

FEDERAL AND STATE PESTICIDE MATTERS – JULY 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**
 - The European Union has announced proposed changes to the following MRLs:
 - Fluopyram – current pistachio MRL: 0.05ppm; draft pistachio MRL: 0.03ppm. The U.S. tolerance for the use of this substance on the Tree Nut Crop Group 14-12 is 0.05ppm. California Department of Pesticide Residue reports that this substance was applied to 49, 710 acres in 2017.
 - Cycloxydim – current pistachio MRL: 0.05ppm; draft pistachio MRL: 0.09ppm. The U.S. does not maintain a tolerance for the use of this chemical on pistachios.
 - Diclop-methyl – current pistachio MRL: 0.05ppm; draft pistachio MRL: 0.02. The U.S. does not maintain a tolerance for the use of this chemical on pistachios.
 - Terbutylazine – current pistachio MRL: 0.05ppm; draft pistachio MRL : 0.01ppm. The U.S. does not maintain a tolerance for the use of this chemical on pistachios.
 - Metamitron – current pistachio MRL: 0.1ppm; draft pistachio MRL: 0.01ppm. The U.S. does not maintain a tolerance for the use of this chemical on pistachios.
 - Penflufen – draft pistachio MRL: 0.01ppm. The U.S. does not maintain a tolerance for the use of this chemical on pistachios.
- **MAXIMUM RESIDUE LEVEL UPDATE – KOREA**
 - The government of Korea has announced a proposed MRL for Difenoconazole of 0.03ppm in Tree nuts. The U.S. tolerance for the Tree Nut Crop Group 14-12 is 0.03ppm. California Department of Pesticide Regulation reported that this substance was applied to 16,921 acres of pistachios in 2017.

FEDERAL

- **EPA Proposes Approval to Two California SIP Revisions for the San Joaquin Valley**
 - In a July 22, 2020, Federal Register notice, EPA announced it is approving portions of three state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA or “Act”) requirements for the 2006 fine particulate matter (PM2.5) national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley (SJV) “Serious” nonattainment area.
 - Specifically, EPA is approving those portions of the “2018 Plan for the 1997, 2006, and 2012 PM2.5 Standards” and the “San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan” that pertain to the 2006 PM2.5 NAAQS and address certain CAA requirements for Serious PM2.5 nonattainment areas.
 - In addition, the EPA is approving the “Revision to the California State Implementation Plan for PM2.5 Standards in the San Joaquin Valley” (“PM2.5 Prior Commitment Revision” or “Revision”) and finding that the State has complied with this commitment.
 - Finally, as part of this action, the EPA is granting an extension of the Serious area attainment date for the 2006 PM2.5 NAAQS in the San Joaquin Valley from December 31, 2019, to December 31, 2024, based on a determination that the State has satisfied the statutory criteria for this extension.
 - This rule is effective **August 21, 2020**.
 - Additional information is available at <http://www.regulations.gov> by entering Docket # EPA-R09-OAR-2019-0318 / FRL-10011-44-Region9 in the “Search” box.
 - To view the Federal Register notice, please click [here](#).

- **EPA Issues Guidance for Pesticide Applicators During COVID-19 Public Health Emergency**
 - On July 27, 2020, EPA released temporary guidance regarding the certification of pesticide applicators of restricted use pesticides that offers flexibility during the COVID-19 public health emergency.
 - Given the evolving circumstances and the urgency involved, EPA has determined that certain temporary changes to existing pesticide applicator certification programs should be preapproved and may be implemented provided that they are not likely to significantly diminish applicator competence or undermine future certification activities and all conditions are met.
 - Currently, certifying authorities can make non-substantial changes to their certification plans without prior EPA approval, but need to notify EPA within 90 days or with the required annual report, whichever occurs first.
 - So long as such temporary changes are reported to EPA as outlined in the guidance, EPA does not intend to impose sanctions on certification programs that miss reporting deadlines specified in the CPA rule. EPA will instead accept notifications included in the annual reporting, which are due December 31, 2020.
 - Additional information about the temporary guidance is available at: <https://www.epa.gov/pesticide-worker-safety/guidance-regarding-certification-pesticide-applicators-during-covid-19>.

