



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2016-0225; FRL-9945-75]

Sulfoxaflor; Receipt of Applications for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Tennessee Department of Agriculture (TDA), the Arkansas State Plant Board (ASPB) and the Mississippi Departments of Agriculture and Commerce (MDAC) to use the pesticide sulfoxaflor (CAS No. 946578-00-3) to treat up to 168,750 acres of cotton in Tennessee, up to 320,000 of acres of cotton fields in Arkansas and up to 337,500 acres of cotton fields in Mississippi to control tarnished plant bug. The applicants propose a use of a pesticide, sulfoxaflor, which is now considered to be unregistered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) owing to the vacature of sulfoxaflor registrations by the United States District court for the Central District of California. In accordance with 40 CFR 166.24(a)(7), EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before *[insert date 15 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2016-0225, by one of the following methods:

16P-0107

- *Federal eRulemaking Portal:* <http://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.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, 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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through 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 <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a federal or state

agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. The Tennessee Department of Agriculture, the Arkansas State Plant Board and the Mississippi Departments of Agriculture and Commerce have requested the EPA Administrator to issue specific exemptions for the use of sulfoxaflor on cotton to control tarnished plant bug. Information in accordance with 40 CFR part 166 was submitted as part of this request.

In addition to TDA, ASPB, and MDAC, numerous states have previously requested specific exemptions for the use of sulfoxaflor on cotton to control tarnished plant bug (*Lygus lineolaris*) and are expected to submit similar requests.

The applicants propose to make no more than four applications of Tranform WG per acre per year. Annual use will not exceed 0.266 lbs of active ingredient per acre for all states. Tennessee has requested to treat a total of 168,750 acres of cotton fields. In Arkansas, up to 320,000 of acres of cotton fields are requested to be treated. In Mississippi up to 337,500 acres of cotton fields are requested to be treated to control tarnished plant bug. The use season is from June 2016 through September 2016 for Tennessee and June 2016 through October 2016 for Arkansas and Mississippi. In Tennessee, the maximum amount of insecticide that could be applied is 89,648 lbs of formulated product applied foliarly by air or ground. In Arkansas, the maximum amount of insecticide that could be applied is 160,000 lbs of formulated product applied foliarly. In Mississippi, the maximum amount of insecticide that could be applied is 179,297 lbs of formulated product applied foliarly

This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 require publication of a notice of receipt of an

application for specific exemptions proposing a use of a pesticide that has been subject to a judicial vacature, however, EPA considers public notice appropriate in this instance.

Accordingly, this notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemptions requested by the Tennessee Department of Agriculture, the Arkansas State Plant Board and the Mississippi Departments of Agriculture and Commerce.

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

Dated: April 28, 2016.

Daniel J. Rosenblatt, Acting

Director, Registration Division, Office of Pesticide Programs.

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