

FEDERAL AND STATE PESTICIDE MATTERS – APRIL 2020

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**

- Politico reports that the European Commission's released its Farm to Fork plan in mid-May. This plan intends to move the EU to more sustainable agriculture and that sustainability be the trademark of European agriculture. The plan outlines a strategy to reduce pesticide usage in the EU by fifty percent by 2030. However, this goal of cutting pesticide use by 2030 may prove more challenging than anticipated. The EC does not maintain pesticide usage data in a consistent manner and therefore are unable to know what pesticides and how much are applied in a given year. Because of this lack of consistent data, Politico reports that the EC "plans to measure the volume of pesticides *sold* in each country."
- More information on the EC's plan may be found at:
https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/actions-being-taken-eu/farm-fork_en
- Recently, it was announced the EC Parliament will likely oppose regulations that would raise MRLs in some pesticides, including raising some limits in Flonicamid, Haloxyfop, and Mandestrobin. Originally, the European Food Safety Authority (EFSA) confirmed these pesticides as safe. It is reported that should this vote occurs and the pesticide regulations are opposed, this would set new precedent in pesticide standard settings in the EU to become more politicized.

- **MAXIMUM RESIDUE LEVEL UPDATE – THAILAND**

- Last month we reported that the Government of Thailand recently announced a ban on the use and importation of Chlorpyrifos and Paraquat. The U.S. tolerance for the use of Paraquat in Pistachios is 0.05ppm. The California Department of Pesticide Regulation database indicated that this chemical was applied to 84,066 acres in 2017. The U.S. does not maintain a tolerance for the use of Chlorpyrifos on Pistachios. California banned the use of Chlorpyrifos. FAS USDA is reporting that the Government of Thailand plans to continue with this plan of action and the ban will go into effect in June 2020.

- **MAXIMUM RESIDUE LEVEL UPDATE – SAUDI ARABIA**

- The Kingdom of Saudi Arabia recently announced a draft of proposed Maximum Residue Levels (MRLs) for import requirements. These proposed MRLs, along with U.S. tolerances, are as follows:

<u>Commodity</u>	<u>Chemical</u>	<u>MRL</u>	<u>U.S. Tolerance</u>	<u>CA Acreage Applied</u>
Pistachio	Azoxystrobin	1.0ppm	0.5ppm	19,399
Pistachio	Boscalid	1.0ppm	0.7ppm	8,859
Pistachio	Chlorothalonil	0.3ppm	0.2ppm	2,376
Pistachio	Fludioxonil	0.2ppm	N/A	N/A
Pistachio	Permethrin	0.05ppm	0.1ppm	91,788
Pistachio	Pyraclostrobin	1.0ppm	0.7ppm	31,048
Tree Nut	Abamectin	0.005ppm	0.01ppm	8,285
Tree Nut	Acetamiprid	0.06ppm	0.1ppm	9,299
Tree Nut	Bifenazate	0.2ppm	0.2ppm	355
Tree Nut	Bifenthrin	0.05ppm	0.05ppm	312,054
Tree Nut	Carbaryl	1.0ppm	0.1ppm	11,146
Tree Nut	Carbendazim	0.1ppm	0.1ppm (Thiophanate methyl and primary metabolite Carbendazim)	1,602
Tree Nut	Chlorantraniliprole	0.02ppm	0.02ppm	207,876
Tree Nut	Clofentezine	0.5ppm	N/A	N/A
Tree Nut	Cyantraniliprole	0.04ppm	0.04ppm	286
Tree Nut	Cyflumetofen	0.01ppm	0.01ppm	2,398
Tree Nut	Cyhalothrin	0.01pm	0.05ppm	383,442

