

FEDERAL & STATE PESTICIDE MATTERS – MAY 2018

PISTACHIOS

Please review the following summary of current federal and state pesticide matters. Should you have any questions or concerns about anything, [contact us](#).

CURRENT TOPICS:

MAXIMUM RESIDUE LEVEL UPDATE

- **MAXIMUM RESIDUE LEVEL UPDATE – KOREA**
 - Korea is proposing to establish simultaneous testing methods for mycotoxins, including aflatoxin and Ochratoxin A, in foods. FAS USDA was unable to receive a formal translation of the proposed methods and when received we will update the monthly report with the information.
- **MAXIMUM RESIDUE LEVEL UPDATE – EU**
 - The EU is implementing a new MRL for Fosetyl of 500ppm in Pistachios. The EU previously adopted a temporary MRL of 75ppm for Fosetyl, pending further regulation.
 - The EU is proposing a new MRL for Bromadiolone of 0.01ppm in Pistachios. **The U.S. does not maintain a tolerance for the use of this chemical in pistachios.**
 - The EU is proposing an MRL for Paclbutrazal of 0.02ppm in Pistachios. **The U.S. does not maintain a tolerance for the use of this chemical in pistachios.**
 - The EU is proposing an MRL for Penconazole of 0.01ppm in Pistachios. **The U.S. does not maintain a tolerance for the use of this chemical in pistachios.**
- **MAXIMUM RESIDUE LEVEL UPDATE – JAPAN**
 - Japan is proposing to delete an MRL for Chlorfluzuron of 2.0ppm in “Other Nuts”. **The U.S. does not maintain a tolerance for the use of this chemical in pistachios.**

FEDERAL

- **EPA Receives Petition Requesting New Pesticide Uses Herbicide Mefentrifluconazole**
 - In a May 18, 2018, *Federal Register* notice, EPA announced it received a request to establish tolerances for residues of the fungicide mefentrifluconazole (BAS 750 F); 2-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-1-(1H-1,2,4-triazole-1-yl)propan-2-ol] in or on various commodities, including **tree nut** (Crop Group 14-12) at 0.6 ppm as requested by BASF Corporation.
 - Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OPP-2017-0006; FRL-9976-87 in the “Search” box.
 - To view the *Federal Register* notice, please click [here](#).
- **EPA Receives Application for New Uses of Emamectin Benzoate and Buprofezin**
 - In a June 4, 2018, *Federal Register* notice, EPA announced it received applications to register new uses of insecticide emamectin benzoate in or on various commodities, including **tree nut** (Crop Group 14-12) as requested by Interregional Research Project No. 4.
 - In the same *Federal Register* notice, EPA announced it received applications to register new uses of insecticide buprofezin or on various commodities, including **tree nut** (Crop Group 14-12) as requested by Nichino America, Inc.
 - Comments must be received on or before **July 5, 2018**.
 - Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OPP-2017-0008; FRL-9976-89 in the “Search” box.
 - To view the *Federal Register* notice, please click [here](#).

- **France Bans Import of Cherries from Countries Where Dimethoate is Authorized**
 - On April 6, 2018, France issued its third emergency order suspending importation of fresh cherries from countries where the pesticide dimethoate is authorized for use on cherries and cherry trees.
 - The order became effective on April 6, 2018 until April 5, 2019.
 - Twice previously, France has instituted the same ban: between April 26 and December 31, 2017 and April 22 and between April 22 and December 31, 2016.
 - Dimethoate has been used to control *Drosophila suzukii*, an Asian fruit fly which causes significant damage in cherry orchards.
 - French Authorities had requested the European Commission take emergency measures to prohibit the use of dimethoate on cherry because of the lack of finalized data to establish the extent of risk to human health.
 - Additional information is available at <https://www.fas.usda.gov/data/france-france-re-instates-ban-us-cherry-imports>.

