



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

In the Matter of: )  
)  
Bayer CropScience LP and ) FIFRA-HQ-2016-0001  
Nichino America, Inc., )  
)  
Petitioners. )

**ORDER ON MOTION TO FILE AN AMICUS BRIEF**

On April 7, 2016, a collection of agricultural groups<sup>1</sup> I will label, as they do, the “Growers,” filed a motion seeking leave to file an *amicus curiae* brief in this proceeding. The procedural rules governing this case provide that “[p]ersons not parties to the proceedings wishing to file briefs may do so by leave of the Administrative Law Judge granted on motion.” 40 C.F.R. § 164.31(d). That motion must “identify the interest of the applicant and . . . state the reasons why the proposed amicus brief is desirable.” *Id.*

The Growers’ motion states that they have an interest in the availability and cost of pesticide products, and that their operations would be “vitaly affected” by the cancellation of flubendiamide. Grower’s motion at 2. They argue that the Agency’s choice to proceed under Section 6(e) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) rather than Section 6(b) risks denying them their right to input in a potential cancellation decision, and that Congress recognized the importance of such input when it directed the Administrator to consider, among other things, the effects of any cancellation on the agricultural economy. *Id.*, discussing 7 U.S.C. § 136d(b) (“In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy”).

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<sup>1</sup> The American Soybean Association, Agricultural Council of California, Agricultural Retailers Association, Almond Hullers & Processors Association, American Peanut Council, American Pistachio Growers, California Alfalfa and Forage Association, California Cherry Board, California Cotton Ginners and Growers Association, California Farm Bureau Federation, California Fresh Fruit Association, California League of Food Processors, California Pear Advisory Board, California Specialty Crops Council, California Tomato Growers Association, California Tomato Research Institute, Inc., California Walnut Commission, Delta Council, Florida Fertilizer & Agrichemical Association, Florida Fruit & Vegetable Association, Grower- Shipper Association of Central California, Minnesota Agri-Growth Council, National Corn Growers Association, National Cotton Council, National Potato Council, National Sorghum Producers, Northwest Horticultural Council, Oregonians for Food & Shelter, Pacific Northwest Vegetable Association, South Dakota Corn Growers Association, Tobacco Growers Association of North Carolina, Inc., US Apple Association, Washington Asparagus Commission, Washington Blueberry Commission, Washington Friends of Farms & Forests, Western Agricultural Processors Association, and Western Growers Association.

As the movants have timely filed their request and sufficiently demonstrated their interest in this proceeding, their request for leave to file an *amicus curiae* brief is hereby **GRANTED**.

**SO ORDERED.**



\_\_\_\_\_  
Susan L. Biro  
Chief Administrative Law Judge

Dated: April 8, 2016  
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **Order Granting Leave to File an Amicus Brief** was issued by Chief Administrative Law Judge Susan L. Biro dated April 8, 2016, was served this day in the following manner to the addressees listed below:

  
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