



# Chemically Speaking

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## PDP Data Demonstrates Continued Compliance

The latest data from the U.S. Department of Agriculture’s Pesticide Data Program shows that overall pesticide levels on fresh produce and other food tested are below federal tolerance levels and don’t pose a safety concern to consumers. The USDA’s report disclosing data from the 2012 Pesticide Data Program Annual Summary, showed that 99% of the products sampled had residues below the Environmental Protection Agency tolerances. Residues exceeding the tolerance were detected in 0.53% of the samples tested. The USDA also published “*What consumers should know: 2012 Pesticide Data Program Summary*” explaining the context of the results.

Fruits and vegetables tested in 2012 were: avocados, bananas, cantaloupe, cauliflower, cherry tomatoes, mushrooms, onions, papayas, plums, snap

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peas, summer squash, sweet bell peppers, tangerines and winter squash, according to the USDA. Domestic fruits and vegetables represented 60.7% of samples, with 36.6% imported and 2.7% of mixed or unknown origin. The USDA has published an annual summary of the program since the early 1990s.

The results again show the safety of all fruits and vegetables, according to a news release from Watsonville, CA-based Alliance for Food and Farming. Consumers can eat more of conventional fruits and vegetables with confidence, according to the release. Marketers have expressed concerns that activist groups' reactions to the annual pesticide report - notably the "Dirty Dozen" list published by the Environmental Working Group - create fear about eating produce. (*The Packer*, 2/26/14).

## West-Coast Rat Issues

California regulators have banned the retail sales of certain types of rat poisons, frequently used in illegal marijuana grows effective July 1. These rodenticides are known to kill wildlife and pets, and for years have been the target of lawsuits and advocacy efforts by environmental groups. "I believe Humboldt County basically kind of led the charge in identifying how damaging these poisons are to the environment," Humboldt Supervisor Virginia Bass said. "Much of what has led action in the state has come from voices in the county saying what a problem the poisons are."

In March, the state Department of Pesticide Regulation banned certain pesticide products known as rodenticides which contain toxins that have also hurt California wildlife, including endangered species. Rats and mice eat the pesticides, which are

placed in and around buildings and homes. But it takes several days for the rodents to die, and they continue to eat the pesticide, which is stored in their body tissue. If pets and wildlife eat the poisoned rodents, they too end up poisoned, and can die. The products are also used at large, illicit marijuana grows in wilderness areas.

In 2008, law enforcement found thousands of pounds of pesticides at grow sites when officials removed more than 3.6 million outdoor marijuana plants from public lands in California. According to a study on the impacts of rodenticides on wildlife, a 2011 illegal grow eradication operation removed more than 150 pounds of pesticides within endangered Pacific fisher habitats in Mendocino County. Of the 58 dead fishers collected and tested for rodenticide in the study, 46 (79 percent) were exposed. Eighteen of those fishers were collected from Northern California. Thirteen (72 percent) of those had been exposed. "What we're finding out is that many illegal marijuana farms use industrial-sized quantities of poison in forests to fend off rodents, and end up creating quite a havoc on the ecosystem," Humboldt Supervisor Rex Bohn said.

Until now, any consumer has been able to buy rodenticides from retailers. As of July 1, the products will be removed from most stores, and only certified professionals will be able to purchase them. Humboldt County Sheriff's Office Lt. Steve Knight said his office is concerned people will still bring the pesticides in from out of state. The new regulations were proposed last summer, and were followed by a public comment period. The ban satisfies groups that have been calling for the state to end the use of rodenticides, and have blamed regulators for failing to protect the endangered San Joaquin kit fox, golden eagle, Pacific fisher and other wildlife from the poisons.

