

Options for Addressing Critical Pest Situations

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Overview of Topics

- Section 2ee Label Recommendations
- Section 18 Emergency Exemptions
- Section 24(c) Special Local Need

Section 2(ee)

Section 2(ee) of FIFRA describes some exceptions to the FIFRA definition of “using a pesticide inconsistent with its labeling”. This provision presents special circumstances where it is permissible to use a pesticide in a manner for which it is not specifically labeled.

Allowable uses under 2ee

- Applying a pesticide at any dosage, concentration, or frequency less than specified on the label, unless prohibited by the label. Section 2(ee) cannot be used to increase the dosage, concentration or frequency of an application, nor can it be used to decrease the preharvest interval.
- Applying a pesticide against any target pest not specified on the labeling, to a crop, animal, or site on the label, unless the label only allows use for control of labeled pests.

Allowable uses under 2ee

- Employing any method of application not prohibited by the labeling, unless the label states that the product may be applied only by the methods specified on the label.
- Mixing a pesticide or pesticides with a fertilizer, when such a mixture is not prohibited by the labeling.

The Bottom Line

- If the crop or site is on the label and the pesticide will control the target pest, and the recommended use is not prohibited by the label, then a recommendation is allowed.
- States are allowed to be more restrictive than FIFRA, some states may have additional data requirements prior to allowing a 2(ee) use or may not allow 2(ee) uses in their jurisdictions under any circumstances.

Definition of Section 18

- Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes the U.S. Environmental Protection Agency (U.S. EPA) to allow an unregistered use of a pesticide for a limited time if U.S. EPA determines that an emergency condition exists.

What is an Emergency Condition??

- **Title 40, Code of Federal Regulations (40CFR), part 166**), defines “emergency condition” as an urgent, non-routine situation that requires the use of a pesticide. It allows for the time-limited use of a pesticide product (not registered or not registered for that use) to control the emergency.

States Role in Section 18

- FIFRA Section 18 also authorizes U.S. EPA to allow a federal or state agency the ability to grant the use of a pesticide product without registration, if an emergency condition exists.
- The issuance of a Section 18 is not the same as the issuance of a product license.

The Four Types of Section 18's

SPECIFIC EXEMPTION

- These form the majority of requests.
- Requested to avert a significant economic loss or a significant risk to endangered or threatened species, beneficial organisms, or the environment.
- Growers or agricultural research scientists identify a pest situation that registered pesticides cannot control.
- May be authorized for up to one year.

QUARANTINE EXEMPTION

- Requested to control the introduction or spread of an invasive pest not previously found in the U.S.
- “Emergency” rests on the potential of an invasive species to cause a significant economic loss.
- May be authorized for up to three years.

PUBLIC HEALTH EXEMPTION

- Requested to control a pest that will cause a significant risk to human health.
- “Emergency” based upon the risk to human health from the pest to be controlled.
- May be authorized for up to one year.

CRISIS EXEMPTION

- May only be issued when there is an immediate need for a specific, quarantine, or public health exemption in situations involving an *unpredicable* emergency situation when the time from discovery of the emergency to the time when the pesticide use is needed is insufficient to allow for the authorization of an exemption through normal means.

Definition of Special Local Need

“An existing or imminent pest problem within a State for which the State lead agency, based upon satisfactory supporting information, has determined that an appropriate federally registered pesticide product is not sufficiently available.”

Special Local Need Determination

- States must determine if a special local need exists.
- Pest problem cannot be present nationwide.

Special Local Need (Section 24(c)) Registrations

States may register a new end use product for a use, or an additional use of a federally registered product, provided:

- There is a special local need within the state.
- The use is covered by tolerance (food use).
- Registration for same use not previously denied, disapproved, suspended or cancelled.

Effect of State Registration (SLN)

- EPA has 90 days (after issuance) in which it may disapprove a 24(c) registration.
- If not disapproved by EPA, a 24(c) registration is considered to be a federal registration, but distribution and use authorized only within that state.

SLN Procedures & Requirements

See EPA guidelines and 40 CFR 162.

Examples of Alabama 24 (c)' s

- Bayer Proline (2009) for Pitch Canker and Rhizoctonia foliar blight
- Syngenta Reflex (2003) Nutsledge
- 2 Permethrin 3.2AG Products (2003) in Conifer nurseries for regeneration weevils
- Mobay Chemical, Bayleton 50 WP for seed treatment in pine nurseries (1983)

Section 18 VS. 24(c)

SECTION 18	SECTION 24 (c)
No tolerance yet established. U.S. EPA will establish a time-limited tolerance.	Tolerance or exemption already established.
For limited use to treat sudden and limited emergency pest infestations.	To meet a special local need (which may be a region of the state or the whole state).
Emergency situation must be well documented and not a historical pest problem. Economics and lack of alternatives must be verified.	Justification and lack of alternatives must be documented.

Section 18 VS. 24(c) con't

SECTION 18	SECTION 24(c)
Request made through the state and issued after U.S. EPA approval, which includes the use, limitations on acreage and location, and the time-limited tolerance. The state may issue “crisis” Section 18 after consultation with U.S. EPA.	The state issues without U.S. EPA review, although U.S. EPA has 90 days to comment.
Expiration date not to exceed one year, except quarantine exemptions (up to three years). Renewable if the emergency recurs or persists, although renewal difficult after the third year.	Usually issued without expiration date. May be inactivated by applicant, the state, or U.S. EPA.

What You Need to be Successful

- Relationships
- Data= University researcher or Extension
- SLA
- EPA
- Working together
- Asking for the right option for the right situation