

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0050; FRL-10003-03]

### 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 April 1, 2019 to September 30, 2019 to control unforeseen pest outbreaks.

**FOR FURTHER INFORMATION CONTACT:** Michael Goodis, 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](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 at the end of the emergency exemption.

##### 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-2019-0050, 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. Please review the visitor instructions and additional information about the docket available at <http://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

###### Alabama

Department of Agriculture and Industries

*Specific exemptions:* EPA authorized the use of dinotefuran on a maximum of 175 acres of fuzzy kiwifruit fields to control brown marmorated stink bug. A time-limited tolerance in connection with this action has been established in 40 CFR 180.603(b); Effective April 25, 2019 to October 31, 2019.

EPA authorized the use of fenpropathrin on a maximum of 175 acres of fuzzy kiwifruit fields to control brown marmorated stink bug. A time-limited tolerance in connection with this action has been established in 40 CFR 180.466(b); Effective May 24, 2019 to October 31, 2019.

###### Arizona

Department of Agriculture

*Specific exemptions:* EPA authorized the use of sulfoxaflor on a maximum of 150,000 acres of cotton fields to control tarnished plant bug (*Lygus spp.*). Permanent tolerances in connection with a previous registration have been established in 40 CFR 180.668(a); Effective June 1, 2019 to October 31, 2019.

EPA authorized the use of sulfoxaflor on a maximum of 26,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b); Effective June 6, 2019 to November 30, 2019.

*Crisis exemption:* EPA authorized the use of zeta-cypermethrin on a maximum of 47 acres of guayule for control of pale striped flea beetle. Effective April 26, 2019 to May 10, 2019.

###### Arkansas

State Plant Board

*Specific exemption:* EPA authorized the use of flupyradifurone on a maximum of 200 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective June 1, 2019 to November 15, 2019.

###### California

Department of Pesticide Regulation

*Specific exemptions:* EPA authorized the use of the antibiotic streptomycin on a maximum of 23,000 acres of citrus to manage Huanglongbing (HLB), also called citrus greening disease, caused by

the bacterium *Candidatus Liberibacter Asiaticus*. Time-limited tolerances in connection with this action have been established at 40 CFR 180.245(b). Effective April 3, 2019 to April 3, 2020.

EPA authorized the use of sulfoxaflor on a maximum of 270,000 acres of cotton fields to control Western tarnished plant bug (*Lygus spp.*). Permanent tolerances in connection with a previous registration have been established in 40 CFR 180.668(a). Effective May 15, 2019 to October 31, 2019.

EPA authorized the use of methoxyfenozide on a maximum of 100,000 acres of rice to control armyworm (*Mythimna unipuncta*) and Western Yellowstriped Armyworm (*Spodoptera praefica*). A time-limited tolerance in connection with this action has been established in 40 CFR 180.544(b). Effective June 14, 2019 to October 4, 2019.

EPA authorized the use of bifenthrin on a maximum of 18,000 acres of pomegranates to control leaf-footed plant bug. A time-limited tolerance in connection with this action has been established in 40 CFR 180.442(b). Effective July 23, 2019 to December 31, 2019.

#### Colorado

##### Department of Agriculture

*Specific exemption:* EPA authorized the use of sulfoxaflor on a maximum of 500,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b); Effective June 1, 2019 to September 30, 2019.

#### Georgia

##### Department of Agriculture

*Specific exemption:* EPA authorized the use of flupyradifurone on a maximum of 200 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective April 22, 2019 to November 15, 2019.

#### Kentucky

##### Department of Agriculture

*Specific exemption:* EPA authorized the use of sulfoxaflor on a maximum of 1,300 acres of sweet sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b). Effective May 3, 2019 to November 30, 2019.

#### Louisiana

##### Department of Agriculture and Forestry

*Quarantine exemption:* EPA authorized the use of fipronil as an expansion of the registered use, to control an invasive Caribbean crazy ant species (commonly referred to as the tawny crazy ant) around the outside of manmade structures in counties where the ant has been confirmed; Effective April 22, 2019 to April 22, 2022.

