

**§ 166.40**

**40 CFR Ch. I (7-1-04 Edition)**

as the Administrator notifies the State or Federal agency which submitted the application. Upon notification, the applicant is required immediately to take all necessary steps to assure that further use complies with the terms and conditions of any modification or, if the exemption has been revoked, to stop further use.

**Subpart C—Crisis Exemptions**

**§ 166.40 Authorization.**

The head of a Federal or State agency, the Governor of a State, or their official designee, may issue a crisis exemption in situations involving an unpredictable emergency situation when:

- (a) An emergency condition exists; and
- (b) The time element with respect to the application of the pesticide is critical, and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request.

**§ 166.41 Limitations.**

The crisis provisions may not be utilized to authorize a pesticide use if any of the following has occurred:

- (a) EPA has informed the head of the Federal or State agency, the Governor, or their official designee, not to issue such an exemption;
- (b) The pesticide use has been suspended under section 6(c) of the Act;
- (c) The pesticide use has been cancelled following a notice issued under section 6(b) of the Act;
- (d) The pesticide contains a new chemical; or
- (e) The application proposes the first food use of a pesticide.

**§ 166.43 Notice to EPA and registrants or basic manufacturers.**

- (a) *Timing of notice.* (1) When feasible, the State or Federal Agency issuing the crisis exemption must notify the Administrator at least 36 hours in advance of utilization of the crisis provisions. In no case shall notice be given to the Agency later than 24 hours after the decision to avail itself of a crisis exemption.
- (2) The State or Federal agency issuing the crisis exemption shall no-

tify the registrant(s) or, if appropriate, the basic manufacturer(s) of the pesticide(s) being used under the crisis exemption at the same time notice is given to EPA or as soon thereafter as possible.

(b) *Contents of notice.* Information required to be provided in notices shall include all of the following:

- (1) The name of the active ingredient authorized for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number;
- (2) The site on which the pesticide is to be used or is being used;
- (3) The use pattern;
- (4) The date on which the pesticide use is to begin or the date on which use of the pesticide began;
- (5) An estimate of the level of residues of the pesticide expected to result from use under the crisis exemption; and
- (6) Any other pertinent information available at the time.

[51 FR 1902, Jan. 15, 1986, as amended at 58 FR 34203, June 23, 1993]

**§ 166.45 Duration of crisis exemption.**

A crisis exemption may be authorized for:

- (a) Only as long as is necessary to control the pest or conditions causing the emergency; and
- (b) No longer than 15 days, unless an application requesting a specific, quarantine, or public health exemption for this use has been submitted to the Agency.

**§ 166.47 Notification of FDA, USDA, and State health officials.**

If a use authorized under a crisis exemption will result in residues of the pesticide chemical in or on food, the Agency will notify the authorizing agency, the Food and Drug Administration, U.S. Department of Health and Human Services and the Food Safety and Inspection Service, U.S. Department of Agriculture, as appropriate, of the level of residues expected to result and whether such residues pose an unacceptable risk to public health. This notice shall be provided as soon as the Agency makes its determination. Additionally, the Agency will ensure that

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State health and food officials, as appropriate, are also provided with this information.

### § 166.49 Public notice of crisis exemptions.

(a) *Periodic notices.* At least quarterly, the Administrator shall issue a notice in the FEDERAL REGISTER announcing issuance of crisis exemptions. The notice shall contain all of the following:

- (1) The name of the State or Federal agency using a crisis exemption;
- (2) The name of the active ingredient authorized for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number;
- (3) The site to be treated;
- (4) The name, telephone number, and address of a person in the Agency who can provide further information; and
- (5) Whether a specific, quarantine, or public health exemption has been requested.

(b) *Annual reports.* Annually, the Agency shall issue a notice in the FEDERAL REGISTER that shall summarize:

- (1) The number of crisis exemptions declared; and
- (2) The number of crisis exemptions revoked.

### § 166.50 Reporting and recordkeeping requirements for crisis exemption.

(a) *Adverse effects information.* Any adverse effects resulting from the use of a pesticide under a crisis exemption must be immediately reported to the Agency.

(b) *Final reports.* (1) A report summarizing the results of treatment under a crisis exemption will be required to be submitted to the Agency within 3 months following the last date of treatment. If a specific, quarantine, or public health exemption has been approved while the crisis exemption is in effect, however, the crisis exemption report may be incorporated into the specific, quarantine, or public health exemption final report required under § 166.32(b) and submitted at the time it is due.

(2) Information to be included in the crisis exemption report includes the same information as required in § 166.32(b) and an explanation as to why there was a need to utilize the crisis provisions.

(c) *Records.* Records will be maintained for a minimum of 2 years following the date of expiration of the exemption. On request by the Agency, these records shall be made available to the Administrator. Records will include all of the following:

- (1) Location where the pesticide was applied;
- (2) Dates of application (range); and
- (3) Total quantity of the pesticide used.

[51 FR 1902, Jan. 15, 1986, as amended at 58 FR 34203, June 23, 1993]

### § 166.53 EPA review of crisis exemption and revocation of authority.

(a) *Review.* When a crisis exemption is about to be or has already been declared by a State or Federal agency, EPA will undertake an expedited review of the pesticide to determine if use of the pesticide may result in such unreasonable health or environmental risks that the crisis authority should not be exercised or the crisis exemption should be revoked.

(b) *Revocation*—(1) *Individual crisis exemptions.* A crisis exemption for the use of a specific pesticide may be revoked if the Administrator determines that:

- (i) There are insufficient data to determine the risks posed from the use;
- (ii) Such action is necessary to protect man or the environment; or
- (iii) The State or Federal agency is not complying with the requirements of this subpart C.

(2) *State or Federal agency authority.* The Administrator may revoke the authority of a State or Federal agency to issue crisis exemptions for any pesticide if he determines that:

- (i) Such action is necessary to protect man or the environment; or
- (ii) The State or Federal agency is not complying with the requirements of this subpart C.

(c) *Reason for revocation.* The Agency shall provide the specific reasons for revoking an agency's authority to issue a crisis exemption and for revoking an issued crisis exemption.