more treated seed using a loophole in federal pesticide law - "treated article exemption" which permits seeds to be coated with toxic insecticides without adequate assessment by the EPA for health or environmental effects. This allows treated seed to be used without proper oversight.

The result of this negligence is evidenced by water contamination in Minnesota and an entire community in [Nebraska taking ill from pesticide coated seed contamination](#). Labels do not always protect us from improper handling, storage or mis-use either. Labels are very difficult to enforce because they are often impossible to interpret, the meaning is unclear and often not defined – for example what is a "measurable residue"? The label does not explain if the seed can be burned or re-used such was the case in the Nebraska

catastrophe. MDA is responsible for administering a program for waste pesticides (*see* Minn. Stat. § 18B.065) yet it does not provide for disposal of waste treated seed.

I come from a farm family and live in a rural area, so I know first-hand corn and soybean farmers often drill 1,000's of acres of pesticide coated seed at a time. The pesticide dust floats and moves through the air, and afterward piles of seed are left over laying in fields where birds and wildlife eat them, and contaminate ground water. The current voluntary best practices are not working to protect the environment, wildlife or us from hazardous waste contamination. Enforceable regulations are needed to require proper stewarding of treated seed.

Neonicotinoid contamination has been studied repeatedly and reported on for years – it is no secret that neonicotinoid insecticides on coated seeds are toxic. Recent science shows neonics have [human health effects](#), pesticides kill pollinators outright and sicken them at sublethal doses, neonics contaminate water ([Five surface water pesticides of concern, Minnesota MDA 2020](#)), birds are effected ([Neonic reduces migration in songbirds, Eng 2019](#)) and most recently large mammals such as deer ([Effects of neonics on physiology and reproduction of white-tailed deer, Berheim 2019](#)). Two flagship species- monarch butterfly and rusty patched bumble bee (Minnesota state bee) are under the watchful eyes of pollinator researchers and declining numbers of monarchs tell us that pollinators are at a critical point for extinction requiring immediate action.

We recommend state agencies including MPCA and MDA develop a long-overdue regulatory program that is critical to protect Minnesota families and ecosystems from the effects of pesticide exposure. The following small steps to steward treated seed will help keep Minnesota communities safe.

- Regulate pesticide-coated seed as pesticides.
- Registration of all systemic-insecticide treated seed.
- List neonic-treated seeds as restricted materials.
- Promote non-chemical pest control alternatives and regenerative agriculture practices that eliminate or reduce chemical inputs.
- Prohibit insecticide- treated seed to be used for food, feed, oil, or ethanol feedstock.
- Rulemaking to guarantee ecologically-responsible disposal of insecticide-treated seed.

Thank you, Laurie Schneider, Executive Director
POLLINATOR FRIENDLY ALLIANCE
www.pollinatorfriendly.org

Selected support references:

HUMAN HEALTH EFFECTS OF NEONICS National toxicology report from US Dept. of Health and Human Services ISSN: 2473-4756 https://ntp.niehs.nih.gov/ntp/results/pubs/rr/reports/rr15_508.pdf

NRDC BRIEFING TO CONGRESS on Neonic Pesticide Human Health Harms, October 2019.

<https://www.nrdc.org/experts/jennifer-sass/nrdc-briefs-congress-neonic-pesticide-human-health-harms>

PESTICIDES IN MINNESOTA WATERS: Minnesota Department of Agriculture, *surface water pesticides of concern* (2020)

<https://www.mda.state.mn.us/surface-water-pesticides-concern>

INSECTICIDE COATED SEED CONTAMINATES NEBRASKA COMMUNITY AT ETHANOL PLANT

January 2021: <https://www.theguardian.com/us-news/2021/jan/10/mead-nebraska-ethanol-plant-pollution-danger>

POLLINATOR DECLINE: Xerces Society: *The science behind the role neonics play in harming bees*. Jennifer Hopwood, Aimee Code, Mace Vaughan et al. (2016)

https://xerces.org/sites/default/files/2018-05/16-023_01_XercesSoc_ExecSummary_How-Neonicotinoids-Can-Kill-Bees_web.pdf

NEONIC EFFECTS ON LARGE MAMMALS: Scientific Reports: *Effects of Neonicotinoid Insecticides on Physiology and Reproductive Characteristics of Captive Female and Fawn White-tailed Deer*. Elise Hughes Berheim, Jonathan A. Jenks, Jonathan G. Lundgren, et al. volume 9, Article number: 4534 (2019)

<https://www.nature.com/articles/s41598-019-40994-9>

RESULTS OF PESTICIDE STUDY OF NEONIC EXPOSURE TO WHITE-TAILED DEER IN MINNESOTA

March 1, 2021, Minnesota Department of Natural Resources

<https://www.dnr.state.mn.us/news/2021/03/01/preliminary-results-pesticide-study-show-widespread-neonicotinoid-exposure-minnesota-white-tailed-deer>

NEONIC EFFECTS ON SONGBIRDS: Science: *A neonicotinoid insecticide reduces fueling and delays migration in songbirds*. Margaret L. Eng, LeBridget, J. M. Stutchbury, Christy A. Morrissey. Issue 13 Sep 2019: Vol. 365, Issue 6458, pp. 1177-1180.

<https://science.sciencemag.org/content/365/6458/1177>

POLLINATOR PROTECTION RESOLUTION: *Model resolution for cities, counties, state agencies, school districts*. Pollinator Friendly Alliance, Humming for Bees, Pesticide Action Network, Pollinator Minnesota 2020.

<https://static1.squarespace.com/static/59fcf40ab1ffb6ee9911ad2a/t/5f8fb7dcac3e6348089291a2/1603254237712/MODEL+resolution+2020.pdf>

NEONIC CAUSES AUTISM-LIKE SYMPTOMS: November, 2022. Neurosciencenews.com

<https://neurosciencenews.com/neonicotinoid-asd-21898/>

AN UPDATE OF THE WORLDWIDE INTEGRATED ASSESMENT ON SYSTEMIC INSECTICIDES: PART 2: IMPACTS ON ORGANISMS AND ECOSYSTEMS: 2021 Pisa, Goulson, Yang, Gibbons, Sanchez-Bayo

<https://link.springer.com/article/10.1007/s11356-017-0341-3>

[RULEMAKING TO REGULATE TREATED SEED](#), California 2020 NRDC

Minnesota Environmental Partnership,
Pollinator and Wildlife Coalition
546 Rice Street, St. Paul, MN 55103
Contact: Greg Larson, g.larson@mchsi.com

January 20, 2024

2024 COMMENTS ON TREATED SEED RULEMAKING

Waste Treated Seeds Rules Governing Solid Waste and Hazardous Waste, Minnesota Rules, chs. 7035 and 7045; Revisor's ID Number R-04806

To: State of Minnesota Office of Administrative Hearings,
CC: Minnesota Pollution Control Agency Commissioner, Minnesota Department of Agriculture
Commissioner

I write pursuant to the MPCA request for comments on rulemaking for the disposal of treated seed hazardous waste.

