



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

February 24, 2006

MEMORANDUM

SUBJECT: Preparation for 2006 Busy Season for Emergency Pest Control Programs under Section 18 of FIFRA

FROM: Dan Rosenblatt, Chief [signed by **D. Rosenblatt on 2/24/06**]
Risk Integration, Minor Use, and Emergency Response Branch
Registration Division, Office of Pesticide Programs

TO: State and Federal Lead Agencies for Pesticide Regulation

It is once again the time of year when many of you will be submitting applications for emergency pest control programs under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). As in the past, I want share news and information with you about the emergency exemption program, including several topics of emphasis and program goals for the 2006 season.

First, I want to thank you all for your hard work and support during the 2005 season. As we gear up for the busy season and assess our staffing to carry out the important work of the emergency exemption program, I'm happy to introduce a new Team Leader for the Section 18 team. Anthony (Tony) Britten joined us in January. You can reach Tony at 703-308-8179. He formerly worked as a chemical review manager in the Special Review and Reregistration Division of the Office of Pesticide Programs. Also, I am pleased to announce that Marcel Howard has joined the Section 18 team and is serving as an analyst and as an information management specialist.

Further news is that our office, along with the entire Office of Pesticide Programs, is moving to a new building this Spring. The building is located near the Ronald Reagan -Washington National airport in Arlington, Virginia, and consolidates several EPA satellite offices. April 28th will be our last day in our current building. The week of May 1, 2006 - May 5, 2006 will be a transition week. More information will be forthcoming to you in the upcoming weeks about reaching us between May 1 - May 5.

To help us continue to provide effective service in 2006, I want to remind you that the Agency requests a lead time of 50 calendar days in order to process emergency exemption requests. This is especially important for first-time requests. Please also submit complete application packages. Applications that do not contain all the information and data that EPA needs to complete its evaluation of emergency exemption requests can and will lead to delays. As always, EPA will strive to respond to all emergency exemption requests as quickly as possible.

In this memo, I want to discuss several issues that the section 18 team will be closely evaluating this year and also provide you with our current staff list, contact information and other news that I hope will facilitate a productive 2006 season.

New Section 18 Rule Published

A big, new milestone for the section 18 program in 2006 is the January 27th publication in the Federal Register of the final rule revisions to streamline the emergency exemptions regulations at 40 CFR Part 166. This rule is the fruition of much dialogue with you and other stakeholders on how to more efficiently, clearly and equitably manage the emergency exemption process while fully maintaining protections for human health and the environment. You can find a description and link to the rule at http://www.epa.gov/opprd001/section18/section18rule_fs.htm.

The rule modifies analytical criteria for substantiating an emergency situation and also makes other changes intended to streamline the application process. The first significant change provides applicants for certain repeat specific exemptions a simple way to re-certify that the emergency conditions that qualified for an exemption in a previous year continue to exist. We are working to post as quickly as possible a list of those repeat section 18s that we believe would qualify for streamlined re-certification under the new rule. I hope you will find the new re-certification procedures both straight forward and common sense, particularly if you participated in one of the several pilots for the streamlined procedures.

The other significant change is to the criteria for determining when a potential emergency condition is expected to cause a significant economic loss, and the data requirements for documenting the loss. These changes will likely generate the most questions, and we are working to complete more detailed guidance as quickly as possible. The new requirements will not be mandatory until March 28, 2006. In the interim, States will have the option of following either the new or the existing requirements.

We are planning training workshops in several central locations. Please make these workshops known to any parties that may routinely assist your state in preparing section 18 applications. University extension experts, crop consultants, and other stakeholders are welcome to attend. Four live workshops will take place in March before the effective date. Also, teleconference workshops are planned in March for those who cannot attend one of the regional workshops.

The workshop dates, locations and contacts follow. Please email the contact person for the workshop you plan to attend in order to register and receive details about the workshops. Also, please ask stakeholders who plan to attend to also email the workshop contact so that we can ensure adequate meeting space.

Upcoming Workshops for New Section 18 Rule

Date	Location	Contact
March 14, 2006	EPA Headquarters (DC) Office of Pesticide Programs Crystal Mall 2 1801 South Bell St. Arlington, VA 22202	Luis Suguiyama Email: suguiyama.luis@epa.gov Phone: (703) 305-6027
March 17, 2006	Teleconference (if needed) for those unable to attend a live workshop.	Tony Britten Email: britten.anthony@epa.gov Phone: (703) 308-8179
March 21, 2006	EPA Region 5 (Chicago) 77 West Jackson Chicago, IL 60604	Margaret Jones Email: jones.margaret@epa.gov Phone: (312) 353-5790
March 22, 2006	EPA Region 10 (Seattle) 1200 6th Avenue Seattle, WA 98101-1128	Lyn Frandsen Email: frandsen.lyn@epa.gov Phone: (206) 553-4768 Note: registration information will soon be available at www.trainex.org .
March 24, 2006	EPA Region 8 (Denver) 999 18th Street Denver, CO 80202-2466	Judy Bloom Email: bloom.judy@epa.gov Phone: (303) 312-6395
March 27, 2006	Teleconference (if needed) for those unable to attend a live workshop.	Tony Britten Email: britten.anthony@epa.gov Phone: (703) 308-8179
April 19, 2006	EPA Region 4 (Atlanta) Sam Nunn Atlanta Federal Center 61 Forsyth Street, NW Atlanta, GA 30303-3104	Lora Lee Schroeder Email: shroeder.lora@epa.gov Phone: (404) 562-9015

Marketing Claims for Emergency Exemption Products

We appreciate and thank you for your role as partners in helping us clarify the purpose and appropriate use of emergency exemptions. Emergency exemption approvals are intended to support management of the pest (insect, weed, plant disease, etc) for which emergency conditions exist. Use for the control of other pests, or to realize a greater crop yield, shall not be undertaken or promoted in association with a regulatory clearance for an emergency exemption.

