

**Californians for Pesticide Reform
Pesticide Action Network of North America
California Rural Legal Assistance Foundation
Coalition for Clean Air
Steven and Michele Kirsch Foundation
Planning and Conservation League
Sierra Club California
Community and Children's Advocates Against Pesticide Poisoning Ventura
Wishtoyo Foundation/Ventura Coastkeeper**

September 17, 2007

Chair Mary Nichols
California Air Resources Board
1001 I St
Sacramento, CA 95812

Re: State Implementation Plan revisions for Ventura County

Dear Chair Nichols:

We, the co-signers and other environmental health organizations, object to the proposed State Implementation Plan revisions for Ventura County. After losing in Courtⁱ and being ordered to adopt regulations that would honor a decade-old commitment to cut pesticide VOC emissions from the 1990 baseline inventory by 20% by 2005, ARB staff now propose to weaken that commitment so that the people and ecosystems in Ventura County must endure *more* VOC and toxic emissions from pesticides than would otherwise have occurred had ARB just decided to comply with the order and do the right thing. We are distressed by the prospect of back-sliding on pesticide VOC emissions relative to the unambiguous commitments—confirmed by court decision—made for these emissions in 1994 and to have been achieved by regulations that should have been adopted by June 15th, 1997.

Those commitments were—and remain—to reduce pesticide VOC emissions by 20% relative to 1990 levels (calculated using 1991 Pesticide Use Report data) in various non-attainment areas including the Ventura County. During the 10 years since regulations were to have been adopted, pesticide VOC emissions in Ventura County have instead been allowed to substantially increase by more than 100%

We have studied staff's August 13, 2007, revision of the pesticide element of the 1994 Ozone SIP for Ventura Countyⁱⁱ which relies heavily on economic assertions made by the Department of Pesticide Regulation ("DPR"). We are aware that attaining health-protective air quality standards is challenging and that ARB and DPR are experiencing

extreme pressure to backslide. Your predecessors made a promise ten years ago and you must keep that promise for the reasons in the June 12, 2007 comment letter from Brent Newell to Dr. Robert Sawyer and supplemental comments set forth below.

Projected Failure to Meet CAA Standards in 2009 and Reclassification of Ventura as a “Serious” Nonattainment Area Should Result in a Redoubling of Efforts

Section 110(l) of the Clean Air Act, 42 U.S.C. § 7410(l) prohibits back-sliding on SIP rules, commitments, and strategies. ARB staff projects that,

Ventura will not attain the standard in 2009. . . . Ventura District staff has indicated that they may recommend that their Board request reclassification as a “serious” ozone nonattainment area.

A projected failure and request for reclassification should lead to a redoubling of efforts, not allowing pesticide-related VOC emissions to increase. Instead, this projected failure to attain is used to argue that it is OK to deregulate pesticides, since a reclassification “would give the area a June 15, 2013 attainment deadline and require attainment in 2012.” *This reasoning is circular and self-defeating and amounts to little more than additional delay.*

Substitution Within the SIP Revision is a Form of Back-Sliding

The revised pesticide element of the 1994 SIP for Ventura County states,

This SIP revision would substitute emission reductions from other sources of ROG for a portion of the emission reductions committed to in the 1994 SIP for pesticides. There would be no “backsliding” from the overall 1994 SIP commitments for Ventura, because all the ROG emission reduction committed to in the 1994 SIP would still be achieved.ⁱⁱⁱ

As was discussed above, ARB staff analysis projects that “Ventura will not attain the standard in 2009,” and the staff report notes that “Ventura District staff has indicated that they may recommend that their Board request reclassification as a ‘serious’ ozone nonattainment area.”^{iv} The current classification is “moderate.”

The relaxation of the pesticide strategy in Ventura County means that the air basin will suffer a net loss of available VOC reductions needed to attain the standard. The proposed SIP revision unquestionably interferes with attainment because with less available VOC reductions, the air basin faces an increased challenge in attaining the ozone standard by the current 2009 attainment date for a moderate area or the deadline for a serious nonattainment area (must demonstrate attainment by 2012).

ARB should not cave-in to political pressure from the strawberry industry, the agricultural industry in general, or your sister agency that should have adopted regulations *ten years ago*. Those regulations should have been in place now and protecting the public health and welfare. Instead, those same voices that call for a SIP revision have enjoyed a decade of non-regulation while pesticide use has increased dramatically.