Pesticide treated seed is hazardous waste. The pesticides on the seed are contaminating soil and water and damaging the health of wildlife and people. The most economical and common sense method of eliminating any hazardous waste is to not create the waste in the first place. Disposal rules would not be necessary if crop seeds were not coated with toxic and under-regulated pesticides that easily disperse throughout the environment.

During planting of corn, soybeans, and other crops, hazardous waste in the form of treated seed are spread across more than 15 million acres of Minnesota farm country. Seed spilled during the planting process, unused by the grower or unsold by the distributor presents an especially acute problem because the pesticides are concentrated in a single location.

<https://www.morningagclips.com/minnesota-corn-and-soybean-acres-up-from-2022/>

<https://www.centerforfoodsafety.org/issues/6459/pesticides/pesticide-coated-seeds>

<https://www.agriculture.com/epa-says-three-widely-used-pesticides-driving-hundreds-of-endangered-species-toward-extinction-7566274>

The unregulated disposal of treated seed is not a hypothetical problem. A well reported example is an ethanol plant in Mead, Nebraska. To make ethanol, the plant accepted millions of bushels of leftover treated seed from most of the country's leading corn seed companies. The plant mishandled the seed and the by-products of the ethanol process polluting the surrounding area. Now that this ethanol plant is closed its unknown what's happenings to all the contaminated seed that at one time were dumped at the Nebraska site.

<https://www.ruralhealthinfo.org/toolkits/emergency-preparedness/case-studies/chemical-emergencies/mead-nebraska>

Controlling wide spread environmental contamination from coated seed will require, at the very least, the enactment of stringent handling and disposal rules followed by aggressive enforcement and oversight. The rules must be enforced at every stage of the products use and lifecycle – including the producer, distributor, reseller and end grower.

Near our family farm in Meeker County most newly planted corn fields show evidence of exposed seed. Even with better equipment, small spills occur especially at loading sites, field entry and turn rows.

In addition to field spillage, a significant amount of treated seed is discarded each year by the producers and distributors as the Nebraska ethanol plant incident confirms. Because of reduced seed viability, seed is not normally carried over year-to-year. The community of Claremont, Minnesota can no longer drink or use their water due to contamination from industrial agricultural corn, ethanol and CAFO operation contamination to the soil, water and air.

<https://www.agweek.com/news/minnesota-ethanol-plant-fined-199-000-for-air-pollution-violations-another-fined-for-water-pollution>

Unfortunately, because of inadequate accountability and non-existent oversight, it's doubtful that any agency knows the full scale of the waste problem.

How much waste seed is there, where, and how is it currently being disposed? A July, 2021 article in "Progressive Farmer DTN", attempted to answer these question, here's an excerpt:

"DTN obtained estimates from a variety of industry sources, with most asking to remain anonymous. All settled on around 10% of treated seed as a likely figure.

Ten percent is a popular percentage for retailers and farmers to over-order, to protect themselves and customers in the case of bad weather and stand failures, explained Wisconsin's Conley, who was willing to go on the record about these estimates. "Usually a seed company suggests a farmer books 10% extra seed, just to have it in case," he said.

Based on a corn planting of 92 million acres, nearly 100% of it treated, that would leave the industry with roughly 3.8 million bushels of treated corn seed to discard each year, Conley calculated. For soybeans, based on a planting of 84 million acres and Conley's estimate of 80% treated, that would leave industry with roughly 6 million bushels of treated soybean seed to discard each year, he said.

For context, it would take nearly 10 trips for a 110-car train to move that much corn, and roughly 15 trips for the estimate of discarded soybeans."

"That is why we really need regulators to step in and to push the industry to be transparent about where excess treated seed is going and how it is being disposed of."

<https://www.dtnpf.com/agriculture/web/ag/crops/article/2021/07/13/seed-treatment-overload-unintended>

=====

For the MPCA to create effective disposal rules for waste treated seeds, a reasonable first step requires information from seed producers and distributors and an accounting of the amount and the current disposal methods. But this may not be easy, according to the above referenced article in “Progressive Farming DTN” when the largest seed companies in the U.S., (Bayer, Corteva and Sygenta) were asked about disposal, the companies declined to answer questions on waste seed handling and disposal.

Once these data on disposal and quantity of treated seed are secured, strong enforcement and oversight must be implemented to ensure compliance. Self-policing and voluntary compliance doesn’t work as we have seen with other agricultural environmental problems and evidenced by worsening ground and surface water pollution of from agricultural fertilizers.

<https://www.startribune.com/nitrate-pollution-minnesota-groundwater-farm-fertilizer-mpca-wells-epa/600310942/>

<https://www.ewg.org/news-insights/news/voluntary-programs-reduce-farm-run-still-arent-working>

A fee placed on all sales of treated seed would assure that those responsible for the hazardous waste - the seed producers, distributors and resellers – pay for the associated costs of safe disposal, clean-up and enforcement .

Minnesota is not the first to recognize the hazards associated with the widespread use of treated seed and the pesticides commonly used in the coatings. Non-agricultural uses of neonicotinoids, pesticides often used for treating crop seeds, have been prohibited by New York, , New Jersey, Nevada, and Maine—and restricted in other ways in Maryland, Massachusetts, Vermont, Rhode Island, Colorado, California and Connecticut. Early this year the European Union’s high court ended exemptions for seeds treated with neonicotinoid pesticides. It is time for Minnesota to create strong and strictly enforced rules on the disposal of coated seeds and their payload of dangerous pesticides.

<https://cen.acs.org/environment/pesticides/European-Union-high-court-nixes/101/web/2023/01>

[https://www.xerces.org/blog/states-make-way-for-pesticide-reforms#:~:text=They%20join%20eight%20other%20states,and%20Rhode%20Island%20\(2022\)](https://www.xerces.org/blog/states-make-way-for-pesticide-reforms#:~:text=They%20join%20eight%20other%20states,and%20Rhode%20Island%20(2022))

Thanks for this opportunity to contribute to the rule making for the disposal of treated seed hazardous waste.

Greg Larson
25535 Orchard Circle
Excelsior, MN

Date: 1-30-2024

To: MPCA

From: Chris Cowen
Minnesota citizen and taxpayer

Why we need strong treated seed rules.

Since there are no draft rules to comment on I will instead comment on why strong rules are needed within the scope of the Minnesota Laws 2023 Chapter 60 treated seed language. What happened in Mead NE at the AltEn ethanol plant should never happen again and it is clear that prevention is the best remedy.

AltEn is not an isolated incident but an ongoing nationwide disaster:

For years, unused treated seed from states across the country including Minnesota went to the AltEn ethanol plant in Mead NE where they were used for ethanol feedstock and its byproduct was sold to farmers as a soil supplement. The result of this happening year after year is an ongoing ecological disaster. What took place in Mead due to AltEn and what is happening there now should never happen anywhere else. Clearly, prevention is the best remedy.

In 2020 AltEn sought more toxic unused seed in an email to prospective customers (see attached email):

“AltEn is currently receiving nearly 98% of all the discard created by the seed industry in North America. We are under long term contract by all the Major producers as: Monsanto– Bayer-Syngenta- Dow AgReliant and Land O Lakes. We receive discard from at least another 100 producers across North America annually.”

