

# FEDERAL AND STATE PESTICIDE MATTERS – AUGUST 2019

## 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 – EU
- CHLORATE UPDATE
  - The European Commission has finalized the draft Regulation on chlorate MRLs. It has now been sent to all Member States for their review. A discussion will take place during the Standing Committee and possibly vote on this draft. According to the Commission there are no changes to the proposed MRLs.
  - The proposed MRL for tree nuts is 0.1ppm.
  - The draft regulation states, “The data shows a general trend towards decreasing levels, suggesting that manufacturing practices have already improved to a certain extent. In the specific case of chlorate, for which residues do not stem from pesticide use but result from use of chlorine-based solutions in food processing and drinking water treatment, maximum levels should be set at levels which are 'as low as reasonably achievable' (ALARA principle) by following good manufacturing practices while ensuring at the same time that good hygiene practices remain possible. This approach ensures that food business operators apply measures to prevent and reduce the chlorate levels in food as far as possible in order to protect public health, but also take into account the need for microbiological safety of food.
  - The draft also includes the following footnote which applies for processed products (e.g. dried fruit, canned fruit and vegetables):
    - *“(A) To take into account the specific situation of chlorate residues, in processed food (including for the purpose of this Regulation foodstuffs that have been derived using processes listed in Article 2(1)(n) of Regulation (EC) No 852/2004), that has come in contact with products containing chlorate residues, or that contains ingredients with such residues, such as processing aids or drinking water, used in compliance with the respective legal requirements, these additional contributions of chlorate residues should be taken into account when determining the permitted content of chlorate residues in or on the processed food products in accordance with Article 20 (1) of this Regulation. **The burden of proof regarding the level of those additional contributions lies with the food and feed business operator.**”*
  - Member States will be responsible for the implementation of the rules, and they can decide what actions may be taken in case of exceedances.
  - In case MRL is exceeded, the National Authority may ask the food business operator to investigate what are the sources of the chlorate residue.
  - If adopted, these temporary MRLs will have to be reviewed within 5 years.
  - If this draft Regulation is not adopted, the default level will apply (0.01ppm).
- PROPOSED EU PESTICIDE MRL AMENDMENTS

- The EU is proposing to lower the MRL for Prochloraz in Pistachios to 0.03ppm; the current MRL for this chemical in pistachios is 0.1ppm. The U.S. does not maintain a tolerance for the use of this chemical in pistachios.

## **FEDERAL**

- **EPA Establishes Tolerances for Residues of Pyraflufen-Ethyl**
  - In a September 12, 2019, *Federal Register* notice, EPA announced it was establishing new tolerances for residues of the herbicide pyraflufen-ethyl in or on multiple commodities, including **tree nut group 14-12** at 0.01 ppm, as requested by Interregional Research Project No. 4.
  - This regulation is effective September 12, 2019. Objections and requests for hearings must be received on or before **November 12, 2019**.
  - Additional information is available by entering the Docket # EPA-HQ-OPP-2018-0514 / FRL-9998-98 in the “Search” box at [www.regulations.gov](http://www.regulations.gov).
  - To view the *Federal Register* notice, please click [here](#).
- **EPA Proposes Interim Process for Evaluating Potential Synergistic Effects of Pesticides**
  - In a September 9, 2019, *Federal Register* notice, EPA announced a proposal for an interim process it developed to address risk estimate uncertainties associated with greater than additive effects (GTA effects) in mixtures of pesticide active ingredients for controlling pests (often referred to as “synergy”). EPA developed a process to document, review and, if necessary, revise ecological risk estimates.
  - Comments must be received on or before **October 24, 2019**.
  - Generally, for new chemicals (specifically new conventional pesticide active ingredients) and other new products or other active ingredients for which EPA has specific concerns about the potential for GTA effects, as part of the registration process, EPA will request registrants to provide GTA effect information on approved patents and conduct appropriate statistical analysis of that information.
  - Additional information is available by entering the Docket # EPA-HQ-OPP-2017-0433/ FRL 9998-18 in the “Search” box at [www.regulations.gov](http://www.regulations.gov).
  - To view the *Federal Register* notice, please click [here](#).
- **Agencies Finalize Interagency Cooperation Procedures Under the Endangered Species Act**
  - In an August 27, 2019, *Federal Register* notice, the U.S. Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration (NOAA) announced revisions to portions of the regulations that implement section 7 of the Endangered Species Act of 1973 (Act). The revisions to the regulations clarify, interpret, and implement portions of the Act concerning the interagency cooperation procedures.
  - The final rule is effective **September 26, 2019**.
  - Title 50, part 402, of the Code of Federal Regulations establishes the procedural regulations governing interagency cooperation under section 7 of the Act, which requires federal agencies, in consultation with and with the assistance of the Secretaries of the Interior and Commerce to insure that any action authorized, funded, or carried out by such agencies is not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species.
  - The revisions to the regulations clarify, interpret, and implement portions of the Act concerning the interagency cooperation procedures, including definitions of the following terms and standards:
    - “Effects of the Action,”
    - “Environmental Baseline,”
    - Deadlines for Informal and Formal Consultations, and
    - Reinitiation of Consultation.
  - Additional information is available by entering the Docket # FWS-HQ-ES-2018-0009/ FXES11140900000-189-FF09E300000 in the “Search” box at [www.regulations.gov](http://www.regulations.gov).
  - To view the *Federal Register* notice, please click [here](#).

