

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 28, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-9663 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-300381; FRL-4944-1]

Propargite; Request for Comment on Petition to Revoke Certain Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; receipt and availability of petition.

SUMMARY: This document announces the receipt of and solicits comments on a petition proposing the revocation of the section 409 feed additive regulation established under the Federal Food, Drug and Cosmetic Act (FFDCA, 21 U.S.C. 348a), for propargite on dried apple pomace. This notice sets forth the basis for the petitioner's proposal and provides opportunity for comment by the public.

DATES: Written comments, identified by the document control number [OPP-300381], must be received on or before May 19, 1995.

ADDRESSES: By mail, requests for copies of the petition and comments should be forwarded to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Copies of the

petition will be available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Information Services Branch, Program Management and Support Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-305-5805.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection at the address and hours given above.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32C5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, Telephone: 703-308-8028; e-mail: Nazmi.Niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

A. Statutory Framework

The Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 136 et seq.) authorizes the establishment of tolerances and exemptions from tolerances for the residues of pesticides in or on raw agricultural commodities (RAC's), and section 409 of the act authorizes promulgation of food additive regulations for pesticide residues in processed foods.

Under section 408, EPA establishes tolerances, or exemptions from tolerances when appropriate, for pesticide residues in raw agricultural commodities. Food additive regulations setting maximum permissible levels of pesticide residues in processed foods are established under section 409.

Section 409 food additive regulations are required, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, no section 409 food additive regulation is required if any pesticide residue in a processed food resulting from use on a

RAC has been removed to the extent possible by good manufacturing practices and is below the tolerance for that pesticide in or on that RAC. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to processed food. Thus, a section 409 food additive regulation is only necessary to prevent foods from being deemed adulterated when despite the use of good manufacturing practices the concentration of the pesticide residue in a processed food is greater than the tolerance prescribed for the raw agricultural commodity, or if the processed food itself is treated or comes in contact with a pesticide. Monitoring and enforcement are carried out by the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

The establishment of a food additive regulation under section 409 requires a finding that use of the pesticide will be "safe" (21 U.S.C. 348(C)(3)). Section 409 also contains the Delaney clause, which specifically provides that, with limited exceptions, no additive may be approved if it has been found to induce cancer in man or animals (21 U.S.C. 348(C)(5)).

In setting both section 408 tolerances and section 409 food additive regulations, EPA reviews residue chemistry and toxicology data. To be acceptable, tolerances must be both high enough to cover residues likely to be left when the pesticide is used in accordance with its labeling and low enough to protect the public health. With respect to section 408 tolerances, EPA determines the highest levels of residues that might be present in a raw agricultural commodity based on controlled field trials conducted under the conditions allowed by the product's labeling that are expected to yield maximum residues. Generally, EPA's policy concerning whether a section 409 food additive regulation is needed depends on whether there is a possibility that the processing of a raw agricultural commodity containing pesticide residues would result in residues in the processed food at a level greater than the raw food tolerance.

II. Petitions

Uniroyal Chemical Co. has submitted a petition requesting the revocation of the feed additive regulation (FAR) established under section 409 of the FFDCA for propargite on dried apple pomace. This regulation is codified in 40 CFR 186.5000 and is established at 80 parts per million (ppm).

In June 1994, EPA updated Table II of the Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry. Table II provides a listing of all significant food and feed commodities, both raw and processed, for which residue data are collected and tolerances or FARs are established. The Agency requires data for only those feed items considered to be "significant." Feed items are considered to be "significant" if (1) the U.S. annual production of the crop is greater than 500 million pounds and the maximum amount in the livestock diet is greater than 10 percent; or (2) the commodity is grown mainly as a livestock feed. Based on the above criteria, the Agency has determined that dried apple pomace is not a significant feed item and has removed it from Table II.

The Petitioner requests that the Agency revoke the section 409 FAR for this feed item because it is no longer necessary.

It should be noted that in the **Federal Register** of July 1, 1994 (59 FR 33941), EPA issued a proposed rule to revoke the section 409 food additive regulations for propargite because the Agency has determined that propargite induces cancer in animals. Thus, the regulation violates the Delaney clause in section 409 of the FFDCAs. The Agency has not yet proposed similar action for the feed additive regulation for propargite on dried apple pomace. If this petition is granted, dried apple pomace will be removed from the list of pesticides that violate the Delaney clause and no further action will be required under section 408 of the FFDCAs for the raw agricultural commodity apples.

Pursuant to 40 CFR 177.125 and 177.30, EPA may issue an order ruling on the petition or may issue a proposal in response to the petition and seek further comment. If EPA issues an order in response to the petition, any person adversely affected by the order may file written objections and a request for a hearing on those objections with EPA on or before the 30th day after date of the publication of the order (40 CFR 178.20).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping.

Dated: April 3, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-9061 Filed 4-18-95; 8:45 am]

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[OPP-180968; FRL 4946-6]

Propazine; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Colorado Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139-40-2) to treat up to 272,000 acres of sorghum to control various weeds. The Applicant proposes the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 4, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180968," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection

Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8417; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicant claims that this has left many sorghum growers with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. The Applicant claims that significant economic losses will occur without the availability of propazine.

Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicant proposes to apply propazine at a maximum rate of 2.3 lbs. active ingredient (4.6 pt. of product) per acre, by ground or air, to a maximum of 272,000 acres of sorghum, with one application allowed per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 625,600 lbs. of active ingredient (156,400 gal. of product). This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for