For example, the rationale for soybean rust emergency exemptions is that only a small number of fungicide products were labeled for control of soybean rust on soybeans and the arrival of soybean rust necessitated expedited clearances for additional products in order to assure adequate stocks. Use of the exempted products on soybeans in order to control other diseases or for the purpose of realizing a yield benefit is not a lawful use of an exempted pesticide. Again, thank you for your help in conveying this message concerning the proper use of emergency exemptions.

Crisis Exemptions

For fast developing and unexpected pest problems that require the use of treatments under a crisis exemption, please be sure to confer with this office in advance of the use to find out whether EPA has objections to the proposed crisis use and, when use will be to a food crop, that the treatments can be covered with a time-limited tolerance. Please telephone Tony Britten or another team member as you begin to seriously explore the possibility of relying on the crisis provision.

Reliance on the crisis provision should be rare. EPA is increasingly unwilling to accommodate crisis declarations in successive growing seasons. Repeat requests should be submitted as specific, quarantine or public health exemption requests, with enough lead time in advance of the use season so as to permit review time for EPA staff. Finally, as a reminder, it is not permissible to declare a “crisis” for a new chemical or for the first food use of a chemical.

New Chemicals

As in the past, I want to remind you of the problems and difficulties with evaluating a “new chemical” for an emergency exemption request. Depending on the specific case, there may be generic toxicology, residue chemistry, product chemistry, and formulation-specific data to review. In addition, an overall label review is necessary. All of this needs to occur while the clock is ticking toward a use season. I’m sure you can appreciate that this scenario places all of us with a stake in the section 18 process in a vulnerable position. Please be mindful of this when contemplating whether to go forward with an exemption request for a new chemical. Section 18 requests for new chemicals are also subject to a notice and comment period (40 CFR 166.24).

Interim/Final Reports

Reviewers will once again be checking for interim/final reports for any repeat requests. Please be sure to avoid any processing delays by submitting the interim/final report which summarizes the 2005 use prior to applying for a repeat request. As a reminder, the report should include information outlined in 40 CFR 166.32 including:

- total acreage or other unit treated;
- total quantity of the pesticide used;
- a discussion of the effectiveness of the pesticide in dealing with the emergency condition;
- a description of any unexpected adverse effects;
- results of any monitoring carried out under the exemption program; and
- a discussion of any enforcement action taken.

If you are going to include the interim/final report with the 2006 application request, we ask that it be a separate document and not included in the text of the 2006 application. If you have already submitted a separate final report, a copy in the new request is appreciated.

Section 18 Use Directions

I would also like to remind you that if special section 18 use directions will be distributed to growers, then these use directions should be included for review in the application package. Since 2003, the staff of the Emergency Response Team has generally relied on information in the attached *Section 18 Use Directions* document when reviewing applications. This has resulted in clearer, more uniform and accurate use directions that correspond more directly to the authorizations that we send out. The Agency appreciates the states' efforts in this matter and we encourage you to continue to follow the *Section 18 Use Directions* guidance document for all future section 18 requests.

How to Reach Us

Courier Address for Submitting Emergency Exemption Applications until April 28, 2006

The most common and recommended way of submitting a section 18 request is by overnight courier (Fed Ex, UPS, etc.). Mail can be received at the following address until April 28, 2006. After that date, the building will be closed and will not receive courier mail. We recommend you submit any packages so they arrive in advance of April 28th, or that you hold your package until it can be received at the new building on or after May 8th. The address until April 28, 2006, is:

Dan Rosenblatt, Chief
Risk Integration, Minor Use, and Emergency Response Branch (7505C)
U.S. EPA, Office of Pesticide Programs
Crystal Mall No. 2 - Second Floor
1801 Bell Street
Arlington, VA 22202

Regular Mail Deliveries (U.S. Postal Service)

Mail sent via the U.S. Postal Service may be diverted out of the building for precautionary decontamination prior to delivery to the addressee, delaying its receipt. Therefore, we recommend you send only non-urgent documents to the following address. Mail received at this address after April 28, 2006 will likely be held until it can be delivered to the new building the week of May 8, 2006.

[Insert name of addressee]

Emergency Response Team (7505C) [*after April 28th, mail code is 7505P*]
U.S. EPA, Office of Pesticide Programs
1200 Pennsylvania Avenue NW
Washington, DC 20460

New Courier Address beginning May 8, 2006

We do not have full information or instructions for couriers regarding package deliveries to the new building yet, but the new street address will be 2777 South Crystal Drive, Arlington, VA 22202. Our new mail code will be 7505P. EPA will be communicating more details about the new building shortly.

Contacting the Emergency Exemption Team by Phone, Fax or E-mail

Team Members	Phone	FAX	E-mail
Andy Ertman	(703) 308-9367	(703) 308-5433	Ertman.Andrew@epa.gov
Stacey Groce	(703) 305-2505	""	Groce.Stacey@epa.gov
Libby Pemberton	(703) 308-9364	""	Pemberton.Libby@epa.gov
Marcel Howard	(703) 305-6784	""	Howard.Marcel@epa.gov
Andrea Conrath	(703) 308-9356	""	Conrath.Andrea@epa.gov

Team Leader			
Anthony Britten	(703) 308-8179	""	Britten.Anthony@epa.gov

Branch Chief			
Dan Rosenblatt	(703) 308-9366	""	Rosenblatt.Dan@epa.gov

cc: *Regional Contacts*

Attachment: *Section 18 Use Directions Document*