#### Maryland

##### Department of Agriculture

*Specific exemptions:* EPA authorized the use of bifenthrin on a maximum of 3,570 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). Effective May 6, 2019 to October 15, 2019.

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). Effective June 15, 2019 to October 15, 2019. Since this request proposed a use for which an emergency exemption has been requested for more 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 requirements at 40 CFR 166.24, a notice of receipt published in the **Federal Register** on May 8, 2019 (84 FR 20121) (FRL-9992-45) with the public comment period closing on May 23, 2019.

*Quarantine Exemption:* EPA authorized the use of potassium chloride in a quarry in Carroll County to eradicate the invasive zebra mussel. Effective May 13, 2019 to May 13, 2022. Since this request proposed a use for a new chemical which has not been registered by EPA as a pesticide, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the **Federal Register** on March 25, 2019 (84 FR 11086) (FRL-9990-83) with the public comment period closing on April 9, 2019.

#### Massachusetts

##### Department of Agriculture and Resource

*Specific exemption:* EPA authorized the use of pronamide on a maximum of 5,000 acres of cranberries to control dodder. A time-limited tolerance in connection with this action has been

established in 40 CFR 180.317(b). Effective May 2, 2019 to June 30, 2019.

#### Michigan

##### Department of Agriculture and Rural Development

*Specific exemption:* EPA authorized the use of mefenflupyradifurone on a maximum of 147,000 acres of sugarbeets to control cercospora leaf spot. A tolerance was established in connection with registration of this use at 40 CFR 180.705. Effective May 31, 2019 to September 25, 2019. Since this request proposed a use for a new chemical, which had not been registered by EPA as a pesticide at that time in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the **Federal Register** on May 9, 2019 (84 FR 20353) (FRL-9992-75) with the public comment period closing on May 24, 2019.

*Quarantine exemption:* EPA authorized the use of pyrethrins and piperonyl butoxide to Eradicate Red Swamp Crayfish, *Procambarus clarkii*, on a maximum of 1.88 acres across five ponds in southeast Michigan. Effective August 26, 2019 to August 26, 2022.

#### Mississippi

##### Department of Agriculture and Commerce

*Specific exemption:* EPA authorized the use of flupyradifurone on a maximum of 1,000 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective June 1, 2019 to November 15, 2019.

*Quarantine exemption:* EPA authorized the use of fipronil as an expansion of the registered use, to control an invasive Caribbean crazy ant species (commonly referred to as the tawny crazy ant) around the outside of manmade structures in counties where the ant has been confirmed; Effective April 22, 2019 to April 22, 2022.

#### Minnesota

##### Department of Agriculture

*Specific exemption:* EPA authorized the use of mefenflupyradifurone on a maximum of 200,534 acres of sugarbeets to control cercospora leaf spot. A tolerance was established in connection with registration of this use at 40 CFR 180.705. Effective May 31, 2019 to September 25, 2019. Since this request proposed a use for a new chemical, which had not been registered by EPA as a pesticide at that time in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the

**Federal Register** on May 9, 2019 with the public comment period closing on May 24, 2019.

Montana

Department of Agriculture

*Specific exemption:* EPA authorized the use of indaziflam on a maximum of 55,000 acres of rangeland, pastures and areas subject to the conservation reserve program (CRP) to control medusahead and ventenata. Time-limited tolerances in connection with this action have been established in 40 CFR 180.653(b). Effective August 23, 2019 to August 1, 2020.

Nevada

Department of Agriculture

*Specific exemption:* EPA authorized the use of indaziflam on a maximum of 100,000 acres of rangeland, pastures and CRP to control medusahead and ventenata. Time-limited tolerances in connection with this action have been established in 40 CFR 180.653(b). Effective July 23, 2019 to March 27, 2020.

