



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-009; FRL-9971-02]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period July 1, 2017 to September 30, 2017 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption or denial.

B. How Can I Get Copies of this Document and Other Related Information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0009, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

II. Background

EPA has granted or denied emergency exemptions to the following State agencies. There were no emergency exemptions from any Federal agencies during the time period covered by this notice (July 1, 2017 through September 30, 2017). The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this

notice.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A “specific exemption” authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. “Quarantine” and “public health” exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.

3. A “crisis exemption” is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in “a reasonable certainty of no harm” to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the “reasonable certainty of no harm standard” of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which

authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the citation in Title 40 of the Code of Federal Regulations (40 CFR) for the time-limited tolerance(s), if any.

III. Emergency Exemptions and Denials

A. U. S. States and Territories

American Samoa

Department of Health

Crisis exemption: On July 14, 2017 the American Samoa Department of Health declared a crisis exemption for use of deltamethrin for control of *Aedes* species of mosquito, vectors of the Zika virus, in outdoor residential areas. Effective July 14, 2017 to July 29, 2017.

California

Department of Pesticide Regulation

Crisis exemption: On July 21, 2017, the California Department of Pesticide Regulation declared a crisis exemption for the use of sulfoxaflor on a maximum of 270,000 acres of cotton to control the tarnished plant bug. The use season is expected to last until October 31, 2017, and a specific request was also submitted.

Specific exemptions: EPA authorized the use of bifenthrin on a maximum of 18,000 acres of pomegranates to control the leaf-footed plant bug. A time-limited tolerance in connection with this action has been established in 40 CFR 180.442(b). August 8, 2017 to December 31, 2017.

EPA authorized the use of sulfoxaflor on a maximum of 270,000 acres of cotton to control the tarnished plant bug. Permanent tolerances in connection with an earlier

registration action are established in 40 CFR 180.668(a). August 15, 2017 to October 31, 2017.

EPA authorized the use of flonicamid on a maximum of 365 acres of prickly pear cactus fruit and nopalitos (pads) to control the cochineal scale insect. Time-limited tolerances in connection with this action will be established in 40 CFR 180.613(b). August 15, 2017 to August 15, 2018.

Hawaii

Department of Agriculture

Specific exemption: EPA authorized the use of tolfenpyrad on a maximum of 500 acres of watermelon to control melon thrips. A time-limited tolerance in connection with this action has been established in 40 CFR 180.675(b). Effective August 28, 2017 to August 28, 2018.

Idaho State

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 9,500 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Indiana

Office of the Indiana State Chemist

Specific exemption: EPA authorized the use of pyridate on a maximum of 11,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as

redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Kentucky

Department of Agriculture

Specific exemption: EPA authorized the use of sulfoxaflor on a maximum of 13,000 acres of sorghum (grain and forage) to control sugarcane aphid. Time-limited tolerances in connection with this action have been established in 40 CFR 180.668(b). July 28, 2017 to November 30, 2017.

Michigan

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 11,250 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Armaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

EPA denied a specific exemption request for the use of chlorothalonil in sugar beets for control of *Cercospora* leaf spot. The request was denied because EPA is unable to make a “reasonable certainty of no harm” determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

Minnesota

Department of Agriculture

EPA denied a specific exemption request for the use of chlorothalonil in sugar

beets for control of *Cercospora* leaf spot. The request was denied because EPA is unable to make a “reasonable certainty of no harm” determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

New Jersey

Department of Agriculture

Specific exemptions: EPA authorized the use of bifenthrin on a maximum of 8,200 acres of apples, peach, and nectarines, to control the brown marmorated stink bug. Time-limited tolerances in connection with this action have been established in 40 CFR 180.442(b). Effective September 8, 2017 to October 15, 2017.

North Dakota

Department of Agriculture

EPA denied a specific exemption request for the use of chlorothalonil in sugar beets for control of *Cercospora* leaf spot. The request was denied because EPA is unable to make a “reasonable certainty of no harm” determination at this time, which is required to allow additional uses of chlorothalonil. July 24, 2017.

Oregon

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 5,200 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a).

July 13, 2017 to August 31, 2017.

Washington

Department of Agriculture

Crisis exemption: On the July 14, 2017 the Washington Department of Agriculture declared a crisis exemption for use of lambda-cyhalothrin on asparagus to control the European asparagus aphid. The use season was expected to last until October 31, 2017, and a specific exemption request was also submitted.

Specific exemptions: EPA authorized the use of sulfoxaflor on a maximum of 15,000 acres of alfalfa grown for seed to control lygus bugs. July 7, 2017 to August 31, 2017.

EPA authorized the use of pyridate on a maximum of 16,000 acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

EPA authorized the use of lambda cyhalothrin on a maximum of 7,000 acres of asparagus to control the European asparagus aphid, effective August 2, 2017 to October 31, 2017. As required by 40 CFR 166.24, because an emergency exemption for this use has been requested for more than 5 years and an application for registration has not yet been received by EPA, a Notice of Receipt with opportunity for public comment published in the Federal Register, on July 10, 2017 (82 FR 31777) (FRL-9963-16) with public comment period closing on July 25, 2017.

Wisconsin

Department of Agriculture

Specific exemption: EPA authorized the use of pyridate on a maximum of 3,100

acres of mint for postemergence control of herbicide-resistant annual weeds such as redroot pigweed, *Amaranthus retroflexus* and other broadleaf weeds. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a). July 13, 2017 to August 31, 2017.

Wyoming

Department of Agriculture

Specific exemption: EPA authorized the use of indaziflam on a maximum of 300,000 acres of rangeland, pastures, and Conservation Reserve Program to control medusahead and ventenata. Time-limited tolerances in connection with this action will be established in 40 CFR 180.653(b). September 14, 2017 to September 14, 2018.

Authority: 7 U.S.C. 136 *et seq.*

Dated: November 27, 2017.

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