Tree Nut	Cypermethrin	0.05ppm	0.05ppm	20,330
Tree Nut	Difenoconazole	0.03ppm	0.03ppm	16,921
Tree Nut	Diflubenzuron	0.2ppm	N/A	N/A
Tree Nut	Emamection benzoate	0.001ppm	0.02ppm	1,469
Tree Nut	Etoazole	0.01ppm	0.01ppm	620
Tree Nut	Fenbuconazole	0.01ppm	N/A	N/A
Tree Nut	Fenpropathrin	0.15ppm	0.1ppm	14,031
Tree Nut	Fenpyroximate	0.05ppm	0.1ppm	589
Tree Nut	Flubendiamide	0.1ppm	0.06ppm	511
Tree Nut	Flumioxazin	0.02ppm	0.02ppm	22,435
Tree Nut	Fluopyram	0.04ppm	0.05ppm	49,710
Tree Nut	Fluxapyroxad	0.04ppm	0.06ppm	22,189
Tree Nut	Fosetyl Al	400ppm	N/A	N/A
Tree Nut	Glufosinate	0.1ppm	0.5ppm	144,085
Tree Nut	Hexythiazix	0.05ppm	0.3ppm	155
Tree Nut	Hydrogen phosphide	0.01ppm	0.1ppm	236,360 tons
Tree Nut	Imidacloprid	0.01ppm	0.05ppm	115,312
Tree Nut	Methoxyfenozide	0.1ppm	0.1ppm	153,117
Tree Nut	Methyl Bromide	10ppm (when is applied at point of entry into country)	200ppm	1,438 tons
Tree Nut	Paraquat dichloride	0.05ppm	0.05ppm	84,066
Tree Nut	Pendimethalin	0.05ppm	0.1ppm	65,302

Tree Nut	Penthiopyrad	0.05ppm	0.05ppm	25,383
Tree Nut	Phosmet	0.2ppm	0.1ppm (R)	402
Tree Nut	Pyrethrins	0.5ppm (Post Harvest use)	The U.S. maintains an exemption of a tolerance for the use of pyrethrins when it is applied during the growing of a crop; it is not exempt of a tolerance when it is used at the time of or after harvest. A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served. Food must be removed or covered prior to use.	1,154
Tree Nut	Saflufenacil	0.01ppm	0.03ppm	139,040
Tree Nut	Spinetoram	0.01ppm	0.1ppm	63,674
Tree Nut	Spinosad	0.07ppm	0.1ppm	3,306
Tree Nut	Spirodiclofen	0.5ppm	N/A	N/A
Tree Nut	Sulfoxaflor	0.03ppm	N/A	N/A
Tree Nut	Sulfuryl fluoride	3ppm (Post harvest application)	3ppm	852,100 cu.ft
Tree Nut	Tebuconazole	0.05ppm	0.05ppm	30,675
Tree Nut	Thiacloprid	0.02ppm	N/A	N/A
Tree Nut	Trifloxystrobin	0.02ppm	0.04ppm	27,662
Tree Nut	2,4-D	0.2ppm	0.05ppm	2,710