New York

Department of Environmental Conservation

*Specific exemptions:* 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). Effective July 24, 2019 to October 15, 2019.

North Carolina

Department of Agriculture and Consumer Services

*Specific exemptions:* EPA authorized the postharvest use of thiabendazole on a maximum of 95,000 acres of sweet potatoes to control black rot (*Ceratocystis fimbriata*). A time-limited tolerance in connection with this action has been established in 40 CFR 180.242(b). Effective April 3, 2019 to April 3, 2020.

EPA authorized the use of flupyradifurone on a maximum of 750 acres of sweet sorghum (forage and syrup) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.679(b). Effective April 3, 2019 to November 15, 2019.

EPA authorized the use of the insecticide sulfoxaflor on a maximum of 50,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection

with this action has been established in 40 CFR 180.668(b); Effective April 3, 2019 to November 30, 2019.

EPA authorized the use of sulfoxaflor on a maximum of 425,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a); Effective May 1, 2019 to October 31, 2019.

EPA authorized the use of bifenthrin on a maximum of 3,000 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). Effective July 24, 2019 to October 15, 2019.

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). Effective July 24, 2019 to October 15, 2019. Since this request proposed a use for which an emergency exemption has been requested for more 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 8, 2019 with the public comment period closing on May 23, 2019.

North Dakota

Department of Agriculture

*Specific exemption:* EPA authorized the use of mefenfluoconazole on a maximum of 28,502 acres of sugarbeets to control cercospora leaf spot. A tolerance was established in connection with registration of this use at 40 CFR 180.705. Effective May 31, 2019 to September 25, 2019. Since this request proposed a use for a new chemical, which had not been registered by EPA as a pesticide at that time in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the **Federal Register** on May 9, 2019 with the public comment period closing on May 24, 2019.

Oklahoma

Department of Agriculture

*Specific exemption:* EPA authorized the use of sulfoxaflor on a maximum of 300,000 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in

40 CFR 180.668(b); Effective May 13, 2019 to November 30, 2019.

EPA authorized the use of sulfoxaflor on a maximum of 700,000 acres of cotton fields to control tarnished plant bug (*Lygus lineolaris*). Permanent tolerances in connection with a previous registration action have been established in 40 CFR 180.668(a); Effective May 13, 2019 to October 30, 2019.

Pennsylvania

Department of Agriculture

*Specific exemptions:* EPA authorized the use of bifenthrin on a maximum of 24,974 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). Effective May 24, 2019 to October 15, 2019.

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). Effective June 15, 2019 to October 15, 2019. Since this request proposed a use for which an emergency exemption has been requested for more 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 8, 2019 with the public comment period closing on May 23, 2019.

South Carolina

Department of Pesticide Regulation

*Specific exemption:* EPA authorized the use of sulfoxaflor on a maximum of 19,600 acres of sorghum (grain and forage) to control sugarcane aphid. A time-limited tolerance in connection with this action has been established in 40 CFR 180.668(b); Effective May 23, 2019 to November 30, 2019.

South Dakota

Department of Agriculture

*Specific exemption:* EPA authorized the use of pyridate on a maximum of 910 acres of double-cut mint for postemergence control of herbicide-resistant annual weeds such as Redroot pigweed, *Armaranthus retroflexus*, common lambquarters, kochia and Russian thistle. Tolerances in connection with an earlier registration action are established in 40 CFR 180.462(a); July 1, 2019 to August 31, 2019.

## Texas

## Department of Agriculture

**Specific exemption:** EPA authorized the use of clothianidin on a maximum of 4,000 acres of immature citrus trees to manage the transmission of HLB disease vectored by the Asian citrus psyllid. A time-limited tolerance in connection with this action was established in 40 CFR 180.586(b); Effective May 7, 2019 to May 7, 2020.

