

FEDERAL & STATE PESTICIDE MATTERS – JUNE 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

NO NEW INFORMATION TO REPORT

FEDERAL

- **EPA Receives Pesticide Petition to Establish Tolerances for Residues of Oxathiapiprolin**
 - In a July 6, 2020, *Federal Register* notice, EPA announced it was establishing tolerances for residues of oxathiapiprolin in or on various commodities, including **tree nut** group 14-12 at 0.1 ppm, as requested by Syngenta Crop Protection, LLC.
 - This regulation is effective July 6, 2020. Objections and requests for hearings must be received on or before **September 4, 2020**.
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2019-0128 / FRL-10009-93 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Receives Pesticide Petition to Establish Tolerances for Residues of Mefenoxam**
 - In a June 24, 2020, *Federal Register* notice, EPA announced it was establishing tolerances for residues of mefenoxam metal N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-DL-alaninate in or on various commodities, including **tree nut** group 14-12 at 0.3 ppm, as requested by Syngenta Crop Protection, LLC.
 - Comments must be received on or before **July 24, 2020**.
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2019-0346 / FRL-10010-82 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Receives Application for Registration of New Use of Fungicide Mefenoxam**
 - In a June 19, 2020, *Federal Register* notice, EPA announced it received applications to register new uses for pesticide products containing currently registered active ingredients, including the fungicide mefenoxam for use on various crops including **tree nut** crop group 14-12. The application comes at the request from Syngenta Crop Protection, LLC.
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2020-0052 / FRL-10010-85 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **U.S. Federal Court Rules Against California Labeling Requirement for Glyphosate**
 - On June 22, 2020, a U.S. federal appeals court ruled that Bayer AG did not need to include labeling on its glyphosate products that the chemical is known to cause cancer under California's Safe Drinking Water and Toxic Enforcement Act (commonly known as Proposition 65).
 - The federal court ruled that the label was not backed by regulatory determinations in other jurisdictions, with the exception of the International Agency for Research on Cancer (IARC) of the World Health Organization (WHO), which in 2015 concluded that glyphosate is "probably carcinogenic." California subsequently listed glyphosate as a carcinogenic chemical based on the IARC finding. Under Proposition 65, no person in the course of doing business could lawfully knowingly or intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving a clear and reasonable warning.
 - Previously, on July 7, 2017, the California Office of Environmental Health Hazard Assessment's (OEHHA) listed glyphosate under Proposition 65, as known to the state to cause cancer.
 - On March 28, 2017, OEHHA had posted a notice on its website that glyphosate would be added to the list of chemicals known to the state to cause cancer for purposes of Proposition 65 with a delayed effective date due to the pending case *Monsanto v OEHHA*.
 - Monsanto (subsequently purchased by Bayer AG) had filed suit against OEHHA on January 21, 2016, alleging that the proposal to list glyphosate under Proposition 65 violates the California Constitution, is based on an impermissible listing mechanism, and contradicts existing assessments by OEHHA and EPA.
 - More information on OEHHA's decision to list glyphosate is available at <https://oehha.ca.gov/proposition-65/cnr/glyphosate-listed-effective-july-7-2017-known-state-california-cause-cancer>.

- **Agencies Reports to Congress on Consultation Process Under the Endangered Species Act**
 - On June 26, 2020, the Environmental Protection Agency submitted its second report to Congress describing the progress achieved to create a more effective review process regarding pesticide impacts under the Endangered Species Act (ESA).
 - 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.
 - To view the reports submitted to Congress, please click here: <https://www.epa.gov/endangered-species/reports-congress-improving-consultation-process-under-endangered-species-act>

- **EPA Receives Pesticide Petition to Establish Tolerances for Residues of Fluridone (Reminder)**
 - In a May 18, 2020, *Federal Register* notice, EPA announced it was establishing tolerances for residues of fluridone in or on various commodities, including **pistachios** at 0.1 ppm, as requested by SePRO Corporation.
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2019-0074 / FRL-10007-09 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **Extended Comment Period for EPA Registration for Several Neonicotinoids (Reminder)**
 - In a May 19, 2020, *Federal Register* notice, EPA announced it was extending the comment period for a February 3, 2020, *Federal Register* notice announcing the availability of its proposed interim registration review decisions for acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam.
 - EPA is conducting its registration review of glyphosate pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review, which require that the registrations of pesticides are to be reviewed every 15 years.

