

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: April 27, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-11383 Filed 5-9-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-190004; FRL-4926-3]

State Pesticide Residue Removal Compliance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Interim Determination of Adequacy of Certain State and Territorial Programs.

SUMMARY: Section 19(f)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) states that after December 24, 1993, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 11, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with section 19(f)(1). The Agency has not promulgated regulations under section 19(f)(1). To avoid having the provisions of section 19(f)(2) adversely impact the States and EPA, the Agency published a policy in the **Federal Register** on August 18, 1993, which sets forth a process whereby the Agency will make an interim determination of adequacy for those States (and territories) with primary enforcement responsibility and/or certification programs. This determination is based on an initial commitment by a State to conduct a number of activities which will position the State to have an adequate program in place by the time compliance with the regulations promulgated under section 19(f)(1) is required.

This notice is to announce that the Government of the Virgin Islands has met the criteria of the August 18, 1993 policy by submitting a commitment to conduct the activities set forth in the policy and therefore has been determined by EPA to have an adequate pesticide residue removal compliance program under section 19(f)(1) and to be taking the necessary steps ensure compliance with the new requirements after EPA's promulgation of the final rule.

ADDRESSES: Any person wishing to review the State submissions may do so, in person, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays, at the following address: Public Docket, Room 1132, CM-2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Phyllis Flaherty, Agriculture and Ecosystems Division, Office of Compliance (2225A), 401 M St., SW., Washington DC 20460, telephone (202) 564-2355, facsimile (202) 564-0028.

SUPPLEMENTARY INFORMATION: The Government of the Virgin Islands has submitted a commitment to conduct the activities outlined in the August 18, 1993 Policy Statement on Interim Determination of Adequacy of State Pesticide Residue Removal Compliance Programs.

This Government has met two criteria: (1) there is a current program for ensuring compliance with existing residue removal requirements, and (2) it has committed to the activities set out in the August 18, 1993 Policy Statement to be in a position to have a compliance program in place to enforce the section 19(f)(1) regulations. Based on the commitment submitted, I have determined that the Government of the Virgin Islands will be taking steps necessary to have an adequate program for ensuring compliance with the regulations under section 19(f)(1) upon the compliance date of those regulations. This determination of adequacy is temporary and will expire 2 years after promulgation of a final rule issued under section 19(f)(1). Thereafter, the Government of the Virgin Islands must have a program to ensure compliance with the section 19(f) regulations.

Dated: April 20, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95-11382 Filed 5-9-95; 8:45 am]

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[PP 6G3306/T675; FRL 4951-6]

Triclopyr; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the herbicide triclopyr and its metabolites in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire March 30, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C),

Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 15, 1991 (56 FR 40615), stating that temporary tolerances had been renewed for the combined residues of the herbicide triclopyr (3,5,6-trichloro-2-pyridinyl)oxyacetic acid and its metabolites 3,5,6-trichloro-2-pyridinol and 2-methoxy-3,5,6-trichloropyridine in or on the raw agricultural commodities fish and shellfish at 0.2 part per million (ppm). An allowable residue level of 0.5 ppm in potable water is also being renewed. These tolerances are renewed in response to pesticide petition (PP) 6G3306, submitted by DowElanco, 9330 Zionsville Rd., Indianapolis, IN 46268-1054.

The company has requested a 1-year renewal of the temporary tolerances to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 62719-EUP-1, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. DowElanco must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 30, 1997. Residues not in excess of these amounts remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in

accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 21 U.S.C. 346a(j).

Dated: April 28, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95-11147 Filed 5-9-95; 8:45 am]

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[Docket No. 95F-FRL-5205-5]

Interim Revised EPA Supplemental Environmental Projects Policy Issued

AGENCY: Office of Enforcement and Compliance Assurance, EPA.

ACTION: Notice.

SUMMARY: The Office of Enforcement and Compliance Assurance (EPA) is issuing the Interim Revised EPA Supplemental Environmental Projects Policy. This Policy supersedes the February 12, 1991 Policy on the Use of Supplemental Environmental Projects in EPA Settlements. This Policy responds to numerous complaints that the 1991 Policy was too cumbersome, rigid and difficult to understand and apply. This Policy is being issued to provide greater flexibility to EPA in exercising its enforcement discretion to establish appropriate settlement penalties and to the regulated community in proposing supplemental environmental projects (SEPs) designed to secure significant

environmental or public health protection and improvements. EPA intends to implement this Policy on an interim basis effective May 8, 1995.

DATES: Comments must be received on or before August 6, 1995.

ADDRESSES: Comments may be mailed to: SEP Policy, Multimedia Enforcement Division, Office of Regulatory Enforcement, Mail Code 2248-A, United States Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David A. Hindin, 202-564-6004, Gerard C. Kraus, 202-564-6047 or Peter W. Moore, 202-564-6014, Office of Regulatory Enforcement, Mail Code 2248-A, United States Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460.

SUPPLEMENTARY INFORMATION: This interim final version of the EPA Supplemental Environmental Projects Policy expands and clarifies the 1991 Policy on the Use of Supplemental Environmental Projects in EPA Settlements. The primary purpose of this Policy is to obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives provided by this Policy. The revised Policy, issued today, establishes a framework for determining whether a proposed project can be considered in establishing an appropriate settlement penalty. In addition, this Policy sets out clear legal guidelines, well-defined categories of acceptable projects and simple easy to apply rules for calculating and applying the cost of a SEP in determining an appropriate settlement penalty.

Dated: May 1, 1995

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency.

A. Introduction

1. Background

In settlements of environmental enforcement cases, the U.S. Environmental Protection Agency (EPA) will require the alleged violators to achieve and maintain compliance with Federal environmental laws and regulations and to pay a civil penalty. To further EPA's goals to protect and enhance public health and the environment, in certain instances environmentally beneficial projects, or Supplemental Environmental Projects (SEPs), may be included in the settlement. This Policy sets forth the

types of projects that are permissible as SEPs, the penalty mitigation appropriate for a particular SEP, and the terms and conditions under which they may become part of a settlement. The primary purpose of this Policy is to encourage and obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives provided by this Policy.

In settling enforcement actions, EPA requires alleged violators to promptly cease the violations and, to the extent feasible, remediate any harm caused by the violations. EPA also seeks substantial monetary penalties in order to deter noncompliance. Without penalties, companies would have an incentive to delay compliance until they are caught and ordered to comply. Penalties promote environmental compliance and help protect public health by deterring future violations by the same violator and deterring violations by other members of the regulated community. Penalties help ensure a national level playing field by ensuring that violators do not obtain an unfair economic advantage over their competitors who made the necessary expenditures to comply on time. Penalties also encourage companies to adopt pollution prevention and recycling techniques, so that they minimize their pollutant discharges and reduce their potential liabilities.

Statutes administered by EPA generally contain penalty assessment criteria that a court or administrative law judge must consider in determining an appropriate penalty at trial or a hearing. In the settlement context, EPA generally follows these criteria in exercising its discretion to establish an appropriate settlement penalty. In establishing an appropriate penalty, EPA considers such factors as the economic benefit associated with the violations, the gravity or seriousness of the violations, and prior history of violations. Evidence of a violator's commitment and ability to perform a SEP is also a relevant factor for EPA to consider in establishing an appropriate settlement penalty. All else being equal, the final settlement penalty will be lower for a violator who agrees to perform an acceptable SEP compared to the violator who does not agree to perform a SEP.

The Agency encourages the use of SEPs. While penalties play an important role in environmental protection by deterring violations and creating a level playing field, SEPs can play an additional role in securing significant environmental or public health