Millions of pounds of toxic waste, in the form of needlessly excessive unused treated seed, were shipped to from all over North America for years creating a megamess that has taken and will continue to take years of effort to try to clean up and even all with all that effort the goal of restoring to soil and the water may ultimately be elusive if not impossible. Clearly, prevention is the best remedy.

The economic factors that created this situation are still in place. There are still too many treated seed owners who can be tempted by the cheapest, easiest way to dump their unused- poisonous treated seeds in ways that can cause more irreparable harm to our soil and water.

The AltEn Facility Response Group (FRG) includes six former AltEn customers – AgReliant, Bayer, Beck's, Corteva Agriscience, Syngenta and WinField United – that formerly supplied corn seed to AltEn. Read the other attachment to get some idea what a lack of oversight has caused.

Industry cannot be trusted on their own to police themselves. They appear to have turned a blind eye towards Mead and AltEn. Is it not a fair question to ask if industry really did not know what was going on in Mead for years? Did they join many others in taking what seemed to be the “too good to be true” cheap and easy route to rid themselves of a giant ecological headache and calling it good? We cannot let this happen again.

Clearly, prevention is the best remedy. Strong rules are needed to enforce the Minnesota Laws 2023 Chapter 60 treated seed language.

Apologies for any typos.

From: Alan Smith <ASmith@mrgkc.com>

Sent: Monday, August 3, 2020 12:02 PM

To: Alan Smith <ASmith@mrgkc.com>

Subject: AltEn Treated Seed Green Recycling at \$0.00 cost for Processing Corn-
Wheat- Sorghum - Starches

2020 AltEn Green Recycling Program for Corn – Wheat and Sorghum Seed

Greetings from AltEn of Mead, NE. the Seeds industry's #1 choice for recycling treated and regulated seeds in North America.

AltEn uses the discard to produce Ethanol and all by products are put thru an anaerobic digester and the by products are all land applied under State of Nebraska EPA permit and allowance by the USDA.

The 2020 AltEn Corn- Wheat and Sorghum Seed Recycling Program is as follows:

1. AltEn can use palletized unit bags seeds - palletized super sacked seeds and true bulk treated seeds - 44,000 lbs net required for all Van deliveries and 50,000 lbs net for all hopper deliveries. You can deliver as little as 1 pallet yourself to our plant in Mead, NE. for \$0.00 cost for process- you will need an AltEn BOL and delivery date and time scheduled with our plant site.
2. AltEn requires the grain to arrive in USDA #2 grader or better to ensure the starches in full strength in each seed recycled. Basically, the seed has to have stayed completely dry during its entire storage period. Any seeds delivered to AltEn, Mead, NE. that the starch is damaged will be dispose of the full expense of the seed producer that shipped the non-usable product to AltEn. AltEn will bill the producer for all labor – disposal freight and disposal fees payment due in 30 days from ship date.
3. AltEn is charging \$00 for all seed processing delivered to Mead, NE. Contact Craig Gubbels to get started. email - CGubbels@mrgkc.com or **402- 658- 9997** AltEn will do all the arranging and get shipping pricing to make the entire process of green recycling treated discard seed as easy as one phone call or email. AltEn furnishes all BOLs need. If you want to deliver you discard yourself you will still need an AltEn BOL – and delivery date for our Mead, NE. plant site.
4. AltEn is currently receiving nearly 98% of all the discard created by the seed industry in North America. We are under long term contract by all the Major producers as: Monsanto– Bayer- Syngenta- Dow AgReliant and Land O Lakes. We receive discard from at least another 100 producers across North America annually. AltEn is now offering this very same program to every seed producer in North America - \$00 for seed processing deliver to Mead, NE.

2020 AltEn- with Integrated Recycling offers Fee Based Disposal Programs for all other Treated, non-treated or

regulated non-Ethanol producing seed; as Soybeans-
Rye- barley, popcorn and all other.

If you have treated seed discard of any type Integrated Recycling Inc. can get the discard out of your facility and disposed of properly, timely, affordable, safely, and legally. IR can get you pricing on freight and fees prior to ship for your approval and Asmith@mrgkc.com

Any questions please call Alan Smith Project Coordinator: 735-735-6802 Thankyou for reading this email.

Thank you for Your Business.

Respectfully,

Alan J. Smith
AltEn LLC
North American Feed Stock Coordinator
Cell 734-735-6802
Email: ASmith@mrgkc.com

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Lincoln, NE. 68521

Office: 402-624-2000

Alan's office:

Alan j Smith

715 Indian Trail Rd

Carleton, MI. 48117

Cell 734-735-6802

alanjsmith196

https://journalstar.com/news/state-regional/former-ethanol-plant-alt-en-cleanup/article_a5e09c06-9b5f-11ee-b086-6fc41e952577.html

AltEn cleanup near Mead makes progress despite setbacks; contractor sees room to improve

CHRIS DUNKER Lincoln Journal Star

Dec 20, 2023

The environmental contractor managing the cleanup of millions of pounds of pesticide-contaminated waste at a former ethanol plant near Mead, Nebraska, said the initial efforts to dispose of that material in a landfill have been successful.

NewFields, the company leading the environmental cleanup, hauled 10,208 tons of solidified wet cake from AltEn to the Pheasant Point landfill near Bennington this fall, according to a summary filed with the Nebraska Department of Environment and Energy.

That's roughly 10% of the solid waste currently entombed under a cement and clay shell at the now-defunct biofuel plant, which used seeds coated in pesticides to make ethanol, creating solid and liquid byproducts saturated with agricultural chemicals along the way.

But the amount disposed of is less than half the 24,000 tons of wet cake that NewFields had originally sought to landfill in the feasibility study that was announced in August.

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- 3 McKewon: Three takes on Syracuse linebacker Stefon Thompson transferring to Nebraska football**
- 4 Here are the Omaha-area schools closed Tuesday because of severe cold weather**

Bill Butler, a senior engineer and partner at Atlanta-based NewFields, said issues securing bentonite, the reagent used to solidify the wet cake before transport, as well as failures in the equipment used to mix the wet cake and bentonite together, led to less waste being hauled than planned.



Butler

Those setbacks affected the overall amount of material removed, but Butler said NewFields achieved other goals outlined by the feasibility study when work came to a seasonal end Nov. 17.

Removing wet cake, solidifying it and loading it into trucks was done without stirring up the strong, pungent odors from the 16-acre pile that was the focus of complaints from nearby residents that ultimately brought attention to AltEn and its unusual method for producing ethanol, he said.

And after the equipment and supply-chain issues were resolved, NewFields reported that as many as 58 truckloads of wet cake were leaving the AltEn facility every day, each carrying roughly 20 tons of waste, which Butler said indicates that a high volume can be managed at either end of the cleanup work.

Over the final two weeks of the pilot project, 7,300 tons were sent to the landfill, state records show.

“We were able the last two weeks to step up production and get things rolling,” Butler said in a Zoom interview last week. “But we still have room for improvement.”

Work to clean up the site is on hold during the winter months as freezing temperatures make the wet cake, which has a high moisture content, more difficult to work with and mix with the bentonite.

Butler said NewFields is planning to ramp operations back up in late April or early May — weather depending — to continue the feasibility study, which will include examining the effectiveness of a new way of solidifying the wet cake.