- **Extended Comment Period for Biological Opinion on Chlorpyrifos, Diazinon, & Malathion**
 - In a May 15, 2018, *Federal Register* notice, EPA extended the comment period for the National Marine Fisheries Service's (NMFS) Biological Opinion on chlorpyrifos, diazinon, and malathion after receipt and consideration of several extension requests citing the length and complexity of the Biological Opinion, and the additional time needed to compile the necessary information requested by EPA.
 - Previously, on March 23, 2018, EPA opened a 60-day comment period for the National Marine Fisheries Service's (NMFS) Biological Opinion on chlorpyrifos, diazinon, and malathion.
 - Comments must be received on or before **July 23, 2018**.
 - On January 18, 2017, EPA released national-level endangered species Biological Evaluations (BEs) for chlorpyrifos, diazinon, and malathion to assess risks to listed species from registered uses of these pesticides. These BEs were completed in accordance with the joint Interim Approaches developed to implement the recommendations of the April 2013 National Academy of Sciences (NAS) report, *Assessing Risks to Endangered and Threatened Species from Pesticides*.
 - The NAS report outlined recommendations on specific scientific and technical issues related to the development of pesticide risk assessments that EPA and the FWS and NMFS must conduct to meet their obligations under the ESA.
 - Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OPP-2018-0141/FRL-9977-67, in the "Search" box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Designates the San Joaquin Valley in Nonattainment for 2015 NAAQS for Ozone**
 - In a June 4, 2018, *Federal Register* notice, EPA established the initial air quality designations for certain areas, including the San Joaquin Valley, which it designated as extreme nonattainment.
 - Previously on November 6, 2017, EPA designated about 85 percent of the country as attainment or unclassifiable and three counties as unclassifiable. In this action, EPA designated all remaining areas.
 - On February 8, 2018, the D.C. Court of Appeals had ordered EPA to submit a report by May 15, 2018 on the status of the designations for all areas pursuant to the more stringent 70 ppb ozone standard. The order was issued in a case started in December 2017, filed by the attorneys general of several states alleging that failure to timely designate nonattainment areas was delaying the Clean Air Act's (CAA) requirements for measures to reduce pollution in these areas, resulting in further harm to public health.
 - In a June 8, 2018 filing with the D.C. Circuit in a related lawsuit, EPA stated that it is "hopeful that by August 1, 2018, the Agency will have made a final decision on its expected administrative path forward," on whether to accelerate the Clean Air Act-mandated review of the ozone standard due by Oct. 1, 2020, or whether to pursue the reconsideration process.
 - EPA is considering options to provide states and industries regulatory relief when implementing the ozone NAAQS, including streamlining CAA permitting reviews and revising monitoring procedures, according to a report to submitted to Congress on August 14, 2017.
 - In October 2015, EPA changed the primary health-based NAAQS for ozone from 75 parts per billion (ppb) to 70 ppb based on a determination that the 2008 standard was inadequate to protect human health and welfare. EPA also defended the secondary environment-based NAAQS for

- ozone, also set at 70 ppb, based on its review of the science on ozone impacts and feedback from the EPA Clean Air Scientific Advisory Committee.
 - o Critics of the more stringent 70 ppb ozone standard have argued that naturally occurring background ozone, such as ozone associated with wildfires and internationally transported ozone, will prevent attainment despite revised state implementation plans required under the new standard.
 - o Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OAR-2017-0548; FRL-9977-72-OAR in the “Search” box.
 - o To view the Federal Register notice, please click [here](#).
- **Extended Comment Period on EPA Rules on Transparency in Regulatory Science**
 - o In a May 25, 2018, *Federal Register* notice, EPA announced it extended the comment period on a regulation intended to strengthen the transparency of EPA regulatory science. EPA also announced a public hearing to be held for the proposed rule.
 - o The hearing will be held on **July 17, 2018** in Washington, DC.
 - o The proposed regulation provides that when EPA develops regulations, including regulations for which the public is likely to bear the cost of compliance, with regard to those scientific studies that are pivotal to the action being taken, EPA should ensure that the data underlying those are publicly available in a manner sufficient for independent validation.
 - o EPA is proposing to establish new policy specifically for the dose response data and models that underlie what EPA is calling “pivotal regulatory science,” or the studies, models, and analyses that drive the magnitude of the benefit-cost calculation, the level of a standard, or point-of-departure from which a reference value is calculated. In other words, they are critical to the calculation of a final regulatory standard or level, or to the quantified costs, benefits, risks and other impacts on which a final regulation is based.
 - o Comments must be received on or before **August 16, 2018**.
 - o Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OA-2018-0259; FRL-9978-31-ORD in the “Search” box.
 - o To view the Federal Register notice, please click [here](#).

