

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2023-0015; FRL-11225-01-OCSP]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted 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 April 1, 2023, to June 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.

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-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 or denied emergency exemptions to the following State and Federal agencies. 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 State or Federal 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 **Federal**

Register citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

U.S. States and Territories

Arizona

Department of Agriculture

Specific exemption: EPA authorized the co-formulated use of thiamethoxam and lambda-cyhalothrin on a maximum of 400 acres of guayule to control palestriped flea beetle. A time-limited tolerance in connection with this action was not established since the emergency use is non-food/feed. The authorization was effective May 12, 2023.

Colorado

Department of Agriculture

Denial: On May 18, 2023, EPA denied a specific exemption request for the use of metatriton to control glyphosate-resistant Palmer amaranth in sugar beets. Metatriton is an unregistered pesticide and EPA has not yet fully evaluated its potential risks. Therefore, this request was denied because the Agency was unable to make the safety findings for metatriton as mandated by FIFRA and the Federal Food, Drug, and Cosmetic Act (FFDCA). Because an unregistered pesticide was requested, a Notice of Receipt, with opportunity for public comment (required by 40 CFR 166.24), published in the **Federal Register** on March 10, 2023 (88 FR 15014) (FRL-10772-01-OCSP). The public comment period closed on March 27, 2023. No negative comments were submitted, but a number of comments were received from stakeholders (e.g. producers, grower representatives, and state government entities) in favor of allowing the use.

Hawaii

Department of Agriculture

Specific exemptions: EPA authorized the use of *Wolbachia pipiensis* DQB strain (wAlbB) contained in live adult male *Culex quinquefasciatus* mosquitoes on a maximum of 20,000 acres of State, Federal, and private lands to control mosquitoes (*Cx. quinquefasciatus*). The authorization was effective April 25, 2023.

EPA authorized the co-formulated use of fluxapyroxad and pyraclostrobin on a maximum of 8,000 acres of coffee to control coffee leaf rust. Import tolerances in connection with prior registration actions are established in 40 CFR 180.666 for fluxapyroxad and 40 CFR 180.582 for pyraclostrobin and are sufficient to support this use. The authorization was effective May 18, 2023.

Michigan

Department of Agriculture and Rural Development

Specific Exemption: EPA authorized the use of acifluorfen on a maximum of 48,000 acres of sugar beets for postemergence control of invasive *amaranthus* (pigweed) spp., waterhemp, and palmer amaranth. Time-limited tolerances in connection with a previous action support this emergency use and are established in 40 CFR 180.383(b). The authorization was effective May 4, 2023.

Minnesota

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 65,000 acres of sugar beets for postemergence control of glyphosate-resistant waterhemp. Time-limited tolerances in connection with a previous action support this emergency use and are established in 40 CFR 180.383(b). The authorization was effective May 4, 2023.

Nebraska

Department of Agriculture

Denial: On May 18, 2023, EPA denied a specific exemption request for the use of metamitron to control glyphosate-resistant Palmer amaranth in sugar beets. Metamitron is an unregistered pesticide and EPA has not yet fully evaluated its potential risks. Therefore, the request was denied because the Agency was unable to make the safety findings for metamitron as mandated by FIFRA and the Federal Food, Drug, and Cosmetic Act (FFDCA). Because an unregistered pesticide was requested, a Notice of Receipt, with opportunity for public comment (required by 40 CFR 166.24), published in the **Federal Register** on March 10, 2023 (88 FR 15014) (FRL-10772-01-OCSP). The public comment period closed on March 27, 2023. No negative comments were submitted, but a number of comments were received from stakeholders (e.g., producers, grower representatives, and state government entities) in favor of allowing the use.

North Dakota

Department of Agriculture

Specific exemption: EPA authorized the use of acifluorfen on a maximum of 20,000 acres of sugar beets for postemergence control of glyphosate resistant waterhemp. Time-limited tolerances in connection with a

previous action support this emergency use and are established in 40 CFR 180.383(b). The authorization was effective May 4, 2023.

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

Dated: August 24, 2023.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2023-0075; FRL-11150-01-OCSP]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before October 2, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2023-0075, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7505T), Office of Pesticide Programs,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-2707; email address: green.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/comments.html>.

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel certain pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.