Instead of removing the waste from the pile and putting it into an industrial-sized mixer to be combined with the bentonite, the reagent will be added to the pile itself and allowed to cure until it is the right consistency to be hauled to the landfill, Butler said.

“We’ve got some aggressive plans to get a lot more done next year,” Butler said.

“There’s a lot of things to get ready for in the second round of the pilot.”

In the meantime, as planning continues, NewFields is also awaiting test results from soil samples gathered from underneath the wet cake. The results are expected to be available sometime next month and will also inform future work.



NewFields, the company leading the environmental cleanup of AltEn, shown on Dec. 7, hauled 10,208 tons of solidified wet cake from the former ethanol plant near Mead, Neb., to the landfill this fall.

JOHN F. SCHALLES photos

Jim Macy, director of the Department of Environment and Energy, said the state is continuing to engage with the AltEn Facility Response Group and monitor progress of several cleanup projects at the site.

“While the AFRG did not complete the pilot study this fall as they planned, useful information was gathered to move forward to restart work in the spring,” Macy said in a statement.

Once completed in mid-2024, the feasibility study will be used as the basis for a remedial action plan for disposing of the remaining 100,000 tons of solid waste left at the site to be submitted to the Department of Environment and Energy.

Macy said the remedial action plan, which the agency anticipates it will receive sometime next year, will go through a public review and comment period before approval.

“There is still progress to be made and NDEE is committed to continuing its oversight to ensure all remedial actions comply with state and federal environmental regulations and all pollution is remediated,” Macy said.

NewFields and state environmental regulators remain optimistic about the progress made at AltEn, the Perivallon Group, but a coalition of researchers, environmental advocates and Saunders County residents say work is not moving fast enough.

The ground beneath the wet cake pile remains exposed to the pesticide-contaminated waste, which is leaching chemicals into the Todd Valley aquifer below, said Al Davis, a former state senator who is part of the Perivallon Group.



Davis

Samples taken from groundwater monitoring wells in August show the presence of neonicotinoid pesticides like clothianidin at concentrations as high as 36 parts-per-billion, as well as thiamethoxam at a concentration of 400 parts-per-billion.

Other wells show the presence of fungicides, herbicides and other agricultural chemicals found in byproducts at AltEn.

“At the rate the remediation is occurring, it will take over eight years to clear out the wet cake pile while every hour the chemical soup is leaching into the aquifer,” Davis said. “This is not great progress if the goal is to protect the aquifer as a clean drinking water source.”

Davis also said the cleanup has not looked at the offsite and downstream effects and encouraged the Environmental Protection Agency — which has previously said it doesn’t view AltEn as a candidate to become a Superfund cleanup site — to take control over the remediation work.



The northwest lagoon and wet cake pile at AltEn are seen on Dec. 7. Work to clean up the site is on hold during the winter months as freezing temperatures make the wet cake, which has a high moisture content, more difficult to work with.

JOHN F. SCHALLES

“The rosy picture that NDEE and the seed companies try to paint for the public amounts to trying to make a silk purse out of a smelly sow’s ear,” Davis said. “How long is EPA going to stand on the sidelines instead of taking direct control of the cleanup?”

“Nebraskans deserve far better,” he added.

Butler said NewFields is continuing to monitor the groundwater results on site, particularly in a well located next to a former lagoon that held pesticide-laced wastewater. He said that despite the high concentrations, the number of chemicals detected in the wells was going down.

While the concentrations in that particular well are high, Butler said the contractor and state have not found “impacts to any of the water in the area above any standards of concern” — a sign that drinking water remains safe.

He also said NewFields has treated 16 million gallons of lagoon water this year, bringing the total amount of water that has been treated to 65 million gallons. About 58 million gallons of wastewater remains to be treated.

Through its partnership with Covanta, a New Jersey-based company that operates an incinerator facility in Tulsa, Oklahoma, NewFields also has disposed of more than 4,060 tons of leftover treated seed that was stored in either of the two hoop buildings.

Approximately 1,025 tons of seed stored in a silo at AltEn will be removed by the end of January, Butler said.

Our best Omaha staff photos & videos of December 2023



Submitted via OAH Rulemaking Comments Website

January 30, 2024

Minnesota Office of Administrative Hearings
600 N. Robert Street, P.O. Box 64620
St. Paul, MN 55164

RE: MPCA Request for Comments on Waste Treated Seed Rules, Revisor's ID No. R-04806; OAH Docket No. 23-9003-39350.

To whom it may concern:

NRDC (Natural Resources Defense Council) Action Fund and the Minnesota Center for Environmental Advocacy (MCEA) appreciate the opportunity to comment on the Minnesota Pollution Control Agency's (MPCA) proposal to promulgate rules governing disposal of waste treated seed. Treated seed constitutes one of the primary uses of pesticides in Minnesota, yet current law provides inadequate protections to ensure that use and disposal of these pesticides does not present risks to human health and the environment. The ecological disaster that unfolded at a treated seed processing facility in Mead, Nebraska, underscores the importance of clear rules to ensure proper disposal of treated seeds. We urge MPCA to adopt rigorous, protective rules that ensure that waste treated seed—no matter the source—is disposed of through established waste streams competent to receive and safely process pesticides.

BACKGROUND

"Treated seeds" are crop seeds coated with a mixture of pesticides prior to planting. They cover millions of acres of Minnesota farmland and constitute one of the largest uses of pesticides statewide. Despite this, treated seeds are not regulated as "pesticides," a loophole that allows treated seeds to escape safeguards designed to protect people and the environment from the harms of these chemicals.¹ Use of treated seeds is untracked and almost entirely unregulated by the Minnesota Department of Agriculture (MDA).

This loophole also undermines safe disposal of treated seeds. While MDA is charged with administering a program for collection of waste pesticides, see Minn. Stat. § 18B.065, the program does not provide for disposal of waste treated seed.²

Recent legislative enactments reflect concern that use and disposal of treated seeds are not adequately regulated in the State of Minnesota, and begin to address this critical loophole. Of primary relevance, MPCA must "adopt rules . . . providing for the safe and lawful disposal of waste treated seed."³ The rules must clearly identify the regulatory jurisdiction of state agencies and local governments with regard to such seed." Laws of

¹ MDA, Review of Neonicotinoid Use, Registration, and Insect Pollinator Impacts in Minnesota (Aug. 2016), <https://www.lrl.mn.gov/docs/2016/other/160802.pdf> ("MDA Neonic Review").

² MDA, *Waste Pesticide Collection Program FAQs*, <https://www.mda.state.mn.us/pesticide-fertilizer/waste-pesticide-collection-program-faqs> (last visited Jan. 16, 2024).

³ Waste treated seed is defined as "seed that is treated, as defined in section 21.81, subdivision 28, and that is withdrawn from sale or that the end user considers unusable or otherwise a waste."

Minnesota 2023, chapter 60, article 3, section 28. MPCA must consult with MDA when developing these rules. *Id.* The instant rulemaking responds to this directive and is critical to ensure that Minnesota’s people and environment are properly protected from pesticide exposure from waste treated seed.