DPR Estimates of Lost Acreage are Over-estimated

The revised pesticide element states,

Even if all fumigant applications adopted [Best Available Control Technology (BACT)], an additional 34% (1.3 tpd) fumigant emission reduction from 2008 levels would be needed to achieve the overall pesticide SIP commitment. To achieve this reduction, growers and applicators will need to employ some combination of acreage reduction, application rate reduction, and shifting applications outside the May – October window. The likely scenario would be that land would not remain in agricultural production. DPR estimates that 5,800 to 7,500 acres would be lost if the 1.3 tpd ROG reduction is achieved solely through acreage reduction.

Given that various means are available to meet the reduction of pesticide VOC emissions—including changing application rates, alternative pest control methods, substitution of less fumigant-intensive crops,^v *et cetera*—there is no reason to assume that acreage reduction will be chosen to the exclusion of all other means. It is unjustified to assume that a 34% reduction in fumigants will be met solely through acreage reduction and therefore result in the loss of 5,800-7,500 acres of agricultural production. .

Financial Losses and Cascade Effects on Ventura’s Economy are Over-estimated

At DPR’s hearing in Ontario on July 10, 2007, several Ventura farmers testified that caps on fumigants would cause loss of profitability and a cascade of negative impacts, including failure of farms, conversion of farmland to suburban sprawl, and ripple effects throughout the Ventura economy

While it’s likely that each farmer who spoke has sometimes faced—or is at least deeply worried about facing—commodity prices so low that they have small or negative profit margins, the conclusion that fumigant caps will cause the extent of profit disruption or overall economic impacts suggested is invalid. Relying on anecdotal evidence is both insufficient and an inappropriate substitute for estimates that take into account the sometimes counterintuitive relationship between commodity pricing and profits. The pesticide element cites several studies:

[Per Goodhue *et al*, 2007], reduced application rates would cause a decrease in yields, with the most likely scenario leading to a loss of \$11

million, and a maximum loss of \$31 million. Separate analyses by ARB (Dean 2007) and the California Strawberry Commission (Murai 2007) estimated losses of up to \$80 million and \$286 million, respectively, based on 10,000 acres reduction.

By assuming that reductions in planting will be the sole way that the 34% VOC reductions will be achieved and that the consequent acreage lost would total 10,000 acres, the higher estimates of financial losses are based on flawed assumptions (see above).

Rather, any analysis of projected financial impacts must include, at the very least, factors such as price elasticity and crop substitution. If these critical elements that begin to capture the complexities of the situation were considered, loss estimates would be significantly reduced.

A preliminary analysis incorporating such factors can be gleaned from USDA reports.^{vi} For California strawberry production, these reports suggest that losses from reduced acreage will be substantially compensated for by increases in commodity prices.

As a starting point, we suggest two means of estimating the relationship between production and commodity price for California strawberries (price elasticity with respect to production): (1) a 2007 vs. 2006 comparison where a freeze changed production and hence prices, and (2) a month-by-month comparison where normal seasonal variations in production cause changes in prices.

(1) Year-over-year comparison (February, 2007 vs. February, 2006)

According to the USDA, due to a mid-January freeze, the 2007 production of California strawberries is estimated to be down by 3% relative to 2006. Ventura County growers incurred 60% of the losses. The loss was strongly reflected in February prices, which responded in such a way as to partially compensate, or conceivably even more than compensate for, lost acreage and yields.

On the week of January 14-20, following the freeze, shipments fell 72 percent from the previous week and were also down sharply from the same period the year before. F.o.b. prices quoted in the Orange-San Diego Counties and Coachella and Oxnard growing districts that week rose to \$18.90 to \$20.90 per flat and continued to strengthen through much of February. Prices also were higher relative to the same time last year.

In particular, the February, 2007 prices for strawberries were \$1.720 per box, compared to the February 2006 prices of \$0.999 per box. While a painful loss for many Ventura growers, those farmers around the State who were spared got 72% more for their berries in the month following the freeze. We believe that fumigant caps will also result in commodity price increases, and do so in a more predictable, and hence, less impactful way than an unexpected freeze.

