



FEDERAL AND STATE PESTICIDE MATTERS – NOVEMBER 2011

PISTACHIOS

Please review the following summary of current federal and state pesticide matters. Should you have any questions or concerns about anything, please send your questions to info@americanpistachios.org

CURRENT TOPICS:

FEDERAL

- **Request to Register New Uses for Buprofezin (Applaud)**
 - In a November 9, 2011, Federal Register notice, EPA announced receipt of an application, submitted by Nichino America, Inc., to register for use on tree nuts, crop group 14 (including pistachios) pesticide products containing the currently registered active ingredient, buprofezin.
 - Comments must be received by December 9, 2011. To view the Federal Register notice, please visit <http://www.gpo.gov/fdsys/pkg/FR-2011-11-09/html/2011-29077.htm>.
 - Additional information is available in the Docket # EPA-HQ-OPP-2011-0759. To view the Docket, please visit www.regulations.gov and enter the Docket # in the “Search” dialog box.

- **Establishment of Pesticide Tolerances for Buprofezin (Applaud)**
 - In a November 9, 2011, Federal Register notice, EPA announced receipt of a pesticide petition to establish tolerances for buprofezin residues in or on nut, tree group 14 (including pistachios) at 0.05 parts per million (ppm), as requested by the registrant, Nichino America, Inc. EPA is accepting public comments on the request before responding to the petitioners.
 - Comments must be received by December 9, 2011. Additional information is available in the Docket # EPA-HQ-OPP-2011-0759. To view the Docket, please visit www.regulations.gov and enter the Docket # in the “Search” dialog box.
 - To view the Federal Register notice, please visit <http://www.gpo.gov/fdsys/pkg/FR-2011-11-09/html/2011-28647.htm>.

- **Pyrethrins and Pyrethroid Cumulative Risk Assessment**
 - In a November 9, 2011, Federal Register notice, EPA announced the availability of its cumulative risk assessment for naturally occurring pyrethrins and synthetic pyrethroid pesticides (pyrethroids). As naturally occurring pyrethrins and pyrethroids share a common mechanism of toxicity, EPA conducted a cumulative risk assessment for all uses and evaluated cumulative effects on human health due to pesticide exposure. Based on the assessment, EPA concluded that the cumulative risks from pyrethroid uses are below the Agency’s level of concern. As the cumulative assessment uses very conservative assumptions, EPA is providing an opportunity for public comments and input on any additional information that may further refine the cumulative risk assessment. In 2009, the following pyrethroid pesticides were applied to pistachio acreage: cyfluthrin (545 acres), beta-cyfluthrin (32,704 acres), cyhalothrin-lambda (48,162 acres), and permethrin (130,182 acres).
 - Comments are due by January 9, 2012.
 - Additional information is available in the Docket # EPA-HQ-OPP-2011-0746. To view the Docket, please visit www.regulations.gov and enter the Docket # in the “Search” dialog box.
 - To view the Federal Register notice, please visit <http://www.gpo.gov/fdsys/pkg/FR-2011-11-09/html/2011-29089.htm>.

- **Draft Water Quality Criteria for Carbaryl (Sevin)**
 - In a November 1, 2011, Federal Register notice, EPA announced the availability of draft ambient water quality criteria to protect aquatic species from the effects of carbaryl (Sevin), using the latest scientific data on carbaryl toxicity. EPA's recommended water quality criteria provide guidance and technical information for states in adopting water quality standards, but alone have no legally binding requirements. EPA is soliciting scientific views on this document, which must be received by January 3, 2012. In 2009, 4,318 acres of pistachios were treated with carbaryl.
 - To view the Federal Register notice, please visit <http://www.gpo.gov/fdsys/pkg/FR-2011-11-01/html/2011-28255.htm>

- **Updates to EPA's Pesticide General Permit (PGP)**
 - On October 31, 2011, EPA's Pesticide General Permit (PGP) took effect in accordance with a 2009 court ruling. The ruling required point source discharges from pesticide applications to U.S. waters to be covered under the Clean Water Act. The PGP covers pesticide discharges due to applications from mosquito and vector pest control, weed and algae control, animal pest control, and forest canopy pest control. The permit does not cover non-target spray drift, or pesticide discharges to U.S. waters that are already impaired for that pesticide. These discharges, along with terrestrial applications to control pests on agricultural crops, require coverage under the individual National Pollutant Discharge Elimination System permits, rather than a PGP, if they result in point source discharges to U.S. waters.
 - EPA will not enforce the new regulation for 120 days. However, growers and pest control managers are not protected from citizen action lawsuit liability. During this 120-day period, EPA will focus on providing compliance assistance and education on permit requirements, rather than on enforcement actions. The PGP and other information are available at http://cfpub.epa.gov/npdes/home.cfm?program_id=410.
 - EPA also announced the PGP in a November 7, 2011, Federal Register notice available at <http://www.gpo.gov/fdsys/pkg/FR-2011-11-07/html/2011-28770.htm>.