COMMENTS AND RECOMMENDATIONS

I. Regulations governing disposal of waste treated seed are urgently needed

The agrichemical industry generates an enormous amount of waste treated seed. Seed industry sources estimate that about 10 percent of purchased treated seed ultimately goes to waste because farmers and seed dealers commonly over-order pesticide-treated seeds as a precautionary measure.⁴ Based on industry estimates that nearly 100 percent of corn and 80 percent of soybean seeds are treated with pesticides, this amounts to about 3.8 million bushels of treated corn and 6 million bushels of treated soybean seed discarded each year nationwide.⁵ In Minnesota alone, this translates to approximately 330 thousand bushels of waste treated corn seed and 532 thousand bushels of waste treated soybean seed each year.⁶ These numbers do not take into account any seed treated by upstream suppliers and never sold to distributors or end-users. They also do not account for dozens of other crops, like wheat and sugar beets, where treated seeds are commonly used. And according to industry groups, use of treated seeds “continues to grow.”⁷

Seeds are commonly coated with pesticides that present known risks to the environment and human health. A large and growing number of crop seeds are treated with neonicotinoid insecticides, or “neonics.”⁸ Today, this includes nearly all convention corn seeds, from 50-75 percent of soybean seeds, and substantial portions of a wide variety of crops.⁹ Widespread contamination of the environment with these neurotoxic

⁴ Emily Unglesbee, *Treated Seed Troubles*, Progressive Farmer (July 14, 2021), <https://www.dtnpf.com/agriculture/web/ag/crops/article/2021/07/13/seed-treatment-overload-unintended>.

⁵ *Id.*

⁶ See U.S. Department of Agriculture, National Agricultural Statistics Service, *2022 State Agricultural Overview: Minnesota*, https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=MINNESOTA.

⁷ Comments of CropLife America and the American Seed Trade Association (Oct. 27, 2023), available at <https://www.pca.state.mn.us/sites/default/files/sw-rule3-02b.pdf>.

⁸ Margaret Douglas and John Tooker, *Large Scale Deployment of Seed Treatments Has Driven Rapid Increase in Use of Neonicotinoid Insecticides and Preemptive Pest Management in U.S. Field Crops*, 49 *Environ. Sci. Technol.* 8, 5088-5097 (2015), available at <https://pubs.acs.org/doi/abs/10.1021/es506141g>; Claudia Hitaj et al., *Sowing Uncertainty: What We Do and Don’t Know About the Planting of Pesticide-Treated Seed*, 70 *BioScience* 5, 390-403 (May 2020), available at <https://academic.oup.com/bioscience/article/70/5/390/5805569?login=false>.

⁹ Maggie Douglas and John Tooker, *Large-scale deployment of seed treatments has driven rapid increase in use of neonicotinoid insecticides and preemptive pest management in U.S. field crops*, 49 *Environ. Sci. Technol.* 8, 5088-97 (Apr. 21, 2015), <https://pubmed.ncbi.nlm.nih.gov/25793443/>; Hitaj et al., *Sowing Uncertainty: What we do and don’t know about the planting of pesticide-treated seed*, 70 *BioScience* 5, 390-403 (May 2020), <https://academic.oup.com/bioscience/article/70/5/390/5805569>.

insecticides has been identified as a leading cause of pollinator declines¹⁰ and is contributing to mass losses of birds,¹¹ devastating aquatic ecosystems,¹² and harming soil health.¹³

Neonicotinoids are linked with a wide variety of health harms, including birth defects of the heart and brain and autism-like symptoms. And people are commonly exposed to neonicotinoids. Data from the Centers for Disease Control and Prevention from 2015-2016 show that over half of Americans are regularly exposed to neonics.¹⁴ A more recent study, which tested 171 pregnant women from 2017-2021, found that 95% had neonicotinoids in their bodies.¹⁵ These data—consistent with DNR studies showing growing, now-ubiquitous contamination of Minnesota’s deer with neonicotinoids—indicate that exposure is widespread and worsening. Further, many chemicals used to treat seeds are pernicious environmental contaminants. Systemic insecticides, like neonicotinoids or anthranilic diamides, are highly water soluble, mobile, and long-lasting in the environment. For example, the half-life of imidacloprid, a common neonic seed treatment, is up to 608 days;¹⁶ the half-life of chlorantraniliprole is up to 1130 days in soil.¹⁷

As a result of their widespread use, high water solubility, and persistence, neonics widely contaminate Minnesota’s environment. They are ubiquitous in waters, with an independent study finding neonics in 97% of surface water samples and 73% of groundwater samples.¹⁸ Further still, testing by the Minnesota Department of Natural Resources has detected neonics in 94% of Minnesota deer, with 64% containing levels linked with health harms including increased fawn mortality.¹⁹ Just two years earlier, these numbers were 61% and 29%, respectively, indicating rapidly worsening contamination.

The quantity of waste treated seed, combined with the toxicity of chemicals used to treat seed, mean that proper disposal is crucial. Nowhere has this been more apparent than in Mead, Nebraska, where an ethanol plant caused mass environmental contamination by collecting and improperly processing waste neonicotinoid-

¹⁰ See, e.g., Lennard Pisa et al., *An Update of the Worldwide Integrated Assessment (WIA) on Systemic Insecticides. Part 2: Impacts on Organisms and Ecosystems*, *Envtl. Sci. Pollution Research Int'l* (Nov. 9, 2017), <https://bit.ly/2HqgHwB>; Thomas Wood & Dave Goulson, *The Environmental Risks of Neonicotinoid Pesticides: A Review of the Evidence Post 2013*, *Envtl. Sci. Pollution Research Int'l*, 24(21): 17285–17325 (Jun. 7, 2017), <https://bit.ly/2Hpn8T5>; Ben A. Woodcock et al., *Country-specific Effects of Neonicotinoid Pesticides on Honeybees and Wild Bees*, 356 *Science* 6345, 1393-1395 (Jun. 30, 2017), <https://politi.co/2HrEnDI>; Ben A. Woodcock et al., *Impacts of neonicotinoid use on long-term population changes in wild bees in England*, 7 *Nature Communications* 12459 (Aug. 16, 2016), <https://go.nature.com/2EU6Xho>; Travis A. Grout et al., *Neonicotinoid Insecticides in New York State*, Cornell University (June 23, 2020), <https://bit.ly/2XIB2cA>.

¹¹ American Bird Conservancy, *Neonicotinoid Insecticides: Failing to Come to Grips with a Predictable Environmental Disaster* (June 2023), <https://abcbirds.org/wp-content/uploads/2023/07/2023-Jul20-ABC-Neonicotinoid-Insecticides-Report.pdf>.

¹² Masumi Yamamuro et al., *Neonicotinoids Disrupt Aquatic Food Webs and Decrease Fishery Yields*, *Science* (Nov. 1, 2019), <https://bit.ly/34rKCSG>.

¹³ Dr. Daniel Rath, *How Neonicotinoids Can Harm Soil Health and Soil Biodiversity* (Dec. 5, 2023), <https://www.nrdc.org/bio/daniel-rath/how-neonics-can-harm-soil-health-and-soil-biodiversity>.