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Meanwhile, the manufacturer of d-CON (Reckitt Benckiser) filed a lawsuit in San Diego on March 31 against the California Department of Pesticide Regulation. The lawsuit argues that the state agency overstepped its authority earlier when it classified some consumer pesticides as restricted materials and ordered stores to remove them from shelves by July 1. The new regulation applies to all pesticide products containing brodifacoum, bromadiolone, difenacoum, or difethialone. In its complaint, Reckitt Benckiser claims the pesticide regulation department violated the law by not giving the public proper notice or opportunity to comment on the rule. It also says the agency failed to study reasonable alternatives and conduct an environmental impact report on the new rule, including what effect rat poisons that don't contain the restricted chemicals would have on wildlife. "We remain concerned that this decision will result in the increased use of alternative products which contain a powerful neurotoxin with no known antidote in the case of accidental exposure," Tony Brand, a spokesman for d-CON said in a statement. (*Willits News*, 3/26/14 & *DailyJournal.com*, 3/31/14).

## E-labels Now Legal

The Environmental Protection Agency (EPA) will now allow pesticide registrants to make legally valid product labels accessible on the internet. The EPA released a pesticide registration notice, posted on the agency's website April 4, outlining a voluntary process for posting legally valid, enforceable pesticide labeling material on the internet. Prior to issuance of the notice, which is effective immediately, no form of labeling posted on the internet was legally valid, the EPA said.

All pesticide products still must be

accompanied by a physical copy of EPA-approved labeling, but the new process will allow pesticide registrants to include a reference to a website from which pesticide applicators can download enforceable labeling. Applicators could then go to that website and download a "streamlined" version of the pesticide label, containing all necessary hazard and first aid statements and any relevant state- or site-specific use directions.

Pesticide applicators would be responsible for complying with all instructions either from the Web-distributed label or the physical label on a pesticide, according to the notice. The EPA added that pesticide users also would be responsible for complying with any state regulations or other applicable requirements requiring applicators to maintain a copy of the labeling used for applications.

The EPA said in an April 4 statement that physical product labels on pesticide packaging will not be shortened in any way due to the launch of Web-distributed labeling and would have several benefits, including increased compliance with federal pesticide law. The agency said that the availability of streamlined pesticide labels on the Internet, which would still contain all relevant information for a user's specific state and intended site of the pesticide use, could make labels clearer for applicators to understand. That could improve compliance with pesticide label requirements, protecting human health and the environment from pesticide misuse. (*Bloomberg BNA*, 4/4/14).

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## **Pesticide Registrations and Actions**

### **Food Related Actions**

- On March 7, the Florida Department of Agriculture and Consumer Services (FDACS) conditionally registered Apta® (tolfenpyrad) insecticide for use on citrus, stone fruit, and pecan to control Asian citrus psyllid, mealybugs, and thrips. The EPA registration number for the Nichino America, Inc. product is 71711-36. (FDACS PREC Agenda, 4/3/14).
- On March 7, the FDACS conditionally registered Torac® (tolfenpyrad) insecticide for use on leafy greens to control aphids and thrips. The EPA registration number for the Nichino America, Inc. product is 71711-31. (FDACS PREC Agenda, 4/3/14).
- On April 14, the FDACS conditionally registered Zonix® (rhamnolipid biosurfactant) biofungicide for prevention and control of fungi in agricultural settings as well as in ornamentals and sod farms. (FDACS PREC Agenda, 5/1/14).
- The EPA has approved a quarantine exemption for the use of propiconazole (Tilt®) fungicide to control laurel wilt on avocado trees. The EPA registration number for the Syngenta product is 100-617 and the exemption expires on 3/27/17. (EPA letter to FDACS, 4/8/14).
- Based on a request by IR-4, tolerances have been granted for residues of the fungicide fenamidone (Reason®). Tolerances of interest to the region include green bean and ginseng. (*Federal Register*, 3/12/14).

- Based on request by Chemtura Corporation, a tolerance has been granted for residues of the fungicide ipconazole (Vortex®) in legume vegetables (group 6). (*Federal Register*, 3/19/14).
- Based on a request by IR-4, tolerances have been granted for residues of the herbicide clomazone (Command®) on head and stem brassicas (subgroup 5A), cowpea forage/hay, succulent or dry southern pea, and rhubarb. (*Federal Register*, 4/2/14).