 - The Agency published preliminary ecological and human health risk assessments in December 2017 for the neonicotinoid insecticides, clothianidin, thiamethoxam, and dinotefuran, and a preliminary ecological risk assessment for imidacloprid (assessing risks to birds, mammals, non-target insects, and plants).
 - Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2017-0750 / FRL-10009-71 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

STATE

- **Webinar on Pollinator Protection Measures for Nitroguanidine-Substituted Neonicotinoids**
 - On June 30, 2020, DPR announced it was holding webinars to share information and gather feedback from the public on proposed pollinator protection mitigation measures for the use of nitroguanidine-substituted neonicotinoids in agricultural crops.
 - In July 2018, DPR issued a pollinator risk determination for neonicotinoids. DPR concluded that additional mitigation measures were needed to protect pollinators from the use of the nitroguanidine-substituted neonicotinoids imidacloprid, thiamethoxam, clothianidin, and dinotefuran in agricultural crops.
 - DPR intends to implement mitigation measures through regulations. DPR’s regulation proposal will be presented at two webinars. DPR encourages interested parties to attend and provide feedback as to the clarity and workability of the proposal.
 - Interested parties can view the webinar at <https://video.calepa.ca.gov> during the following timeframes:

- August 11, 2020 at 3:00 pm – 5:30 pm PDT
 - August 12, 2020 at 5:30 pm – 8:00 pm PDT
 - Comments will be accepted until **September 11, 2020**, at 5:00 pm PDT.
 - For more information about this notice, please click [here](#).
- **Section 3 Registration for AP-8030 (Capric Acid, Caprylic Acid, Nonanoic Acid)**
 - On June 19, 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 various crops including **tree nuts**.
- **Final Pesticide VOC Emission Inventory Report for 1990-2018**
 - On July 17, 2020, DPR released the Final Pesticide VOC Emission Inventory report for 1990-2018. The report includes all comments that were received in the 45-day comment period that ended June 1, 2020.
 - The 2018 pesticide VOC emissions for all of the 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.
 - However, calculated 2018 hypothetical emissions in the San Joaquin Valley NAA exceeded the trigger level of 95% of the SIP goal, or 17.2 tpd. Therefore, as required under 3 CCR section 6452.2[f], the prohibitions on the use of high-VOC products for abamectin, chlorpyrifos, gibberellins, and oxyfluorfen on certain crops in the San Joaquin Valley NAA will remain in effect during the May 1 through October 31 period for 2020 and 2021.
 - The VOC Emission Report and its appendices may be found at https://www.cdpr.ca.gov/docs/emon/vocs/vocproj/2018_voc_annual_report.pdf and https://www.cdpr.ca.gov/docs/emon/vocs/vocproj/2018_appendices.pdf
- **Draft 2019 Air Monitoring Network Report**
 - On July 17, 2020, DPR released the Draft 2019 Air Monitoring Network Report. The Air Monitoring Network monitors pesticide emissions in eight California communities for 31 pesticides and 5 pesticide break-down products.
 - Of the 36 chemicals monitored, 10 were not detected, 16 were only detected at trace levels, and the remaining 10 compounds (1,3-dichloropropene (1,3-D), chloropicrin, dacthal, DDVP, EPTC, malathion, malathion oxygen analog (OA), MITC, pp-dicofol, and trifluralin) were detected at quantifiable levels. The three chemicals with the highest number of detections from all eight sites were chloropicrin, MITC, and malathion.
 - None of the 31 pesticides or five breakdown products exceeded any of their health screening levels or regulatory targets for 2019.
 - The draft 2019 Air Monitoring Network Report may be found here: https://www.cdpr.ca.gov/docs/emon/airinit/air_network.htm
 - Comments will be accepted until **August 31, 2020**.
- **Pesticide Registration and Evaluation Committee (PREC) Meeting**
 - On July 17, 2020, DPR Pesticide Registration and Evaluation Committee (PREC) held a meeting that updated members and stakeholders on the following:

- Overview of DPR's Neonicotinoid Reevaluation and Upcoming Mitigation Webinars
 - 2019 Air Monitoring Results
 - Addendum to the Sulfuryl Fluoride Risk Assessment
 - More information on DPR's Neonicotinoid Reevaluation and Mitigation may be found here:
 - <https://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/neonicotinoids.htm>
 - The Addendum to the Sulfuryl Fluoride Risk Assessment was requested by the registrant and there is no registration status change for structural or commodity uses of SF.
 - The next PREC meeting will be held **September 18, 2020**.
- **2020 Climate Change Impacts for Specialty Crops in the Southern California Region Report**
 - The 2020 Climate Change Consortium for Specialty Crops of Southern California in partnership with CDFA and the Climate Science Alliance released a report on the impacts of climate change on specialty crops in the Southern California region, including southern Kern, Imperial, San Diego and Riverside counties.
 - The report suggests that over the next decade climate change will cause increasing variability in temperature (hot and cold), drier days, increasing extreme weather events, variability in precipitation, among others.
 - Effects to **Pistachios** are reported.
 - The full Climate Change report may be found here:
 - <https://drive.google.com/file/d/1XMiUIE35ntYNzi25uPU3Q0ytSfxkjc8/view>
 - CDFA will be holding two webinars on the report with opportunity to provide feedback:
 - Webinar 1 - Monday, July 27, 2020 at 10:00 AM - 12:00 PM PT:
 - <https://attendee.gotowebinar.com/register/3958508349821090063>
 - Webinar 2 - Thursday, July 30, 2020, 2020 at 10:00 AM - 12:00 PM PT:
 - <https://attendee.gotowebinar.com/register/8072537813331120655>