



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2023-0015; FRL-11534-01-OCSP]

### 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, 2023, to September 30, 2023, to control unforeseen pest outbreaks.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: [RDFRNotices@epa.gov](mailto: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 after **FOR FURTHER INFORMATION CONTACT**.

*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-2023-0015, 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 and the OPP docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <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.

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 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**

###### *Department of Agriculture*

*Specific exemption:* EPA authorized the use of thiamethoxam on a maximum of 450,000 acres of rice to control rice stink bug. Time-limited tolerances in connection with a previous action support this emergency use and are established in 40 CFR 180.565(b). The authorization was effective July 14, 2023 to October 15, 2023.

##### **California**

###### *Department of Pesticide Regulation*

*Crisis exemption:* EPA concurred upon a crisis exemption declared by the California Department of Pesticide Regulation for the use of afidopyropen to control lygus and whitefly in cotton on August 4, 2023. The use season expired on October 31, 2023, and a subsequent specific exemption was also submitted.

## **Hawaii**

*Department of Agriculture*

*Crisis exemption:* EPA concurred upon a crisis exemption declared by the Hawaii Department of Agriculture for the use of cypermethrin applied via unmanned aerial vehicles to control Coconut Rhinoceros Beetles in ornamental palm trees on August 16, 2023, and a subsequent quarantine exemption was also submitted.

## **Louisiana**

*Department of Agriculture and Forestry*

*Specific exemption:* EPA authorized the use of triclopyr on a maximum of 450,000 acres of sugarcane to control divine nightshade. A time-limited tolerance in connection with this action has been established in 40 CFR 180.417(b). The specific exemption was authorized on September 20, 2023, and effective October 1, 2023 to May 31, 2024.

## **Mississippi**

*Department of Agriculture and Commerce*

*Specific exemption:* EPA authorized the use of thiamethoxam on a maximum of 60,000 acres of rice to control rice stink bug. Time-limited tolerances in connection with a previous action support this emergency use and are established in 40 CFR 180.565(b). The authorization was effective July 14, 2023 to October 15, 2023.

## **Missouri**

*Department of Agriculture*

*Specific exemption:* EPA authorized the use of thiamethoxam on a maximum of 60,000 acres of rice to control rice stink bug. Time-limited tolerances in connection with a previous

action support this emergency use and are established in 40 CFR 180.565(b). The authorization was effective July 14, 2023 to October 15, 2023.

## **South Dakota**

### *Department of Agriculture and Natural Resources*

*Crisis exemption:* EPA concurred upon a crisis exemption declared by the South Dakota Department of Agriculture and Natural Resources for the use of malathion to control red sunflower seed weevil in sunflower on August 16, 2023. The 15-day crisis exemption program expired on August 31, 2023.

### *B. Federal Departments and Agencies*

## **National Aeronautics and Space Administration**

*Specific exemption:* EPA authorized the use of ortho-phthaldehyde, incorporated into a porous resin, to treat and protect the International Space Station (ISS) internal active thermal control system (IATCS) coolant fluid from growth of aerobic and microaerophilic water bacteria and unidentified gram-negative rods. This request was granted because, without this use, the ISS would have no means to control organisms in the IATCS since there are no registered alternatives available that meet the required criteria. This emergency request proposed a use of a new (unregistered) chemical and in accordance with the requirements at 40 CFR 166.24(a)(1), a notice of receipt published in the *Federal Register* on August 25, 2023, to allow a public comment period that closed on September 11, 2023. The specific exemption was authorized on September 29, 2023, and effective October 7, 2023 to October 7, 2024.

### *C. Annual Report of Crisis Exemptions Declared and Revoked*

Three crisis exemptions were declared, and zero crisis exemptions were revoked between October 1, 2022, and September 30, 2023.

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

**Dated:** November 13, 2023.

**Charles Smith,**

*Director, Registration Division, Office of Pesticide Programs.*

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