A quantitative estimate of price elasticity with respect to production can be built from this and could be valuable input for the ARB's decision. *Accounting for price response will reduce estimates of losses.*

(2) *Month-by-month comparison*

Another computation of price as a function of production could be produced from the comparison of monthly shipments and grower price:

From the data given by USDA, it is clear that the monthly production of strawberries and price follow an inverse relationship. We expect that any quantitative analysis by an agricultural economist with access to the underlying data would show that a substantial fraction of the decreased revenues in weak production months would be recovered due to the higher prices growers are paid for their strawberries in those months.

The application to the problem at hand—fumigant caps—is that a substantial fraction of the decreased revenue from decreased fumigated acreage would similarly be recouped by the higher prices growers are paid for the strawberries they continue to grow.

A quantitative estimate of price response based can also be built from this, would be valuable input for the ARB's decision.

An estimate of crop substitution towards crops less dependent on fumigation, including, for example a slowing in the rapid decline of citrus acreage, would also result in a decrease in the loss estimates.

The above analyses should be performed and price elasticity and crop substitution should be incorporated into any economic loss estimate that is to be taken seriously. *Without price elasticity and crop substitution analyses, any anecdotal evidence or estimates based strictly on complete elimination of acreage from production are overly simplistic scenarios that do not capture the likely response of the market or growers to the implementation of fumigant caps; therefore, such estimates significantly overestimate financial losses.*

Conclusion

We do not believe that the sufficiently compelling arguments have been supplied to warrant modifying the State Implementation Plan for Ventura County.

Additionally, it's important to note that many industries have endured dislocation for the sake of clean air and health. During the over 10 years since the 1994 SIP, leading up to the January 1st, 2008 regulations, Ventura farmers have established a clear trend of *adding* fumigated strawberry acreage as documented in DPR reports. The illegal actions of DPR and ARB to avoid your promises have resulted in a systematic *rise* in fumigant usage and emissions from the baseline, when the opposite should have occurred. Arguments of financial losses must also be considered in this context of illegality: such

unchecked growth in strawberry production never could have occurred to begin with had the law been followed and regulations been implemented ten years ago.

For all of the arguments stated above and, most importantly, for the health and safety of Ventura County residents, we strongly object to the proposed State Implementation Plan revisions for Ventura County and ask that you do not approve them.

Thank you for your consideration of these points,

Brian R. Hill, PhD
Director, Science Department
Pesticide Action Network, North America

Anne Katten
Pesticide and Work Health and Safety Specialist
California Rural Legal Assistance Foundation

Tracey Brieger
Acting Director
Californians for Pesticide Reform

Luis R. Cabrales
Campaign and Outreach Associate
Coalition for Clean Air

Susan Frank
President & CEO
Steven and Michele Kirsch Foundation

René L. Guerrero
Legislative Advocate
Planning and Conservation League

Bill Magavern
Senior Representative
Sierra Club California

Mary Milner Haffner
Community and Children's Advocates
Against Pesticide Poisoning, Ventura

Mati Waiya
Executive Director
Wishtoyo Foundation/Ventura Coastkeeper

VIA ELECTRONIC MAIL

cc (via electronic mail):

CARB Board Members

Clerk of the Board

<http://www.arb.ca.gov/lispub/comm/bclist.php>

Elaine Chang, DrPH.
Deputy Executive Officer
Planning, Rule Development and Area Sources
South Coast Air Quality Management District

Endnotes

ⁱ *El Comité para el Bienestar de Earlimart v. Helliker*, 416 F. Supp. 2d 912 (E.D. Cal.).

ⁱⁱ “Appendix H, REVISED

Proposed Revision to the Pesticide Element of the 1994 Ozone SIP for the Ventura County Nonattainment Area, August 13th, 2007,” retrieved from <http://www.arb.ca.gov/planning/sip/2007sip/apr07draft/revdrftapph2.pdf> on August 23rd, 2007.

ⁱⁱⁱ *Ibid*, p. 2.

^{iv}

^v “Growers will be able to recover the compliance costs by converting those fields to crops for which fumigation is not necessary, or other uses,” “Field Fumigant Emissions Reduction,” DPR Regulation No. 07-002, Notice of proposed regulatory action, <http://www.cdpr.ca.gov/docs/legbills/rulepkgs/07-002/notice.pdf>.

^{vi} www.ers.usda.gov/Briefing/FruitAndTreeNuts/fruitnutpdf/Strawberries.pdf,
www.ers.usda.gov/Publications/FTS/2007/03Mar/FTS326.pdf.