### **Non-food Action**

- On March 19, the FDACS registered Oasis® (topramezone) herbicide for managing aquatic vegetation in aquatic environments. The EPA registration number for the SePRO Corporation product is 7969-339-67690. (FDACS PREC Agenda, 4/3/14).

### **Other Actions**

- Syngenta Seeds, Inc., Syngenta Hawaii, LLC, Pioneer Hi-Bred International, Inc., Agrigenetics, Inc. and BASF Plant Science LP filed motions for partial summary judgment in their challenge to Kaua'i County Ordinance 960, which seeks to place unnecessary, burdensome and arbitrary local pesticide and GMO regulations on these companies' farming operations. According to CropLife America, the companies seek partial summary judgment in two separate motions. One motion seeks summary judgment on substantive grounds, involving both state and federal preemption and violations of state and federal constitutional

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rights. A second motion seeks summary judgment on procedural grounds, citing violations under Hawai'i statutes and Kaua'i law stemming from the county's flawed legislative process in enacting the ordinance and procedural flaws in the ordinance itself.

The companies request to nullify Ordinance 960 before it takes effect on August 16, 2014. (*USAgNet.com*, 4/21/14).

- The EPA has ordered Pathway Investment Corporation of Englewood, NJ, to stop selling plastic food containers made with nano silver because it's an unregistered pesticide. The company claims that the nano silver – the active ingredient in Kinetic Go Green Premium Food Storage Containers, Kinetic Smartwist Series Containers, TRITAN Food Storage and StackSmart Storage containers helps reduce the growth of mold, fungus and bacteria. But these claims can only be made on products that have been properly tested and registered with EPA, and Pathway's containers were never registered. "Unless these products are registered with the EPA, consumers have no information about whether the claims are accurate," said EPA Regional Administrator Judith A. Enck. "The EPA will continue to take action against companies making unverified public health claims." The EPA has also issued warning letters to Amazon, Sears, Walmart and other large retailers directing them not to sell the products. These vendors have been selling Kinetic Food Storage Containers through their websites. (*Food Safety News*, 4/2/14).
- The lawsuits against Monsanto over the unapproved release of genetically modified wheat have been put on hiatus as farmers and the company have agreed to enter

mediation. Several farmers filed lawsuits against Monsanto in 2013 after "volunteer" wheat plants were found in an Oregon field that were genetically modified to withstand glyphosate herbicide. No biotech varieties of wheat have been approved for the U.S. market. Monsanto developed and tested a biotech wheat variety several years ago, but the USDA never deregulated the variety. The discovery of the GM wheat last year led to Japan and South Korea closing their markets to U.S. wheat, which impacted many farmers. The USDA's investigation into how the GM wheat got into the Oregon field is still ongoing. All of the lawsuits filed were consolidated before a federal judge in Kansas who recently agreed to stay the proceedings while Monsanto and the growers enter mediation. The Capital Press reported that U.S. District Judge Kathryn Vratil, who is overseeing the consolidated case in Kansas, said the parties "agreed to a tight and aggressive timeline" and noted the mediation should help "in identifying and narrowing the issues" even if a settlement isn't reached. A lead attorney for the farmers said the initial mediation session will last about 10 hours, but it's unknown what will happen afterward. The mediation process, unlike arbitration, will not bind the parties to any resolution. (*AGProfessional*, 3/25/14).

