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applications relying on previously submitted information to satisfy the information requirements of paragraphs (a)(1) through (a)(10) of this section, and of paragraphs (b)(1) through (b)(4) of this section, where all of the following conditions are met:

(i) An exemption was granted for the same pesticide at the same site to the same applicant the previous year;

(ii) The emergency condition could reasonably be expected to continue for longer than 1 year;

(iii) EPA has not declared the use ineligible for re-certification;

(iv) The use is not subject to public notice pursuant to §166.24(a)(1) through (a)(6);

(v) The applicant certifies that all of the following are true:

(A) The emergency condition described in the preceding year's application continues to exist;

(B) Except as expressly identified, all information submitted in the preceding year's application is still accurate;

(C) Except as expressly identified, the proposed conditions of use are identical to the conditions of use EPA approved for the preceding year;

(D) Any conditions or limitations on the eligibility for re-certification identified in the preceding year's notice of approval of the emergency exemption have been satisfied;

(E) The applicant is not aware of any alternative chemical or non-chemical practice that may offer a meaningful level of pest control, or has provided documentation that each such known practice does not provide adequate control or is not economically or environmentally feasible.

(c) *Information required for a quarantine exemption.* An application for a quarantine exemption shall provide all of the following information concerning the nature of the emergency:

(1) The scientific and common name of pest;

(2) The origin of pest and the means of its introduction or spread if known; and

(3) The anticipated impact of not controlling the pest.

(d) *Information required for a public health exemption.* An application for a public health exemption shall provide

all the following information concerning the nature of the emergency:

(1) The scientific and common name of the pest to be controlled and, if the pest is a vector, a description of the disease it is expected to transmit;

(2) A discussion of the magnitude of the health problems which are expected to occur without the pesticide use; and

(3) Discussion of the availability of medical treatment for the health problem.

[51 FR 1902, Jan. 15, 1986, as amended at 58 FR 34203, June 23, 1993; 71 FR 4511, Jan. 27, 2006]

**§166.22 Consultation with the Secretary of Agriculture and Governors of the States.**

The Agency, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

**§166.24 Public notice of receipt of application and opportunity for public comment.**

(a) *Publication requirement.* The Administrator shall issue a notice of receipt in the FEDERAL REGISTER for a specific, quarantine, or public health exemption and request public comment when any one of the following criteria is met:

(1) The application proposes use of a new chemical;

(2) The application proposes the first food use of an active ingredient;

(3) The application proposes any use of a pesticide if the pesticide has been subject to a suspension notice under section 6(c) of the Act;

(4) The application proposes use of a pesticide which:

(i) Was the subject of a notice under section 6(b) of the Act and was subsequently cancelled, and

(ii) Is intended for a use that poses a risk similar to the risk posed by any use of the pesticide which was the subject of the notice under section 6(b);

(5) The application proposes use of a pesticide which:

(i) Contains an active ingredient which is or has been the subject of a Special Review, and

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(ii) Is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is or has been the subject of the Special Review;

(6) The application proposes use of a pesticide which:

(i) Was voluntarily canceled under section 6(f) of the Act, and

(ii) Is intended for a use that poses a risk similar to the risk posed by any use of the pesticide which was voluntarily canceled under section 6(f);

(7) The application proposes use of a pesticide for a specific or public health exemption, if:

(i) An emergency exemption has been requested or approved for that use in any 3 previous years, or any 5 previous years if the use is supported by the IR-4 program, and

(ii) A complete application for registration of that use and/or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency; or

(8) The Administrator determines that publication of notice is appropriate.

(b) *Contents.* The notice of receipt of an application for an emergency exemption shall contain the following information:

(1) The name of the applicant;

(2) The name of the active ingredient requested for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number;

(3) The total amount of product or active ingredient proposed for use;

(4) The geographical location where treatment is proposed;

(5) The proposed number of acres or other appropriate units proposed to be treated;

(6) A summary of the applicant's description of the emergency conditions including the pest and the site or crop to be treated;

(7) A description of the major conditions of use of the pesticide as proposed by the applicant;

(8) If the pesticide proposed for use meets the criteria of paragraph (a) (3), (4), or (5) of this section, an identification of the types of risks that were the basis for EPA's regulatory action; and

(9) The name, telephone number, and address of a person in the Agency who can provide further information.

(c) *Length of comment period.* Normally, a notice of receipt shall give the public 15 days in which to file comments on the application. The Administrator may shorten or eliminate the comment period if he determines that the time available for a decision on the application requires it and shall state reasons for such action in a notice in the FEDERAL REGISTER. The Administrator may extend the comment period if additional time for comment is requested and such an extension would not interfere with a timely decision on the application.

[51 FR 1902, Jan. 15, 1986, as amended at 71 FR 4511, Jan. 27, 2006]

### § 166.25 Agency review.

(a) *General.* The Agency will review all requests as expeditiously as possible, making every attempt to respond to requests prior to the time when the proposed use is needed. The Agency will review the application and other available data necessary to make a determination with respect to all of the following:

(1) Whether an emergency condition exists or will exist;

(2) The Agency's ability and intention to establish a time-limited tolerance(s) or exemption(s) from the requirement of a tolerance for any pesticide residues resulting from the authorized use, identifying the level of permissible residues in or on food or feed resulting from the proposed use;

(3) The anticipated benefits to be derived from the proposed use; and

(4) The potential risks to human health, endangered or threatened species, beneficial organisms, and the environment from the proposed use.

(b) *Criteria for approval.* The Administrator may authorize a specific, public health, or quarantine exemption, based on the information available to the Agency, after:

(1) He determines that:

(i) An emergency condition exists;

(ii) The use of the pesticide under the exemption will not cause unreasonable adverse effects on the environment;

(iii) Registration of the pesticide use for which the exemption is requested has not been suspended under section 6(c) of the Act or cancelled following a notice under section 6(b) of the Act,