**Quarantine exemption:** EPA authorized the use of fipronil as an expansion of the registered use, to control an invasive Caribbean crazy ant species (commonly referred to as the tawny crazy ant) around the outside of manmade structures in counties where the ant has been confirmed; Effective May 6, 2019 to May 6, 2022.

## Virginia

## Department of Agriculture and Consumer Services

**Specific exemptions:** EPA authorized the use of bifenthrin on a maximum of 29,000 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). Effective May 6, 2019 to October 15, 2019.

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). Effective June 15, 2019 to October 15, 2019. Since this request proposed a use for which an emergency exemption has been requested for more 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 8, 2019 with the public comment period closing on May 23, 2019.

## Washington

## Department of Agriculture

**Specific exemption:** EPA authorized the use of sulfoxaflo on a maximum of 22,500 acres of alfalfa grown for seed to control lygus bugs (*Lygus hesperus*, *Lygus elisus*, and other *Lygus spp.*). Alfalfa grown for seed in Washington is a non-food/non-feed use; Effective June 15, 2019 to August 31, 2019.

EPA authorized the use of lambda-cyhalothrin on a maximum of 7,000 acres of asparagus to control the European asparagus aphid. Effective

June 15, 2019 to October 30, 2019. Since this request proposed a use for which an emergency exemption has been requested for more five 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 20, 2019 (84 FR 22840) (FRL-9992-90) with the public comment period closing on June 4, 2019.

## West Virginia

## Department of Agriculture

**Specific exemptions:** EPA authorized the use of bifenthrin on a maximum of 5,986 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). Effective August 22, 2019 to October 15, 2019.

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). Effective July 24, 2019 to October 15, 2019. Since this request proposed a use for which an emergency exemption has been requested for more 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 8, 2019 with the public comment period closing on May 23, 2019.

## Wyoming

## Department of Agriculture

**Specific exemption:** EPA authorized the use of indaziflam on a maximum of 300,000 acres of rangeland, pastures and CRP to control medusahead and ventenata. Time-limited tolerances in connection with this action have been established in 40 CFR 180.653(b). Effective September 14, 2019 to September 14, 2020.

## B. Federal Departments and Agencies

## Defense Department

**Crisis exemption:** EPA concurred upon a crisis exemption declared by the 23D Marine Regiment to treat field uniforms with etofenprox to repel ticks, during a field training exercise in an area known to harbor disease-carrying ticks. Effective August 1, 2019 to August 15, 2019.

## National Aeronautics and Space Administration

**Specific exemption:** EPA authorized use of ortho-phthalaldehyde, immobilized to a porous resin, to treat the International Space Station (ISS) internal active thermal control system (IATCS) coolant for control of aerobic and microaerophilic water bacteria and unidentified gram-negative rods. Effective July 24, 2019 to July 24, 2020. This request was granted because without this use, the ISS would have no means of controlling microorganisms in the IATCS because there are no registered alternatives available which meet the required criteria. Since this request proposed a use of a new (unregistered) chemical, in accordance with the requirements at 40 CFR 166.24, a notice of receipt published in the **Federal Register** on June 14, 2019 (84 FR 27776) (FRL-9994-52) with the public comment period closing on July 1, 2019.

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

Dated: December 18, 2019.

**Michael Goodis,**

Director, Registration Division, Office of Pesticide Programs.

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**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OPPT-2019-0684; FRL-10003-20]

**Updated Working Approach To Making New Chemical Determinations Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is announcing the availability of and soliciting public comment on a document entitled: "TSCA New Chemical Determinations: A Working Approach for Making Determinations under TSCA Section 5" (the "Working Approach"). This document builds upon EPA's November 2017 document entitled: "New Chemicals Decision-Making Framework: Working Approach to Making Determinations under section 5 of TSCA". Feedback received will help inform the Agency's ongoing efforts to improve policy and processes relating to the review of new chemicals under TSCA.

**DATES:** Comments must be received on or before February 18, 2020.