



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0025; FRL-10017-59]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions were granted during the period July 1 to September 30, 2020 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Acting Director, 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).

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-2020-0025, is available at <http://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.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

II. Background

EPA has granted emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. There were no denied emergency exemption requests for the time-period covered by 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 from exposure of infants and children to residues of the pesticide.

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 State or Federal agency granted the exemption, 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 *Federal Register* citation for the time-limited tolerance, if any.

III. Emergency Exemptions

A. U. S. States and Territories

Arkansas

State Plant Board

Specific exemption: EPA authorized the use of flupyradifurone on a maximum of 200 acres of sweet sorghum to control sugarcane aphid. Time-limited tolerances in connection with this action were established in 40 CFR 180.679(b). This use was effective September 2, 2020 to November 15, 2020.

California

Department of Pesticide Regulation

Specific exemption: EPA authorized the use of lambda-cyhalothrin on a maximum of 3,000 acres of asparagus to control the European asparagus aphid (*Brachycolus asparagi*). Since

this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the Interregional Research Project Number 4 (IR-4) program), and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirement at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on August 13, 2020 (85 FR 49365-36) (FRL-10012-55) with the public comment period closing on August 28, 2020. This use was effective September 11, 2020 to October 31, 2020.

Louisiana

Department of Agriculture and Forestry

Crisis Exemption: EPA concurred upon a crisis exemption declared by the Louisiana Department of Agriculture and Forestry for the use of flupyradifurone on a maximum of 500,000 acres of sugarcane to control sugarcane aphids. A time-limited tolerance for residues of flupyradifurone on sugarcane will be established at 40 CFR 180.679 in connection with this stand-alone 15-day crisis exemption program. This use was effective July 23, 2020 to August 5, 2020.

Maryland

Department of Agriculture

Specific exemptions: EPA authorized the use of dinotefuran on a maximum of 3,730 acres of pome and stone fruit to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.603(b). Since this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the IR-4 program) and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on May 27, 2020 (85 FR 31776) (FRL-10009-75) with the public comment period closing on June 11, 2020. This use was effective July 15, 2020 to October 15, 2020.

Nevada

Department of Agriculture

Specific exemption: EPA authorized the use of afidopyropen on a maximum of 25,000 acres of alfalfa to control blue alfalfa aphid (*Acyrtosiphon kondoi*). A time-limited tolerance in connection with this action will be established in 40 CFR 180.700(b). This use is effective July 29, 2020 to May 30, 2021.

New York

Department of Environmental Conservation

Specific exemption: EPA authorized the use of bifenthrin on a maximum of 7,521 acres of apples, peaches, and nectarines to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.442(b). This use was effective July 16, 2020 to October 15, 2020.

North Carolina

Department of Agriculture and Consumer Services

Specific exemptions: EPA authorized the use of dinotefuran on a maximum of 4,000 acres of pome and stone fruit to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.603(b). Since this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the IR-4 program) and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on May 27, 2020 (85 FR 31776) (FRL-10009-75) with the public comment period closing on June 11, 2020. This use was effective July 15, 2020 to October 15, 2020.

EPA authorized the use of flupyradifurone on a maximum of 750 acres of sweet sorghum to control sugarcane aphid. Time-limited tolerances in connection with this action were established in 40 CFR 180.679(b). This use was effective July 24, 2020 to November 15, 2020.

Pennsylvania

Department of Agriculture

Specific exemptions: EPA authorized the use of dinotefuran on a maximum of 24,974 acres of pome and stone fruit to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.603(b). Since this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the IR-4 program) and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on May 27, 2020 (85 FR 31776) (FRL-10009-75) with the public comment period closing on June 11, 2020. This use was effective July 15, 2020 to October 15, 2020.

Tennessee

Department of Agriculture

Specific exemption: EPA authorized the use of flupyradifurone on a maximum of 750 acres of sweet sorghum to control sugarcane aphid. Time-limited tolerances in connection with this action were established in 40 CFR 180.679(b). This use was effective July 24, 2020 to November 15, 2020.

Texas

Department of Agriculture

Public health exemptions: EPA authorized the uses of 1-octadecanaminium, N,N-dimethyl-N-[3-(trihydroxysilyl)propyl] chloride on non-porous, non-food-contact surfaces at the following sites in Texas: American Airlines aircraft and airport facilities; and Total Orthopedics Sports and Spine facilities, to control the Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), the causal agent of COVID-19. The uses are effective August 24, 2020 to August 24, 2021.

Virginia

Department of Agriculture and Consumer Services

Specific exemptions: EPA authorized the use of dinotefuran on a maximum of 29,000 acres of pome and stone fruit to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.603(b). Since this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the IR-4 program) and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on May 27, 2020 (85 FR 31776) (FRL-10009-75) with the public comment period closing on June 11, 2020. This use was effective July 15, 2020 to October 15, 2020.

West Virginia

Department of Agriculture

Specific exemptions: EPA authorized the use of dinotefuran on a maximum of 5,986 acres of pome and stone fruit to control the brown marmorated stinkbug. Time-limited tolerances in connection with past actions were established in 40 CFR 180.603(b). Since this request proposed a use for which an emergency exemption has been requested for 5 or more previous years (and supported by the IR-4 program) and a registration application or tolerance petition has not been submitted to EPA, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the *Federal Register* on May 27, 2020 (85 FR 31776) (FRL-10009-75) with the public comment period closing on June 11, 2020. This use was effective July 15, 2020 to October 15, 2020.

B. Federal Departments and Agencies

Agriculture Department

Animal and Plant Health Inspection Service

Quarantine exemptions: EPA authorized the use of thymol on hard, nonporous surfaces associated with aircraft and associated loading equipment used to transport livestock, for disinfection from African swine fever and foot-and-mouth disease viruses. This use is effective

September 4, 2020 to September 4, 2023.

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

Dated: November 25, 2020.

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