

The Commission states that it remains the responsibility of food business operators to provide more detailed information on processing factors of their particular processes, which should be proactively provided to authorities. While current EU regulations state that when an MRL is not set for a processed or composite food that the processing should be taken into account, the regulatory framework for these calculations has not yet been established. Therefore, this guidance document is for informational purposes only.

There are some distinctions in the approach taken by the EU versus the approach taken by the United States. In recognition of the differences in fresh versus dried herbs, the EPA's new crop groupings for spices and herbs segregates the herbs category into a fresh subcategory and a dried subcategory. The implication of this is that as chemical tolerances are established for herbs in the U.S., the levels should be based on observed difference between fresh and dried herbs. Therefore, tolerances should be set on dried herbs that already account for the dehydration. However, there are not necessarily established tolerances for all relevant chemicals on all dried herbs.

When there is not an established level on the dried commodity in the United States, typically the tolerance for the fresh commodity would apply. Processing factors are only taken into account if very specific conditions are met:

1. If there is a tolerance on the raw agricultural commodity and there is NOT a tolerance for a specific pesticide for a processed food in its concentrated or dehydrated form, AND
2. the processed food consists primarily of one ingredient, AND
3. the product is sold in a form requiring further preparation prior to consumption (e.g., fruit juice concentrates, dehydrated vegetables, and powdered potatoes).

These situations are taken on a case-by-case basis, and while arguments are available that application of a dehydration factor may be appropriate in some instances, the onus is on the importer and/or manufacturer to demonstrate the use of the spice/herb requires further preparation prior to consumption.