- **EPA Establishes Tolerances for Residues of Propiconazole (Reminder)**
  - In a July 24, 2019, *Federal Register* notice, EPA announced it was establishing tolerances for residues of propiconazole in or on various commodities, including **pistachios** at 0.1 ppm, as requested by Interregional Research Project No. 4 (IR-4).
  - This regulation is effective August 12, 2019. Objections and requests for hearings must be received on or before **October 11, 2019**.
  - Additional information is available by entering the Docket # EPA-HQ-OPP-2018-0127 / FRL-9997-00 in the “Search” box at [www.regulations.gov](http://www.regulations.gov).
  - To view the *Federal Register* notice, please click [here](#).
  
- **EPA Establishes Tolerances for Residues of Sulfoxaflor (Reminder)**
  - In a July 24, 2019, *Federal Register* notice, EPA announced it was establishing tolerances for residues of sulfoxaflor in or on various commodities, including **tree nuts** group 14-12 at 0.015 ppm, as requested by Interregional Research Project No. 4 (IR-4) and Dow AgroSciences LLC.
  - This regulation is effective July 24, 2019. Objections and requests for hearings must be received on or before **September 23, 2019**.
  - Additional information is available by entering the Docket # EPA-HQ-OPP-2018-0179 / FRL-9995-63 in the “Search” box at [www.regulations.gov](http://www.regulations.gov).
  - To view the *Federal Register* notice, please click [here](#).

## STATE

- **Water Board Receives East San Joaquin Water Quality Coalition 2018 Discharge Report**
  - On August 1, 2019, the Central Valley Water Board received the East San Joaquin Water Quality Coalition’s Annual Management Practice Implementation and Nitrogen Application Report (2018 Crop Year). The Report was developed to meet the requirements of General Order R5-2012-0116-08, Waste Discharge Requirements for Growers within the Eastern San Joaquin River Watershed that are Members of a Third-party Group. Order R5-2012-0116-08 covers waste discharges, including fertilizers, fumigants, and pesticides.
  - Comments must be received on or before **October 9, 2019**.
  - To receive a copy of this report electronically, please contact Yared Kebede at [Yared.Kebede@waterboards.ca.gov](mailto:Yared.Kebede@waterboards.ca.gov) or by phone at 916-464-4828.
  - Order R5-2012-0116-08 is available at: [https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2012-0116-08.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2012-0116-08.pdf).
  
- **Amendments to San Joaquin Basin Plan to Incorporate Nitrate Control Program (Reminder)**
  - On August 9, 2019, the State Water Resources Control Board announced Notice of a Public Hearing adopting a resolution approving the proposed Central Valley Regional Water Quality Control Board’s amendments to the Sacramento and San Joaquin Basin Plan and the Tulare Lake Basin Plan to incorporate a Central Valley-wide Salt and Nitrate Control Program.
  - The public hearing is scheduled for **September 17, 2019**.
  - More information is available at: [https://www.waterboards.ca.gov/centralvalley/water\\_issues/salinity/](https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/).