STATE

- **Cidetrak CMDA+Now Meso ((Z,Z)-11, 13-Hexadecadienal) Issued Section 3 Registration**
 - o On May 18, 2018, DPR announced a final decision to issue a Section 3 Registration request for Cidetrak CMDA+Now Meso ((Z,Z)-11, 13-Hexadecadienal 2,4-Decadienoic Acid, Ethyl Ester, (2E, 4Z)- E,E-8, 10-Dodecadien-1-OL) for the control of codling moth, hickory chuckworm, and navel orangeworm in **tree nut** orchards, as requested by Trece, Inc.
- **Cidetrak Now Meso ((Z,Z)-11, 13-Hexadecadienal) Issued Section 3 Registration**
 - o On June 1, 2018, DPR announced a final decision to issue a Section 3 Registration for Cidetrak Now Meso ((Z,Z)-11, 13-Hexadecadienal) for the control of navel orangeworm in **tree nut** orchards, as requested by Trece, Inc.
- **CARB Announces Public Comment Period for the Draft Community Air Protection**
 - o On June 7, 2018, CARB released a Draft Blueprint and Draft Environmental Analysis and announced it will conduct a public meeting to consider the approval of the Community Air Protection Blueprint (Blueprint).
 - o The Draft Blueprint is a proposed project under the California Environmental Quality Act (CEQA). The Blueprint is a statewide strategy and monitoring plan for CARB Board consideration by October 1, 2018. The Draft Blueprint specifically outlines the proposed process for identifying impacted communities, statewide strategies to reduce emissions of criteria air pollutants and toxic air contaminants, as well as proposed criteria for development of community emissions reduction programs and community air monitoring campaigns.
 - o Comments on the Draft Blueprint are due by **July 23, 2018**.
 - o The hearing is tentatively scheduled for **September 27, 2018**.

- Additional information, including the report is available at https://ww2.arb.ca.gov/our-work/programs/community-air-protection-program-ab-617?utm_medium=email&utm_source=govdelivery.
- **DPR Finalizes Annual VOC Emissions Inventory Report for 1990-2016**
 - On May 17, 2018, DPR released the final annual volatile organic compound emissions inventory report for 1990-2016 pesticide use data. The draft report was issued on March 9, 2018.
 - The report includes a comparison of pesticide VOC emissions with the state implementation (SIP) goals for five ozone nonattainment areas (NAAs). The 2016 pesticide VOC emissions for all of the five NAAs complied with the SIP goals and VOC regulation benchmarks, ranging from 25 to 89 percent less than emissions in the 1990 base year, depending on the NAA.
 - Relative to 2015, pesticide VOC emissions in 2016 decreased for three NAAs and increased for two NAAs.
 - Prohibitions on the use of high-VOC products for abamectin, chlorpyrifos, gibberellins, and oxyfluorfen on certain crops in the San Joaquin Valley NAA went into place May 1 through October 31, 2015 and due to calculated hypothetical emissions for 2016 reaching the trigger level of 17.2 tons per day, the prohibitions will remain in effect between the May 1 through October 31 period during 2018 and 2019.
 - Applications to **pistachios** increased 22% from 0.652 tpd in 2015 to 0.799 tpd and contributed 5% of the VOC emissions for the San Joaquin Valley NAA in 2016. Bifenthrin and permethrin contributed 38% of the VOC emissions from pistachios for this NAA.
 - Additional information, including the report is available at http://www.cdpr.ca.gov/docs/emon/vocs/vocproj/voc_data_analysis.htm.