¹⁴ Ospina et al., *Exposure to neonicotinoid insecticides in the U.S. general population: Data from the 2015-2016 national health and nutrition examination survey*, *Environ. Res.* 176, 108555, <https://pubmed.ncbi.nlm.nih.gov/31288196/>.

¹⁵ Jessie Buckley et al., *Exposure to Contemporary and Emerging Chemicals in Commerce among Pregnant Women in the United States: The Environmental influences on Child Health Outcome (ECHO) Program*, *Environ. Sci. Technol.* 56(10), 6560-6579 (2022), <https://pubs.acs.org/doi/10.1021/acs.est.1c08942>.

¹⁶ https://www.epa.gov/sites/default/files/2020-01/documents/imidacloprid_pid_signed_1.22.2020.pdf

¹⁷ https://www3.epa.gov/pesticides/chem_search/reg_actions/registration/fs_PC-090100_01-Apr-08.pdf

¹⁸ Matthew Berens et al., *Neonicotinoids in Surface Water, Groundwater, and Wastewater Across Land-Use Gradients and Potential Effects*, 40 *Environ. Toxicol. Chem.* 4, 1017-1033 (2021), available at <https://pubmed.ncbi.nlm.nih.gov/33301182/>.

¹⁹ Dan Gunderson, *Data Show Increasing Insecticide Levels in Minnesota Deer* (Aug. 23, 2022), <https://www.mprnews.org/story/2022/08/23/data-show-increasing-insecticide-levels-in-minnesota-deer>.

treated seeds.²⁰ The facility reportedly may have processed upwards of 1 billion pounds of waste treated seed²¹ from leading seed manufacturers, including Bayer U.S. LLC, Syngenta Seeds LLC, and Pioneer Hi-Bred International, Inc.²² The plant produced upwards of 115 thousand tons of pesticide-laden waste product which was stored outdoors, leading to mass contamination of the surrounding areas with neonicotinoids and other pesticides.²³

Stringent and comprehensive disposal regulations are critical to ensure that the disaster in Mead, Nebraska, is not repeated in Minnesota.

II. MDA's failure to regulate pesticide-treated seeds undermines development of an effective waste treated seed disposal program.

Because MDA does not currently regulate treated seeds as pesticides, the agency lacks basic information about treated seed use statewide, including where seeds are used, the quantity of seed used, what chemicals are used to treat seeds, and more. This is especially true with respect to treated seeds purchased out of state and brought into Minnesota for planting. See MDA Neonic Review, supra n. 1 (“[A]lmost all corn seed and about 20% of soybean seed treated outside of Minnesota’s borders and shipped into the state for planting is not tracked by the MDA.”).

This means that MPCA and MDA have no way of knowing exactly what chemicals may be found on treated seeds and end up being disposed of in Minnesota. California provides a relevant example of this problem. There, a survey by the Department of Food and Agriculture revealed that of 48 seed treatment products detected on seeds, only 21 were registered in California as a seed treatment.²⁴ Further, 7 products were not registered for seed treatment anywhere in the United States; an additional 4 had been cancelled by U.S. EPA. The problem may be even more significant in Minnesota, where seed treatment-intensive row crops constitute a much larger proportion of agriculture than in California. Comprehensive use information is critical to ensure that Minnesota has a proper waste treated seed disposal program.

In other words, to adequately protect public health and the environment from either use or disposal of treated seeds, MDA must establish a regulatory program for treated seeds.

III. Waste treated seeds must be disposed of solely at facilities capable of safely processing and disposing of pesticides.

MPCA’s current guidance governing on-farm disposal of treated seeds is inadequate to protect human health and the environment. The Agency’s rulemaking must prohibit on-farm disposal of treated seeds via burial and facilitate proper disposal at approved landfills that are capable of safely disposing of industrial solid waste.

²⁰ Nebraska Department of Environment and Energy, Information and Updates for AltEn near Mead, Nebraska (Jan. 5, 2024), <http://dee.ne.gov/Press.nsf/pages/AltEn> (last visited Jan. 12, 2024); Rural Health Information Hub, Ethanol Plant Disaster Creates Environmental and Human Health Concerns for Rural Community in Mead, Nebraska, <https://www.ruralhealthinfo.org/toolkits/emergency-preparedness/case-studies/chemical-emergencies/mead-nebraska> (last visited 1/12/2024).

²¹ Chris Dunker, Cleanup of Pesticide Contaminated Solid Waste to Begin Next Month at Former Mead Plant (Aug. 22, 2023), <https://bit.ly/48Odd5O>.

²² Todd Neeley, AltEn Cleanup Ongoing, Lawsuit Slows (Nov. 17, 2023), <https://bit.ly/3u0x5no>.

²³ *Id.*

²⁴ California Department of Pesticide Regulation, Pesticide-Treated Seed Public Workshop, Slide 38 (Nov. 15, 2021), https://www.cdpr.ca.gov/docs/emon/surfwtr/pest_seeds/pest_seeds_slides.pdf.

And as the disaster in Mead, Nebraska, has demonstrated, *supra* pp. 3-4, MPCA must strictly prohibit use of waste treated seed at ethanol processing plants.

A. Burial is an inappropriate method of disposing of waste treated seed

Permitting farmers to dispose of treated seeds on-site presents serious risk of widespread, untracked contamination of Minnesota's lands with unknown quantities and concentrations of pesticides. This presents serious risk to wildlife. Birds frequently feed on treated seeds or fragments of treated seeds that are improperly buried or unearthed,²⁵ and just one neonic-treated corn seed can kill a small songbird.²⁶ Because neonics and other active ingredients in seed treatments are systemic, they can also be absorbed from contaminated soil to wild plants, posing significant risks to pollinators.²⁷ And MDA data already links treated seeds with contamination of Minnesota surface waters²⁸—a problem that will persist if farmers are permitted to dispose of treated seeds on-farm.

Untracked burial of treated seeds across Minnesota's landscape also poses serious risks to emerging farmers. Emerging farmers, many of whom are BIPOC, already struggle to gain access to land to start their farms. It is even more difficult for these farmers to gain access to farmland that is *uncontaminated* with pesticides and other chemicals. They already have to contend with contamination caused by use of pesticides by a previous owner or adjacent farm; they should not also need to worry that the land they are purchasing has been used as a dumping ground for waste pesticide-treated seeds.

This concern is even more prevalent for farmers who wish to obtain organic certification. To be certified as organic, a farmer's land must not have had prohibited substances—like neonics—applied for at least three years. 7 U.S.C. § 205.202(b). And if testing discovers residues of prohibited substances in a farmer's produce, the farmer may not sell their produce as "organic." *Id.* § 205.671. Soil contamination could prevent certification for years, regardless of the farmer's growing practices. Moreover, water contamination—which is widespread²⁹ and commonly connected with treated seed use³⁰—could hinder certification if a farmer uses pesticide-contaminated water. By contributing to soil and water contamination, improper disposal of waste treated seed can seriously harm organic producers.

²⁵ Dan Gunderson, Concern Grows Over Effects of Treated Seeds on Birds (Sep. 20, 2017), <https://www.mprnews.org/story/2017/09/20/concern-grows-over-effects-of-treated-seeds-on-birds>.

