

§ 55.5 Who is eligible for child development services?

Coast Guard members and civilian Coast Guard employees are eligible for the child developmental services described in this subpart. As space is available, members of the other Armed Forces and other Federal civilian employees are also eligible.

§ 55.7 Definitions.

As used in this subpart—

Child development center means a facility located on a Coast Guard installation that offers, on a regularly scheduled basis, developmental services designed to foster social, emotional, physical, creative, and intellectual growth to groups of children.

Child development services means developmental services provided at a child development center or by a family child care provider at his or her Coast Guard-owned or -leased home.

Coast Guard family child care provider means a Coast Guard family member, 18 years of age or older, who provides child care for 10 hours or more per week per child to one but no more than six children, including the provider's own children under the age of eight, on a regular basis in his or her Coast Guard-owned or -leased housing.

Coast Guard family child care services means child care provided on a regularly scheduled basis for 10 hours or more a week by an individual certified by the Coast Guard and who resides in Coast Guard-controlled housing.

Command means the Commanding Officer of one or more units of personnel in a limited geographic area with responsibility for a child development center.

Family child care means child care provided in the home of a provider, either a Coast Guard family child care provider or a family home day care provider.

Family home day care provider means an individual 18 years of age or older who is licensed by the state agency that regulates child care. This person provides child care to one but to no more than six children, including the provider's own children under the age of eight, on a regular basis in his or her residence.

Geographic cost of living allowance means the adjustment in basic pay related to higher living costs in certain geographic areas.

Total family income means the earned income for adult members of the household including wages, salaries, tips, long-term disability benefits received by a family, incentive and special pay for service or anything else

of value, even if not taxable, that was received for providing services. Also included is Basic Allowance for Housing and Basic Allowance for Subsistence authorized for the pay grade of military personnel, whether the allowance is received in cash or in-kind. Total Family Income does not include: the geographic cost of living allowance; alimony and child support; temporary duty allowances or reimbursements for educational expenses; veterans benefits; workers compensation benefits; and, unemployment compensation. These are to be excluded from total family income.

Uneconomical and inefficient means that the fees collected from parents can not be used in a manner that provides a quality program at an affordable cost to parents using the child care services.

§ 55.9 Child development centers.

(a) The Commandant may make child development services available at child development centers located at Coast Guard installations.

(b) Regular and unannounced inspections of each child development center shall be conducted annually by headquarters program personnel, the commanding officer of the sponsoring command, fire personnel, and health and safety personnel.

(c) Training programs shall be conducted monthly to ensure that all child development center employees complete a minimum of 20 hours of training annually with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

§ 55.11 How are child development center fees established?

(a) Fees for the provision of services at child development centers shall be set by each Command with responsibility for a center-based program, according to the following total family income chart:

Total Family Income

\$0 to \$23,000
\$23,001 to \$34,000
\$34,001 to \$44,000
\$44,001 to \$55,000
Over \$55,000

(b) Fees for the provision of services at Coast Guard child development centers shall be used only for compensation for employees at those centers who are directly involved in providing child care, unless it is uneconomical and inefficient. If uneconomical and inefficient, then the fees may be used for:

(1) The purchase of consumable or disposable items for Coast Guard child development centers; and

(2) If the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

§ 55.13 Family child care providers.

When appropriated funds are available, funds may be offered to provide assistance to Coast Guard Family Child Care Providers or to family home day care providers so that family child care services can be provided to military members and civilian employees of the Coast Guard, at a cost comparable to the cost of services at Coast Guard child development centers.

Dated: February 1, 1999.

F.L. Ames,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

[FR Doc. 99-3135 Filed 2-9-99; 8:45 am]

BILLING CODE 4910-15-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[OPP-300791; FRL-6060-3]

RIN 2070-AB78

Propyzamide; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the herbicide propyzamide (pronamide) and its metabolites in or on cranberries at 0.05 part per million (ppm) grass forage at 1.0 ppm, and grass hay at 0.5 ppm for an additional 2-year period. These tolerances will expire and are revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cranberries and grass grown for seed. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective February 10, 1999. Objections

and requests for hearings must be received by EPA, on or before April 12, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP-300791], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300791], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300791]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9367, ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of September 16, 1998 (63 FR 49479) (FRL-6022-5), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21

U.S.C. 346a(e) and (l)(6), as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) it established time-limited tolerances for the combined residues of propyzamide and its metabolites in or on cranberries at 0.05 ppm, grass forage at 1.0 ppm, and grass hay at 0.5 ppm, with an expiration date of December 31, 1999. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of propyzamide on cranberries for this year's growing season to control dodder because dodder is a serious and devastating pest in commercial cranberry production. It is an obligate shoot parasite that, in order to survive, must make a successful attachment to a host plant. The body of the organism consists of thin, yellow, twining stems that produce small clusters of white flowers and can form a dense mat of "spaghetti-like" stems on top of infected plants. Dodder is prolific in its seed production, and produces seeds in capsules that are contained in large air spaces and are thus very buoyant. With the widespread adoption of water harvesting, dodder infestations have become practically ubiquitous in the Massachusetts production area. The detrimental impact of dodder infestations on cranberry yields have been reported widely in scientific journals, extension publications and internal memorandum. Yield losses can range from 12% in slight infestations up to 100% in severe infestations. Currently registered herbicides have not been totally effective, leading to a steady increase in dodder infestations. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of propyzamide on cranberries for control of dodder in Massachusetts.

EPA received a request to extend the use of propyzamide on grass grown for seed for this year's growing season. Because of cancellation of several herbicide uses in recent years, a shift in weed populations and the development of resistance, plus restrictions imposed on open field burning, grass growers are no longer able to control weeds adequately with registered materials and cultural methods. The Applicants claim

that if weeds are not adequately controlled, growers will incur significant economic losses due to reduced yields, and from losses due to contaminated seed, and replanting of fields that do not meet certification requirements. The Applicant proposed use of propyzamide, in conjunction with several other herbicides, to comprise a comprehensive management system to solve the current weed control problems in grass seed production. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of propyzamide on grass grown for seed for control of grassy weeds in Oregon.

EPA assessed the potential risks presented by residues of propyzamide in or on cranberries and grass grown for seed. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of September 16, 1998 (63 FR 49479) (FRL-6022-5). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 2-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on cranberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural

regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 12, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the "ADDRESSES" section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Agency location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305-5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify

the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information 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.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP-300791] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov.

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ADDRESSES at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does

not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other

representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: January 28, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.317 [Amended]

2. In § 180.317, by amending the table in paragraph (b) by changing the date "12/31/99" to read "12/31/01".

[FR Doc. 99-3250 Filed 2-9-99; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300782; FRL-6056-4]

RIN 2070-AB78

Cymoxanil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the fungicide, cymoxanil, [2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide], in or on imported tomatoes and grapes. E. I. DuPont De Nemours and Co., Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective February 10, 1999. Objections and requests for hearings must be received by EPA on or before April 12, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300782], must be submitted to: Hearing Clerk

(1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300782], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300782]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 247, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-308-9354, waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 15, 1995 (60 FR 57419-57422) (FRL-4971-5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) announcing the filing of a pesticide petition (PP) for tolerance by DuPont, DuPont Agricultural Products, P.O. Box 80038, Wilmington, DE 19880-0038. This notice included a summary