- Conservation and safety activists filed a formal notice of intent to sue the U.S. Environmental Protection Agency (EPA) in March for failing to protect hundreds of endangered fish, butterflies and other species from a new pesticide (cyantraniliprole). The suit claims EPA violated the Endangered Species Act (ESA) by approving the widespread agricultural

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and residential use of the new pesticide in January without input from the U.S. Fish and Wildlife Service and National Marine Fisheries Service, the two federal agencies in charge of protecting endangered species. The Notice of Intent to Sue is being filed by the Center for Biological Diversity, Center for Food Safety, and Defenders of Wildlife. According to the groups, EPA failed to consider or mitigate impacts to endangered species despite concluding in its assessment that cyantraniliprole is “very highly toxic” to hundreds of endangered aquatic species, such as freshwater fish, mussels and clams, as well as endangered terrestrial invertebrate species, including 20 endangered butterflies. EPA’s failure occurred despite recent collaborative efforts on the part of the EPA and the two federal wildlife agencies responding to a report from the National Academy of Sciences to improve its procedures for evaluating the impacts of pesticides on endangered species before approving those chemicals for general use. Previous lawsuits have been filed to force EPA to uphold its responsibilities under ESA. In 2001, several stakeholder organizations, including the Northwest Center for Alternatives to Pesticides (NCAP) and the Pacific Coast Federation of Fishermen’s Associations (PCFFA), filed suit to force EPA to fulfill the distinct ESA requirements. Specifically, the lawsuit challenges EPA’s decision to register 54 pesticides without first consulting with federal fish biologists regarding the potential impact on protected salmon and steelhead species in the Northwest. In a lawsuit initiated in 2002, the judge called EPA’s “wholesale non-compliance” with its ESA obligations “patently unlawful” and ordered the agency to consult with the National

Marine Fisheries Service (NMFS) regarding adverse impacts on Northwest salmon. (*Beyond Pesticides*, 3/26/14).

## Pesticide Potpourri

- Cheerios have been “GMO-Free” since January. At nearly three months into the new formulation for its iconic cereal, General Mills Inc. sees no pickup in sales. In a phone interview in late March with the Associated Press, Chairman and CEO Kenneth Powell said the company has received good press, supportive letters and positive online comments for its decision but no incremental sales. “It’s what I expected,” Powell told the AP. He said he was “not really seeing anything there that we can detect” in terms of a sales improvement. The AP paraphrased him as saying genetically modified organisms aren’t really a concern for most customers. General Mills started shipping only its plain-formula Cheerios without GMOs in January. A spokesman explained the oats part was easy – he said there are no GMO oats – but the company had to find non-GMO sources of corn starch and cane sugar. General Mills used a low-key approach in the rollout, not really trumpeting the change except on the box, although it did get noticed by traditional and social media. The AP said the reformulation came after a campaign by the group Green America, which prompted fans to express their support on the Cheerios’ Facebook page. Green America noted General Mills did not obtain third-party verification, such as from the Non-GMO Project, for its claim. (*Food Processing*, 3/25/14).

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- A new study has found that eating an organic diet does not reduce the risk of cancer. Researchers monitored the health of 600,000 women aged 50 or older for nine years asking whether they ate pesticide-free organic food. Roughly 50,000 of the women developed one of the 16 most common cancers during the study period in total. No difference in overall cancer risk was found between a comparison of 45,000 women who “always” or “usually” chose organic food and 180 women who never ate organic food. “In this large study of middle-aged women in the UK we found no evidence that a woman’s overall cancer risk was decreased if she generally ate organic food,” Professor Tim Key, a Cancer Research UK-funded scientist at Oxford University, said. Researchers did find a small increased risk of breast cancer in organic consumers, but they explained it could be contributed to other factors. They also found a reduction in the risk of non-Hodgkin lymphoma was linked to eating organic, but noted that it may not be a real association. “More research is needed to follow-up our findings of a possible reduction in risk for non-Hodgkin lymphoma,” Key added. Dr. Claire Knight, the charity’s health information manager, explained how important this study is to

those who believed eating organic reduced cancer risk. “This study adds to the evidence that eating organically grown food doesn’t lower your overall cancer risk,” Knight said. “Scientists have estimated that over 9% of cancer cases in the UK may be linked to dietary factors, of which almost 5% are linked to not eating enough fruit and vegetables. So eating a well-balanced diet which is high in fruit and vegetables – whether conventionally grown or not – can help reduce cancer risk.” (*CBS Atlanta*, 3/3014).



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