FEDERAL

- **EPA Receives Pesticide Petitions to Establish Tolerances for Residues of Several Pesticides**
 - In a May 15, 2020, *Federal Register* notice, EPA announced receipt of an initial filing of pesticide petitions requesting the establishment or modification of regulations for residues of pesticides chemicals in or on various commodities including:
 - Establishing tolerances for residues of zeta-cypermethrin (S-cyano(3-phenoxyphenyl) methyl (±))(cis-trans 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate), including its metabolites and degradates, in or on various crops, including **tree nut** group 14-12 at 0.05 ppm.
 - Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OPP-2020-0053/FRL-10006-54 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Issues Interim Registration Review Decisions for Several Pesticides**
 - In a May 5, 2020, *Federal Register* notice, EPA announced the availability of EPA's proposed interim registration review decisions and opens a 60-day public comment period on the proposed interim decisions for the following pesticides registered for use on **pistachios**: bifenthrin, boscalid, cyfluthrin, beta-cyfluthrin, fenpropathrin, permethrin, and pyraclostrobin.
 - Comments must be received on or before **July 6, 2020**.
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2017-0750; FRL-10008-11 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Announces Draft Biological Evaluation for Carbaryl**
 - In an April 27, 2020, *Federal Register* notice, EPA announced it was extending the comment period for a proposed rulemaking issued on March 17, 2020, announcing the availability of its draft biological evaluation (BE) for the registration review of carbaryl.
 - EPA has completed the comprehensive, nationwide draft BE for all carbaryl uses relative to the potential effects on listed species and their designated critical habitats. The schedule for conducting the carbaryl BE was negotiated as part of a partial settlement agreement pursuant to a joint stipulation filed on October 18, 2019 and entered by the court on October 22, 2019, in *Center for Biological Diversity et al. v. EPA et al.* (N.D. Ca) (3:11-cv-00293).
 - Comments must be received on or before **July 2, 2020**.
 - After reviewing comments received during the public comment period on the draft carbaryl BE, EPA will issue final BEs and a response to public comments document. If EPA determines that these pesticides may affect listed species and/or their designated critical habitats, EPA will initiate consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Based on the BE, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service will then develop Biological Opinions for carbaryl.

- o Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OPP-2020-0090 / FRL-10006-38 in the “Search” box.
 - o To view the Federal Register notice, please click [here](#).
 - o In 2017, 11,145 acres of **pistachios** were treated with carbaryl.
- **EPA Issues Technical Amendments to the California Air Plan Revisions**
 - o In an April 22, 2020, *Federal Register* notice, EPA issued a proposed rule proposing to delete various local rules from the California State Implementation Plan (SIP) that were approved in error. These rules include general nuisance provisions, Federal New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements, hearing board procedures, variance provisions, and local fee provisions, included provisions included for the San Joaquin Valley Unified Air Pollution Control District (APCD) portion of the applicable California SIP.
 - o EPA has determined that the continued presence of these rules in the SIP is inappropriate and potentially confusing and thus problematic for affected sources, the state, local agencies, and the EPA. The intended effect of this proposal is to delete these rules to make the SIP consistent with the Clean Air Act (CAA or “Act”). The EPA is also proposing to make certain other corrections to address errors made in previous actions taken by the EPA on California SIP revisions.
 - o Comments must be received on or before **May 22, 2020**.
 - o Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OAR-2020-0088; FRL-10007-55-Region9 in the “Search” box.
 - o To view the Federal Register notice, please click [here](#).
 - **EPA Issues Supplemental Notice of Proposed Rule on Transparency in Regulatory Science**
 - o In an April 17, 2020, *Federal Register* notice, EPA issued a supplemental notice extending the comment period for the proposed rulemaking on Strengthening Transparency in Regulatory Science published on April 30, 2018.
 - o The supplemental rulemaking proposes that the scope of the rulemaking apply to influential scientific information as well as significant regulatory decisions. This notice proposes definitions and clarifies that the proposed rulemaking applies to data and models underlying both pivotal science and pivotal regulatory science. EPA is also proposing a modified approach to the public availability provisions for data and models that would underly significant regulatory decisions and an alternate approach. Finally, EPA is taking comment on whether to use its housekeeping authority independently or in conjunction with appropriate environmental statutory provisions as authority for taking this action.
 - 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.

- Comments must be received on or before **May 18, 2020**.
- Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-HQ-OA-2018-0259; FRL-10007-88-ORD in the "Search" box.
- To view the Federal Register notice, please click [here](#).