- **EPA Receives Petition to Revoke All Neonicotinoid Tolerances**

- o In a June 30, 2020, *Federal Register* notice, EPA announced it was seeking public comment on a May 4, 2020 petition by the Natural Resources Defense Council (NRDC) requesting that the Agency revoke all tolerances for residues of the neonicotinoid pesticides acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam.
 - o The petitioners claim that the underlying analysis supporting these tolerances are flawed and that proper consideration of available data demonstrates that the tolerances are not safe and must be revoked.
 - o Comments must be received on or before **August 31, 2020**.
 - o Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2020-0306 / FRL-10011-30 in the "Search" box.
 - o To view the Federal Register notice, please click [here](#).
- **EPA Continues Webinar Series on Assessing Pesticide Risks to Bees**
 - o In a July 16, 2020 announcement, EPA's Office of Pesticide Programs provided notice that it is hosting a webinar, titled "Agricultural Stewardship and Best Management Practices to Reduce Pollinator Risk," which will focus on efforts to mitigate risks of pesticides to bees. Furthermore, it will provide an overview of industry, state government, and university extension initiatives to engage stakeholders on pollinator protection.
 - o The webinar was held on **August 18, 2020**, from 2:00-3:30pm EDT.
 - o Featured speakers were:
 - Caydee Savinelli from Syngenta Crop Protection;
 - Patrick Jones from North Carolina Department of Agriculture; and
 - Andony Melathopoulos from Oregon State University.
 - o Registration is available at: <https://register.gotowebinar.com/register/8532095187381261059>.
 - o More information is available at: <https://www.epa.gov/pollinator-protection/epa-offers-webinars-pollinator-health-and-habitat>.
- **Pesticide Petition to Establish Tolerances for Residues of Oxathiapiprolin (Reminder)**
 - o 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.
 - o This regulation is effective July 6, 2020. Objections and requests for hearings must be received on or before **September 4, 2020**.
 - o Additional information is available at <http://www.regulations.gov> by entering Docket #EPA-HQ-OPP-2019-0128 / FRL-10009-93 in the "Search" box.
 - o To view the Federal Register notice, please click [here](#).

STATE

- **Section 3 Label Amendment for Proclaim Insecticide (Emamectin Benzoate)**
 - o On July 31, 2020, DPR announced a Section 3 label amendment for Proclaim Insecticide, active ingredient emamectin benzoate, an insecticide used for the control of insects such as beet armyworm, tobacco budworms, and cabbage loopers on

various crops including **tree nuts**. The Section 3 label amendment revises the personal protective equipment section, revises the crop tolerance, resistance management, application equipment, tank mix, and spray drift management sections, and reduces the maximum annual rates for several existing crops, as requested by Syngenta Crop Protection, LLC.

- **DPR Releases Final Pesticide VOC Emission Inventory Report for 1990-2018**
 - On July 17, 2020, DPR announced it had completed the 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 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.
 - Additional information on the complete 2018 VOC inventory is available at: https://www.cdpr.ca.gov/docs/emon/vocs/vocproj/voc_data_analysis.htm.

- **DPR Releases Air Monitoring Network Results for 2019**
 - On July 17, 2020, DPR announced it was releasing a draft “Air Monitoring Network Results for 2019” for public comment.
 - In 2019, as part of CDPR’s Air Monitoring Network, a total of 31 pesticides and 5 pesticide breakdown products were monitored by CDPR and CARB in eight California communities. One 24-hour sample was collected each week at each of the eight sites.
 - Of the 31 pesticides monitored, ten pesticides were detected at quantifiable levels. These included 1,3-dichloropropene (1,3-D), chloropicrin, chlorthal-dimethyl (Dacthal), Dichlorvos (DDVP), S-Ethyl dipropylthiocarbamate (EPTC), malathion and its oxygen analog, methyl isothiocyanate (MITC), pp-dicofol, and trifluralin.
 - The pesticides with the highest number of detections from all eight sites were chloropicrin, malathion, and MITC. For 2019, no monitored pesticide exceeded any screening level or regulatory target at any of the sampling locations.
 - DPR is accepting comments on the draft report until **August 31, 2020**.
 - The draft report is available at: https://www.cdpr.ca.gov/docs/emon/airinit/air_monitoring_results/2019/air_monitoring_network_report_2019.pdf.

- **Webinars on Pollinator Protection Measures for Nitroguanidine-Substituted Neonicotinoids**

- o On August 11 & 12, 2020, DPR held two 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.
 - o 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.
 - o DPR released draft proposed regulations intended to protect pollinators and establish mitigation measures on neonicotinoids.
 - o CDPH designed the draft proposed regulations in a multi-level mitigation approach based on the crop's attractiveness to bees. The three categories of mitigation are: 1.) crops that are highly attractive to bees; 2.) crops that are moderately attractive to bees; and 3.) crops that are not attractive to bees/are harvested before bloom.
 - o Tree nuts are included in the category of crops that are moderately attractive to bees. Applications to pistachios, however, are not subject to the provisions of the regulations. DPR determined that **pistachios** are not attractive to bees.
 - o Interested parties can view the video of the webinar at:
<https://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/neonicotinoids.htm>
 - o Comments will be accepted until **October 11, 2020**, at 5:00 pm PDT. This date is recently updated from the original due date of September 11, 2020. Comments may be submitted at: neonics@cdpr.ca.gov
 - o The proposed regulations may be found here:
https://www.cdpr.ca.gov/docs/registration/reevaluation/chemicals/proposed_regulation_text.pdf
 - o For more information about this notice, please click [here](#).
- **California Air Resources Board Draft Materials for Emissions Inventory Criteria and Guidelines Regulation (EICG) –Air Toxics “Hot Spots” Inventory Guidelines**
 - o On July 29, 2020, the California Air Resources Board (CARB) released draft materials on the Emissions Inventory Criteria and Guidelines regulations (EICG) – Air Toxics “Hot Spots” Inventory.
 - o The formal review period will begin in late September 2020.
 - o CARB released a list of additional chemicals that will need to be reported, as well as a proposed phase-in schedule that may be found [here](#).