

# The Long Road to Section 18 Registration

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To most of the California avocado community, approval of the Agri-Mek Section 18 for use on avocado thrips has become a rite of spring. Every year for the last six years the Commission has submitted an application to regulatory agencies, and each year until 2004 the paperwork has worked its way through the California Department of Pesticide Registration (CA-DPR), then through the US Environmental Protection Agency (US-EPA), and finally back to CA-DPR. CA-DPR then gives the green light to county agricultural commissioners who provide the permits to growers to begin treatments.

This was not the case for the current year. While Agri-Mek was approved February 18, 2004 for use on California avocados to treat thrips, the pathway to approval was very difficult. In an industry that demands value from its Commission, several growers and Pest Control Advisors have suggested we describe the difficult process Commission staff and others went through to secure a Section 18 for Agri-Mek in 2004. Here is a very brief overview.

In September 2003, the Commission submitted the application for reauthorization for use of Agri-Mek under US-EPA Section 18 Emergency Exemption to CA-DPR. This was our sixth consecutive application, so the 70-page document, which is now fairly familiar to CA-DPR staff, made it through CA-DPR review rapidly and was forwarded to US-EPA for their approval. It was at US-EPA that things did not go as expected. Normally we know that our application is to be approved by the middle of January just prior to the February 1 spray season start date. This year, because of a newly required in-depth review at US-EPA, the process was delayed. When CAC had not received confirmation of approval by January 20, 2004, we began an investigation to determine the status of our application.

Under relatively new US-EPA rules, a Section 18 Emergency Exemption (which has been approved over several consecutive years) must undergo full, in-depth review

every third year of use. We had our first approved Section 18 in 1999, which was the first full review, and then we have had approval four more times, 2000 – 2003 without a full review. Recognizing this, US-EPA conducted a full review of all of our documentation this year and discovered a serious problem, that is, we have had spinosad (Success) registered for use on avocados since spring 2000. Under ideal conditions, spinosad can give adequate control of avocado thrips and (as US-EPA staff pointed out) this is supported by the results of published University trials. So under Section 18 application rules, we therefore did not have an emergency need for Agri-Mek because, according to US-EPA, we have an effective registered alternative material.

While we all know from experience that Agri-Mek outperforms Success in almost every aspect of avocado thrips control, this did not concern staff at US-EPA because they are obligated to follow the regulations governing the issuance of Section 18 Exemptions. The US-EPA informed CA-DPR on February 6, 2004, that they were intending to turn down our application. We now faced a serious problem – how to convince US-EPA that we needed to have Agri-Mek, and get their staff to understand that the California Avocado Industry stood to lose millions of dollars in revenue without it.

We mobilized a diverse group to help address the problem including UC scientists, Industry PCA's, leading growers, CAC Board members, lobbyists, Syngenta Crop Protection (Agri-Mek manufacturer), Dow AgroSciences (Success manufacturer), the California Secretary of Agriculture, and legislative staff. Dr. Joseph Morse and others at the University of California provided the scientific data comparing Success versus Agri-Mek from 23 field trials done in California since 1999. Dr. Karen Jetter at the University of California Agricultural Issues Center located at Davis provided an independent economic analysis estimating losses to the avocado industry under the scenario of not having Agri-Mek for thrips control. (A sum-

mary of this is provided in the previous article). Several leading PCA's provided testimonial letters, describing their experiences with Agri-Mek versus spinosad. Reuben Hofshi, Chairman of CAC Production Research Committee, and others addressed the helicopter shortage issue in letters and phone calls. Peter Changala, CAC Board member, contacted A. G. Kawamura, California Secretary of Agriculture, who pressed CDFAs staff to work on the issue. Avocado industry lobbyists in Washington DC put pressure on the EPA to keep the process moving forward because the spray season was rapidly approaching, and they readied legislative staff on the issue in case we needed our State Senators to step into the fray.

Over an intense two-week period in the middle of February 2004, a coordinated exchange occurred between CAC, CA-DPR, and US-EPA as we tried everything in our power to sway the latter agency and secure Agri-Mek for use this season. The EPA made several requests for additional information, which was provided by our team; then on Tuesday, February 17, 2004, CA-DPR informed CAC that US-EPA had drafted a letter of refusal to our Section 18 Application which would be mailed out on February 18.

In response to the impending decision, which would likely have cost our avocado industry tens of millions of dollars, CAC requested CA-DPR to try and find a compromise with US-EPA and see whether we could get Agri-Mek for use under a US-EPA Section 18 Crisis Exemption. This is a relatively rare registration category used by state departments of agriculture when decisions are pending at US-EPA – but where the spray season for a particular pest has already begun. In the final hour, US-EPA agreed to a compromise.

We were granted a Section 18 Crisis Exemption for use on avocado thrips in California effective February 18, 2004 and valid until December 1, 2004. Under the agreement growers may not apply more than

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one application per grove per season and it is available for aerial application only. The reasoning we used to get this compromise in the final hour is as follows:

The avocado industry acknowledges that we have had Success available as a fully-registered material for avocado thrips treatment. Under ideal conditions, when Success is applied by ground rig, and applied more than one time, we have seen adequate control of avocado thrips (according to results of published University trials). We also have a large proportion of acreage that is inaccessible by ground rig, thus requiring helicopters for application. However, we do not have the logistical support (simply not enough helicopters available) to spray Success from the air; which would require at least two applications per acre, and probably more, to achieve a reasonable degree of control. We do not believe that Success is as effective as Agri-Mek when applied by air. Data and local PCA experience indicate that a single application of Agri-Mek by air often gives good

avocado thrips control throughout the period of fruit susceptibility.

Under this compromise US-EPA will keep our 2004 Section 18 application "open" and CAC will provide more experimental data on efficacy comparing Agri-Mek and Success both by ground and air from trials to be conducted this spring; an economic analysis of the differences observed; and solid information to support our contention that there is no elasticity in the local aerial applicator business to meet any future large increase in spring-time demand for aerial spraying in avocados (if we were forced to use Success several times per season instead of Agri-Mek once). We will work hard to provide this information in case need to apply for Section 18 registration of Agri-Mek again in 2005. However, we are tentatively expecting full Section 3 Federal Registration of this critical material by next season which will negate the need for further applications.

While CAC has had a barrage of complaints since the issuance of the Section 18, mostly concerning the new restrictions placed on Agri-Mek use in 2004, it should be clear to most that continued use of Agri-Mek is being allowed against all odds, and that this achievement likely saved the industry many millions of dollars. In fact, an independent study conducted by Dr. Karen Jetter at the University of California Agricultural Issues Center (see previous article) indicates that the addition of Agri-Mek to our small battery of thrips control materials will save around \$10 million in avocado industry revenue in 2004.

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