²⁶ [American Bird Conservancy](#), *Neonicotinoid Insecticides: Failing to Come to Grips with a Predictable Environmental Disaster* (June 2023).

²⁷ See, e.g., <https://www.sciencedirect.com/science/article/abs/pii/S0045653523004216>; Wood & Goulson, The Environmental Risks of Neonicotinoid Pesticides: A Review of the Evidence Post 2013, 24 *Environ. Sci. Pollut. Res. Int.* 21, 17285-17325 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5533829/#CR116>; Main et al., Reduced species richness of native bees in field margins associated with neonicotinoid concentrations in non-target soils, 287 *Ag. Ecosys. & Env.* 106693 (Jan. 1, 2020), <https://www.sciencedirect.com/science/article/abs/pii/S0167880919303093>.

²⁸ MDA, PFMD Update 4 (September 2023), available at <https://www.mda.state.mn.us/sites/default/files/docs/2023-09/pfmdupdatesept2023.pdf>.

²⁹ See Berens et al. (2021), *supra* n. 18.

³⁰ See MDA (2023), *supra* n. 28; Hladik et al., Widespread occurrence of neonicotinoid insecticides in streams in a high corn and soybean producing region, USA, 193 *Env. Pollution* 189-96 (Oct. 2014), available at <https://www.sciencedirect.com/science/article/abs/pii/S0269749114002802>.

B. MPCA should develop a comprehensive program to help farmers safely dispose of waste treated seeds

Treated seeds should be disposed of *only* at facilities that have an approved Industrial Solid Waste Management Plan that explicitly addresses safe disposal of waste treated seed. This will help to limit environmental contamination and ecological and human health risk resulting from diffuse, untracked, and largely unregulated disposal of waste treated seed on farms. MPCA can accomplish this without unduly burdening farmers by implementing one or some combination of the following disposal programs:

- MPCA should require seed dealers to accept and arrange for proper disposal of waste treated seed, similar to requirements for pesticide containers found at Minn. Stat. § 18B.135. This is especially appropriate if dealers are advising farmers to purchase excess treated seed as a precautionary measure. *See supra* p. 2.
- MPCA could also develop a waste treated seed collection program modeled after MDA's waste pesticide collection program. *See* Minn. Stat. 18B.065.³¹

IV. At minimum, MPCA must place stricter restrictions on how farmers may dispose of treated seeds on-farm.

MPCA should not permit farmers to dispose of waste treated seed on-site. *See supra* p. 5. But if the agency permits this dangerous practice, it must, at minimum, more stringently regulate on-farm disposal. Specifically:

- Farmers should be explicitly prohibited from accepting waste treated from other generators for disposal. Otherwise, farmers or other landowners might accept huge quantities of waste treated seed from other generators, creating an intensely contaminated open dumping site for treated seeds coated with harmful pesticides. MPCA must ensure against this result.
- Farmers should be permitted to dispose of waste treated seed only on land that they own.
- Farmers should be required to keep records of the type and quantity of waste treated seed disposed of on-site, and should be required to disclose these records when selling or leasing the land.
- MPCA should strictly prohibit burial of waste treated seed within 200 feet of private wells, tile drain inlets, surface waters, *and property boundaries*. *Cf.* Minn. Stat. § 18B.07 subd. 2(b) (prohibiting application of pesticides in a manner that damages adjacent property). The agency should also codify its current guideline prohibiting burial within 1,000 feet of public water supply wells.
- MPCA should set a maximum quantity of treated seed that may be disposed of on-site to limit potential for mass contamination of soil, surface waters, and groundwater.

If a farmer is not capable of disposing of waste treated seeds in accordance with the restrictions set out above, the waste treated seeds must be disposed of at a facility capable of safely disposing of large volumes of pesticides.

³¹ *See also* MDA, Waste Pesticide Collection Program, <https://www.mda.state.mn.us/pesticide-fertilizer/waste-pesticide-collection-program> (last visited Jan. 18, 2024).

MPCA should also consider whether the above restrictions are sufficiently protective of groundwater within areas that are particularly susceptible to groundwater contamination, such as karst regions and the Central Sands area. MPCA should consider whether additional rules and protections are necessary, or if burial should be prohibited in vulnerable groundwater areas.

V. MPCA has primary enforcement authority over requirements for disposal of waste treated seed

Effective enforcement of rules governing waste treated seed disposal is critical. Without effective enforcement, a disaster such as the one in Mead, Nebraska may be repeated in Minnesota. Even if not, improper disposal of waste treated seed will contribute to already vast contamination of the state’s environment with harmful pesticides. To help ensure against this result, the legislature has required MPCA in this rulemaking to “clearly identify the regulatory jurisdiction of state agencies and local governments with regard to [waste treated] seed.” Laws of Minnesota 2023, chapter 60, article 3, section 28. MPCA should not only specify the jurisdiction of state agencies and local governments, but make clear that MPCA has unambiguous authority to enforce the promulgated rules.

MPCA has clear authority to enforce the requirements of this rulemaking under Minn. Stat. 115.071 and Minn. Stat. 116.072. MPCA may use these mechanisms to enforce “all rules . . . adopted or issued by the agency . . . for the prevention, control, or abatement of pollution.” Minn. Stat. 115.071, subd. 1; *id.* subd. 6 (“A provision of law that may be enforced under this section may also be enforced under section 116.072.”). MPCA was designated by the Legislature as the lead agency for promulgating these rules. And the proposed rulemaking is plainly designed to “prevent[], control[], or abate[]” pollution of Minnesota’s environment with waste treated seed and the active ingredients used on these seeds. *Id.*

MPCA is also best positioned to enforce these rules because it has numerous tools at its disposal to ensure proper compliance. The legislature has granted MPCA the authority to use “criminal prosecution; action to recover civil penalties; injunction; action to compel performance; or other appropriate action” to enforce rules under its jurisdiction. Minn. Stat. § 115.071, subd. 1. MPCA may also issue administrative penalties to enforce these requirements. *Id.* § 115.071, subd. 6. Accordingly, MPCA should apply its clear and expansive enforcement authority to enforce these rules.

Respectfully submitted,

Lucas Rhoads
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Aaron Klemz
Chief Strategy Officer, MCEA
aklemz@mncenter.org

Submitted via OAH Rulemaking Comments Website

January 30, 2024

State of Minnesota Office of Administrative Hearings
600 N. Robert Street, P.O. Box 64620
St. Paul, MN 55164

RE: MPCA Request for Comments on Waste Treated Seed Rules, Revisor's ID No. R-04806; OAH Docket No. 23-9003-39350

To whom it may concern:

On behalf of Clean Energy Economy MN (CEEM), we are writing today to respond to the Minnesota Pollution Control Agency's (MPCA) request for comments on rulemaking for the disposal of treated seeds. Specifically, we are looking to clarify the type of incineration facilities eligible to burn treated seeds under the new law.

CEEM is an industry-led, nonpartisan, non-profit organization representing the business voice of energy efficiency and clean energy in Minnesota. We work to educate Minnesotans about the economic benefits of transitioning to a clean energy economy and are committed to delivering a 100% clean energy future where all Minnesota businesses and citizens will thrive. Our business membership is comprised of over 60 clean energy companies ranging from start-up businesses to Fortune 100 and 500 corporations that employ tens of thousands of Minnesotans across the state.