- **Petition for Safer Measures to Protect Farmworkers**
 - On November 14, 2011, the Pesticide Action Network, Earthjustice, and Farmworker Justice filed a legal petition demanding that EPA act promptly to better protect farmworkers from pesticide exposure. The petition offers recommendations to strengthen several areas where protective measures for farm workers are lacking and demands workers are provided with more frequent training on pesticide hazards and protective measures; easily accessible information on pesticides applied, where they are applied, and any associated health risks; buffer zones around fields where farmworkers are present; adequate protective equipment, decontamination facilities, and areas to store and change into clean clothes; and special protective measures for young workers and pregnant workers.

STATE

- **DPR Releases Annual VOC Emissions Inventory Report**
 - On November 17, 2011 DPR released its annual volatile organic compound (VOC) emissions inventory report. According to the report, in 2010 there was an increase in VOC emissions in the San Joaquin Valley (SVJ) and Southeast Desert nonattainment areas (NAAs), as well as in Sacramento Metro, Ventura, and South Coast NAAs, but the NAAs were in compliance with the SIP goals and are below the VOC regulation benchmarks.
 - VOC emissions in the SVJ increased from 13.2 tons per day (tpd) in 2009 to 16.1 tpd in 2010, a 22 percent increase, but remained below the SIP goal of 18.1 tpd. Non-fumigants continue to account for 75 percent of the emissions. The top ten emission contributors in the SVJ for 2010 were chlorpyrifos (Lorsban), 1,3-dichloropropene (Telone), metam-sodium (Vapam), bifenthrin (Brigade), abamectin (Avermectin), oxyfluorfen (Goal), gibberellins (Gibberellic Acid), methyl bromide, glyphosate (Roundup), and metam-potassium (K-Pam).
 - Emissions from bifenthrin increased by almost 500 percent from 2009 to 2010, due in large part to increased use on almonds and pistachios. Almonds ranked the highest among the top pesticide application sites contributing to VOC emissions; pistachios were not among the top ten contributors.
 - Public comments on the inventory report are due by January 3, 2012. For more information, please visit http://www.cdpr.ca.gov/docs/emon/vocs/vocproj/voc_data_analysis.htm.

- **DPR Plans to Accelerate New Non-fumigant VOC Rule**

- According to DPR’s VOC emissions inventory report, there has been a statewide upward trend in pesticide VOC emissions over the past two years. DPR’s existing rules to reduce VOC emissions from fumigants include a “trigger” that would result in the implementation of a valley-wide fumigant emissions limit if emissions exceed a certain level. In order to avoid the trigger, DPR has proposed to hasten the development of new rules to reduce emissions from non-fumigant pesticides in the SJV. The rules will require significant emissions reductions in the SJV, and may require reformulation of products and restricted use permits for more pesticides. DPR is now looking at implementing these rules in May 2013 rather than 2014, as previously planned.
- DPR is also looking at options to implement regulations including requiring retailers to provide growers with guidelines when purchasing higher emitting products, and requiring Pest Control Advisors to make recommendations for lower emitting products when emissions levels exceed regulatory limits.

Top non-fumigant VOC pesticides used on Pistachios

Non-Fumigant Pesticide	Acres Treated in 2009
Bifenthrin (Brigade)	53,839
Cyfluthrin (Renounce)	545
Fenpyroximate (Fujimite)	19
Glyphosate (Roundup)	47,243
Glufosinate (Rely)	55,841
Imidacloprid (Provado)	1,234
Oxyfluorfen (Goal)	113,934
Permethrin (Pounce)	130,182
Trifluralin (Treflan)	20

- **Arysta’s Response to Methyl Iodide Lawsuit**

- In January, a lawsuit was filed by Earthjustice and California Rural Legal Assistance (plaintiffs) challenging DPR’s approval of methyl iodide in an effort to reverse the decision. The lawsuit alleged that the decision violated several human health and environmental protection regulations.
- In a brief filed November 23, 2011, Arysta dismissed allegations calling them “meritless arguments”. In response to arguments that agricultural economics factored into the methyl iodide registration decision, Arysta noted that part of the regulatory mandate is to balance risks and benefits. According to the brief, a California Department of Food and Agriculture report stated that the methyl bromide phase-out would cost more than \$1.5 billion and 24,000 jobs if no substitute fumigant was approved. On October 12, 2011, the plaintiffs filed the opening brief of their lawsuit in Alameda County Court. Oral arguments will begin in January 2012.

- **Community Activities to Oppose Methyl Iodide Applications**

- Local groups have asked the County Board of Supervisors to pass a resolution opposing the use of methyl iodide in Monterey County. The board likely won’t address the issue until December. On November 8, 2011, the Santa Cruz County Board of Supervisors passed a resolution opposing the use of methyl iodide in Monterey County. However, according to Ag Commissioner Eric Lauritzen, as long as methyl iodide applications are permitted, the board wouldn’t block the authority to approve an application.