

February 29, 2024

Incentive Corner

Block grants for both SWEEP and HSP are starting to be announced – Applications are now open for SWEEP by the [RCD of Tehama County](#) and SWEEP for [Glenn County RCD](#).

Although too late for this year, you can sign up for free cover crop seed with the [Seeds for Bees](#) project with Project Apis m.

While NRCS accepts applications for this program year-round, interested applicants should apply for NRCS's [Conservation Stewardship Program](#) by the first application cutoff period, March 22, 2024.

ABC has updated information on incentive opportunities on our redesigned, user friendly [Almonds.com/Incentives](#) webpage. Listen to the AgNet West Radio feature to learn about the changes made to the page and how the functionality makes it easier for growers to find the information they need.

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For questions about incentives, contact roseman@almondboard.com.

ESA to Impact Pesticide Use

To address Endangered Species Act (ESA) concerns, the US EPA is developing multiple new plans that could impact pesticide use. There is a requirement within ESA that any time a federal agency makes a regulatory decision it needs to consider whether that decision could impact endangered species. If it may affect one or more of these species, then the agency must consult with the US Fish & Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), aka the Services.

While EPA has always assessed the potential risk a pesticide posed to endangered species, it has not done the consultation process with the Services. Thus, most currently registered pesticides are not in compliance with ESA, and lawsuits have been successfully filed against the EPA for some 20 years. The result is court mandated ESA review deadlines creating substantial work for EPA and the Services. With a lawsuit threatening cancellation of most pesticide registrations, EPA has been seeking new approaches to reach compliance. A settlement agreement with EPA sets out deadlines for EPA to

develop new policies to reduce the risks of pesticides to endangered species.

New approach to addressing ESA and Pesticides

While different administrations have tried to address pesticide compliance with ESA, previous approaches - such as conducting a Biological Evaluation for a single pesticide for all listed species between Maine and the Mariana Islands- were too time and labor consuming. The Services also have limited capacity to review EPA assessments.

Thus, the Biden administration is taking a new approach that would minimize the chances of a “may affect” finding and, thereby, reduce the need for consulting with the Services. By using EPA’s existing authorities to put mitigation measures on labels, the proposed changes are likely to affect all conventional pesticides, at least if the application occurs within a “Pesticide Use Limitation Area” (PULA). These are regions where endangered species are known to occur, or could occur, and their habitats.

Herbicide ESA strategy

To date EPA has released a [draft herbicide strategy](#). The amount of mitigation required will depend both on the relative toxicity of a product as well as rates. The practices to reduce spray drift and run-off are assigned scores for risk reduction points. For example, an herbicide requiring 2 “points” would require less effort to reduce off-site movement compared to an herbicide requiring 9 points.

Agricultural groups have identified several concerns with this approach. For herbicides, EPA’s PULA map includes the whole Central Valley. Thus, any time an herbicide is applied, almond growers would need to assess what mitigation measures they would use to reduce off-site movement. Another concern is that many of the possible mitigation measures are not applicable to perennial, specialty crops. Almonds growers therefore could struggle to deploy enough mitigation measures to get sufficient points. And, to date EPA has not given credit for existing state or regional programs that already are working to minimize pesticide drift/run-off such as the Irrigated Lands Regulatory Program.

EPA plans to release a [draft insecticide strategy](#) in 2024 and a [fungicide strategy](#) including the soil fumigants in late 2024. The assumption is that these will follow the herbicide strategy model, while learning from comments EPA received.

Vulnerable Species Pilot

EPA also released a draft Vulnerable Species Pilot Program summer 2023, with a focus on protecting 26 endangered species deemed particularly vulnerable to pesticides. This strategy takes a very different approach compared to the herbicide strategy. This initial proposal assumed that all conventional pesticides are equally harmful, with mitigations such as run-off, spray drift reduction measures and/or no spray zones applying to ALL conventional pesticides within the PULA.

The biggest issue with this proposal is the move to the precautionary principle, which assumes - without a risk assessment – that all conventional pesticides are equally risky. The PULA maps are also faulty, and again many of the mitigation measures are not appropriate for specialty crops.

In November, EPA released a public statement that they were making revisions to the Vulnerable Species Pilot, in particular that they will consider the actual risks and refine the PULA maps.

Nevertheless, it is clear that over the course of the next several years, growers will face increased restrictions on uses of pesticides, and requirements to adopt measures that minimize run-off and spray drift.

Endangered Species listings another threat

Another potential impact to pesticide use is also looming. The almond industry is facing two listings of pollinators that are likely to affect the way growers can conduct their business. At the state level, four native bumblebees are being considered by the California Department of Fish and Wildlife under the California Endangered Species Act, while the monarch butterfly is being considered at the federal level.

Since these species occur or travel over a wider area of the almond growing region compared to most currently listed species, their listing is likely to have a wider impact on farming practices. Additionally, growers who have implemented a pollinator habitat could face legal risk if the habitat or pollinators are accidentally harmed through normal farming practices, despite the voluntary investments made by growers to support these species.

To address these concerns, ABC is working with the Almond Alliance to develop a Candidate Conservation Agreement with Assurances, or CCAA, in conjunction with the state equivalent, a Voluntary Local Program

(VLP). Under these federal and state programs, the almond industry would be acknowledged for voluntarily contributions to protect monarch and native bees and, in exchange, growers can receive protection from legal action from normal farming operations.

Truck Rule Status

Just before implementation, in the last days of 2023 the California Air Resources Board (CARB) released an Enforcement Notice that temporarily pauses enforcement of new requirements in the Advanced Clean Fleets (ACF) Rule. Until the outcome of a pending lawsuit is determined, or other regulatory approaches decided, high-priority and drayage fleets will not have to report that vehicle early under the regulation to CARB.

As reported by the Western Ag Processors Association, CARB will also not be enforcing the “Useful Life” replacement requirement under the ACF rule, which would require model year trucks 17 years or older (2006-2007) be removed from service. Additionally, under the enforcement discretion, affected fleets are allowed to add combustion equipment to their fleets, which is not allowed under the ACF rules.

Upcoming Events (follow link):

- Mar 20** Multi-Benefit Land Repurposing Program (MLRP) Workshop - Madera/Chowchilla RCD
- Mar 12,13**
- Apr 2,3** Management of Key Pests in Your Orchard Workshops (multiple locations)
- Apr 3**
- May 29** Listening Sessions, Regenerative Agriculture Definition, CDFA

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