A CEEM member business, Koda Energy is classified as a biomass plant by the EPA, and not a solid waste incinerator. The limiting language in the current proposed rule could bring into question their ability to continue using treated seed as biomass fuel as they have been permitted to do by the MPCA in June of 2023.

A simple fix would add clarifying language making clear that properly permitted biomass-to-energy incineration facilities are allowed to burn treated seeds. A simple addition to the fourth bullet would correct this:

*“Burned, except in a permitted **[Biomass or]** Waste-To-Energy (WTE) incineration facility. Waste treated seed may not be burned openly, in corn or wood stoves, or in residential or commercial boilers, including by farmers.*

RECEIVED

By: OAH on 1/30/2024

George Damian Attachment

We thank you for the opportunity to share our comments today. If you have any questions, please let us know.

Sincerely,



George Damian
Director of Government Affairs
gdamian@cleanenergyeconomymn.org



January 30, 2024

TO: Mr. William Moore
Minnesota Office of Administrative Hearings
600 North Robert Street
St. Paul, MN 55164

RE: Possible Amendments being Considered for Waste Treated Seeds Rules Governing Solid Waste and Hazardous Waste, Minnesota Rules, Chapters 7035 and 7045; Revisor's ID Number R-04806

OAH Docket No. 23-9003-39350

Dear Mr. Moore,

CropLife America ("CLA") and the American Seed Trade Association ("ASTA") appreciate the opportunity to comment on the Minnesota Pollution Control Agency's ("MPCA's") Request for Comments regarding possible rulemaking and amendment to Minnesota Administrative Rules Chapters 7035 and 7045, relating to waste treated seeds. Any regulations promulgated by MPCA would impose impacts on each organization's members, who, as to CLA, develop and sell pesticide products for agriculture and pest management in the United States and, as to ASTA, develop, produce, and distribute seeds for use in agriculture in the United States and abroad.

For reference, CLA and ASTA submitted joint comments to the August 28, 2023, Request for Comments Revisors ID Number R-04806 (sw-rule3-02a), on October 27, 2023. We again reiterate our initial comments that the MPCA treated seed disposal guidance document provides sufficient guidance to industry, consumers and growers regarding the proper use, limitations on use, and disposal of seed treated with pesticides¹. In short, we believe adoption of the language in the guidance document into MPCA's rules would satisfy the legislative directive contained in Minnesota Chapter 60, Article 3, Section 28 (2023).

Treated seed that will not be used for planting is already and appropriately considered industrial solid waste in Minnesota according to the guidance document, and therefore any new rules or amendments should be only considered under Minnesota Administrative Rules, Chapter 7035, Solid Waste. We have concerns with and caution against amending Minnesota Administrative Rules, Chapter 7045, Hazardous Waste as it pertains to the disposal of treated seeds. It would be inconsistent with federal law² to categorically categorize waste treated seeds as hazardous waste. "Hazardous waste", is a term carefully defined under federal waste management laws to apply only to certain substances, including certain but not all pesticides (40 C.F.R part 261). Regulating all treated seeds as hazardous waste under state law, irrespective of the applicability of federal law, has the potential to cause confusion for manufacturers,

¹ Treated seeds, Minnesota Pollution Control Agency, <https://www.pca.state.mn.us/sites/default/files/w-hw451.pdf>

² 40 CFR § 30.16 - Resource Conservation and Recovery Act (RCRA), <https://www.govinfo.gov/app/details/CFR-2014-title40-vol1/CFR-2014-title40-vol1-sec30-16/summary>



distributors, and the ultimate users of the product—a result at odds with the legislature’s intent in seeking action on this issue.

Disposing of waste treated seed as solid waste provides similar “cradle to grave” oversight as hazardous waste, and any suggestion that it does not ignores the stringent regulatory framework under which solid waste facilities are regulated in Minnesota, including requirements aimed at preventing pollution in the environment. See, e.g., Minnesota Administrative Rules 7035.2525 – 7025.2655 (Solid Waste Management Facility General Technical Requirements); see also Minnesota R. 7035.0350, (“The waste management goal of the state is to foster an integrated waste management system in a manner appropriate to the characteristics of the waste stream and thereby protect the state's land, air, water, and other natural resources and the public health.”)³.

Market forces already incentivize seed manufacturers and distributors to appropriately calibrate the amount of treated seed sold and used, and common practice for excess bags of treated seed is for return to the provider. Requiring additional reporting and tracking of waste treated seeds would be expensive, unnecessary, would impose additional burdens on farmers and would complicate the regulatory framework for solid waste management facilities that are already subject to reporting requirements, including, “the quantity of each type of waste handled” at the facility.” See, e.g., Minnesota R. 7035.2585.

We believe the MCPA treated seed guidance, along with instructions on the seed bag tag, provide for the safe and lawful disposal of waste treated seed and adequately address use, storage, handling, distribution, and disposal of waste treated seed to avoid adverse impacts on humans, food, livestock, fish, or wildlife and ensure no unreasonable adverse effects on the environment. The seed bag tag and label contain handling requirements, wildlife warnings, storage, disposal, and container handling instructions.

We respectfully encourage MPCA to avoid imposing new and unnecessary regulatory burdens on the disposal of waste treated seed with any amendments to Chapter 7045. The current authority and regulatory resources adequately enable their safe use and disposal. Thank you for your consideration of our comments on these possible new rules.

Sincerely,

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³ Minnesota Administrative Rules, Chapter 7035, Solid Waste, <https://www.revisor.mn.gov/rules/7035/>



Discussion: 39667 Minnesota Pollution Control Agency Request for Comments on PFAS in Products Currently...

REQUEST FOR COMMENTS- PFAS in Products Currently Unavoidable Use Rule

Planned New Rules Governing Currently Unavoidable Use Determinations about Products Containing Per-and polyfluoroalkyl substances (PFAS), Revisor's ID Number R-4837

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1 Responses



Lee Landstrom 23 days ago

Revisor's ID Number R-4837. PFAS Products. I write in favor of strengthening and clarifying the regulation of pesticide-coated seeds. Currently, these products are NOT regulated like other pesticides. As demonstrated in Mead, Nebraska, piles of these seeds polluted ground water and nearby bee hives with this deadly runoff. There are NOT adequate safeguards for public health. Furthermore, if these seeds are treated with neonicotinoid pesticides, they have been shown to be a great danger to human and wildlife health. The treated seeds must be regulated as to their proper safe use, handling and especially disposal - for the benefit of our environment and human health.

0 Reads

RILEY TITUS answered a Discussion

George Damian answered a Discussion

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Rick Hansen answered a Discussion



DISCUSSIONS

36778 Department of Agriculture Proposed Rules Without a Public Hearing

36467 Board of Assessors Dual Notice

37077 Department of Revenue Notice of Submission

39667 Minnesota Pollution Control Agency Request for Comments on PFAS in Products Currently Unavoidable Use Rule

39758 Minnesota Department of Employment and Economic Development Request for Comments