STATE

- **Section 3 Label Amendment for Vindicate (Nitrapyrin)**
 - On May 8, 2020, DPR announced a Section 3 label amendment for Vindicate, active ingredient nitrapyrin, for use as a nitrogen stabilizer to delay nitrification of ammoniacal and urea nitrogen fertilizer compositions in the soil by controlling the nitrification process on crops such as **pistachios**. The Section 3 label amendment adds spray drift advisories, instructions for aerial application, and a non-target organism advisory statement, at the request of Dow Agrosciences LLC.
- **Section 3 Registration for AP-8030 (Capric Acide, Caprylic Acid, and Nonanoic Acid)**
 - On April 24, 2020, DPR announced a Section 3 registration for AP-8030, active ingredients capric acid, caprylic acid, and nonanoic acid, a fungicide and nematicide used for the control of nematodes and fungi present in the soil of **nut trees**. The Section 3 registration is made at the request of Adjuvants Unlimited, LLC.
- **Section 3 Registration for Quash SC Fungicide (Metconazole)**
 - On April 22, 2020, DPR announced a Section 3 registration for Quash SC Fungicide, active ingredient metconazole, a fungicide used for the control of diseases such as powdery mildew, septoria leaf spot, and white mold on various crops including **pistachios**. The Section 3 registration is made at the request of Valent U.S.A. LLC.
- **CARB Consider Adoption of Technical Revision to San Joaquin Valley PM 2.5 SIP**
 - On April 25, 2020, CARB announced it will conduct a public meeting on **May 28, 2020**, at 9:00am to consider adoption of a revision to the San Joaquin Valley PM2.5 State Implementation Plan (SIP). If adopted, CARB will submit this revision to the United States Environmental Protection Agency (U.S. EPA) as a revision to the California SIP.
 - U.S. EPA has requested that CARB provide a technical revision to an emissions reduction commitment contained in the 2012 PM2.5 Plan. The 2012 PM2.5 Plan was adopted by the District on December 20, 2012, by CARB on January 24, 2013, and approved by U.S. EPA on August 31, 2016. The revision is a translation of a reduction commitment from the inventory used in the 2012 PM2.5 Plan to the most current inventory. U.S. EPA has requested this technical revision to support its current

consideration of approval of the 2018 Plan for the 1997, 2006, and 2012 PM2.5 Standards.

- Comments must be received on or before **May 26, 2020**.
 - More information is available at: <https://ww2.arb.ca.gov/resources/documents/2018-san-joaquin-valley-pm25-plan>.
 - A copy of the Notice of Public Meeting is available at: https://ww3.arb.ca.gov/regact/2020/sjv0520.pdf?utm_medium=email&utm_source=govdelivery.
- **DPR Releases Draft Pesticide VOC Emission Inventory Report for 1990-2018**
 - On April 15, 2020, DPR announced it had completed a draft annual volatile organic compound (VOC) emissions inventory report based on 1990-2018 pesticide use data. The report includes a comparison of pesticide VOC emissions with the state implementation (SIP) goals for five ozone nonattainment areas (NAAs).
 - The 2018 pesticide VOC emissions for all five NAAs complied with the SIP goals and VOC regulation benchmarks, ranging from 21 to 90 percent less than emissions in the 1990 base year, depending on the NAA. Relative to 2017, pesticide VOC emissions in 2018 decreased for all five NAAs.
 - 3 CCR section 6452.2 requires DPR to implement additional restrictions if pesticide VOC emissions exceed 95% of the SIP goal. Prohibitions on the use of high-VOC products for abamectin, chlorpyrifos, gibberellins, and oxyfluorfen on certain crops in the San Joaquin Valley NAA as specified in 3 CCR 6884 went into place May 1 through October 31, 2015 and due to calculated hypothetical emissions for 2018 exceeding the trigger level of 95% of the SIP goal, or 17.2 tons per day, the prohibitions will remain in effect between the May 1 through October 31 period during for 2020 and 2021.
 - Additional information on the complete 2017 VOC inventory is available at: https://www.cdpr.ca.gov/docs/emon/vocs/vocproj/voc_data_analysis.htm.
 - A copy of the report is available here: https://www.cdpr.ca.gov/docs/emon/vocs/vocproj/2018_voc_annual_report_cover_letter.pdf.