



## OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION

WASHINGTON, D.C. 20460

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**From:** Charles Smith, Director  
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**Subject:** Repeat Specific Emergency Exemption Request for Use of Clothianidin on Immature Citrus Trees to Control Asian Citrus Psyllid in Florida (24FL01)

EPA first authorized a specific exemption for clothianidin use in citrus in 2014 and determined at that time that the request from the Florida Department of Agriculture and Consumer Services (FDACS) met the criteria for an urgent and non-routine pest condition due to the introduction of a new highly damaging bacterium that was expected to cause significant economic loss, resulting in up to 100% yield loss from the death of trees on affected acres without sufficient year-round control. Since then, EPA has approved clothianidin emergency use on citrus annually. The most recent authorization was granted on September 28, 2022, and expired on September 28, 2023.

EPA received a ninth specific exemption reauthorization request from FDACS on November 17, 2023, for the use of clothianidin as a soil-drench treatment in young bearing citrus trees that are 3-5 years old to control the transmission of Huanglongbing (HLB) disease vectored by the Asian Citrus Psyllid (ACP). On December 29, 2023, EPA announced in the Federal Register (88 FR 901181) a notice of receipt of application from FDACS. During the public comment period that closed on January 16, 2024, two comments were received. EPA received a comment (EPA-HQ-OPP-2023-0597-0003) from the United States Department of Agriculture, and a comment (EPA-HQ-OPP-2023-0597-0004) from the Center for Biological Diversity. These comments are available for public view on [www.regulations.gov](https://www.regulations.gov), identified by docket identification number (EPA-HQ-OPP-2023-0597).

FDACS asserted in its recent application that the conditions of the emergency still exist, and that there are no changes to the use directions, including rates and type of application, as authorized in the previous requests. The requested use season stated in the application is February 1, 2024, through October 31, 2024. However, the use is authorized for one year after the date of issuance to treat a maximum of 75,000 acres of immature citrus trees. FDACS was previously permitted to treat a maximum of 125,376 acres under the emergency exemption

except from November 1 through the end of the following bloom period. Applications also cannot be made to trees in bloom. In the 2022 final use report, FDACS indicated that approximately 9,268 acres were treated with clothianidin and also noted there were no adverse effects reported.

This emergency exemption request is similar to the request previously authorized and the past BEAD, HED and EFED risk assessments continue to support this use pattern. For more details on the emergency situation, the September 27, 2022, memorandum is attached.

BEAD reviewed this year's request from FDACS whereby the state indicated that the urgent and non-routine pest conditions remain unchanged, and the currently available effective registered alternative pesticides have not changed in composition. Therefore, BEAD's conclusions from its 2022 review are applicable to the current emergency exemption request. This year, BEAD focused its analysis on the available pest management options to determine if Florida citrus growers have adequate year-round control of ACP in young trees with existing tools.

In 2022, BEAD concluded that numerous constraining factors, in combination, rendered all other registered insecticides ineffective because they are unable to fill the several month gap in protection for young trees. These constraining factors include the following: (1) growers' need to conserve some of the active ingredients for foliar use to manage ACP in mature trees or during bloom; (2) the need to avoid neonicotinoid resistance across ACP populations by using alternatives such as cyantraniliprole in sequential foliar applications across a growing season; (3) the inadequate length of protection offered by sulfoxaflor (a systemically active insecticide); (4) a limit of one soil application of cyantraniliprole (another systemic insecticide) per year, which would not be adequate for the duration of time that the requested two applications of clothianidin would provide; (5) evidence that the efficacy of cyantraniliprole against ACP is declining in Florida, possibly due to developing resistance, and; (6) other registered active ingredients either cannot be used as soil treatments or have roles in ACP control for older trees that make their use infeasible for soil drench control of ACP in young citrus trees. BEAD concluded that without season-long management of ACP in young citrus trees to prevent the spread of HLB, the potential yield loss for infected young bearing trees is 100% because the disease causes the complete loss of the infected tree before it reaches market maturity.

HED reviewed the FDACS request in 2014 and concluded that the proposed emergency use of clothianidin in citrus would not result in any dietary, occupational, or aggregate (food, water, residential) human health exposures or risk estimates of concern; these risk conclusions remain unchanged and support the current specific exemption reauthorization for this use. The toxicological, residue chemistry, dietary exposure, and occupational/residential exposure assessments support the time-limited tolerance established for residues of clothianidin of 0.07 ppm in/on citrus established at 40 CFR §180.586(b) for fruit, citrus group 10-10. EPA has determined that this level is adequate to protect public health.

EFED previously reviewed the FDACS specific exemption reauthorization request in 2022. The authorization of the 2022 emergency exemption for the use of clothianidin on citrus is one in

which the obligations under Endangered Species Act Section 7 applied. In summary, EFED completed effects determinations for listed species and their designated critical habitats for the use of clothianidin soil drench applications on young citrus trees in Florida to control ACP. In its assessment, EFED determined that a total of 56 listed species and three critical habitats overlap with the proposed action area. EFED also made No Effect (NE) determinations for 6 of the listed species that are within the action area. Further, EFED made May Affect (MA) but Not Likely to Adversely Affect (NLAA) determinations for 50 listed species and 3 designated critical habitats. All species for which NLAA determinations were made are under the authority of the U.S. Fish and Wildlife Service (FWS). Based on these conclusions, EPA informally consulted with FWS on those species and critical habitats with NLAA determinations and FWS concurred with EPA's NLAA determinations.

For this current action, updates to listed species information in the action area have been considered. EFED conducted a new overlap analysis this year and concluded that all the previous effects determinations for listed species and their designated critical habitats remain the same for the use of clothianidin soil drench applications to control ACP on young citrus trees in Florida except for one, the American chaffseed, which moved from NLAA to NE based on lack of overlap with the action area. In addition, one additional species has been added to the action area that was not previously considered: the Eastern Black rail for which EFED made an NE determination because effects are not reasonably certain to occur since this bird species occurs in salt, brackish and freshwater marsh habitats. Based on this habitat description, Eastern black rails are not expected to occur on citrus groves.

The 2022 assessment concluded that there were no concerns for direct effects to birds, but there could be effects to some types of insects that occur on treated citrus groves. Although the Eastern black rail consumes insects, a decrease in the diet of this species is not expected because effects do not extend to the wetland habitats where this species forages. This NE determination is consistent with EPA analyses used to make effects determinations in the 2022 Biological Evaluation (BE). EPA is not required to consult on NE determinations. Because NLAA determinations, which are the same as those in the previous BE, have been made with the exception of the American chaffseed, EPA initiated informal consultation with FWS on March 15, 2024. Further, EPA identified potential risk to pollinators from chronic exposures in its ecological assessment of the emergency use of clothianidin on immature citrus trees but determined that mortality to pollinators is not expected from acute exposures to pollinators. To minimize exposure to pollinators, Florida citrus growers must observe the following application restrictions: "Do not apply this product until after petal fall" and "Do not apply between November 1 and the end of winter/spring bloom." Adherence to these Section 18 use directions ensures that pollinator exposure is mitigated during application.

Based on the significant benefits of the emergency use of clothianidin to control ACP in immature citrus trees, including the lack of alternatives, weighed against the risks presented by such use, and mitigated by the requirements and the terms of the exemption to reduce exposure and therefore risks to pollinators, the use of clothianidin under this emergency exemption will not cause unreasonable adverse effects on the environment. Clothianidin is

expected to be used in compliance with the requirements of the exemption. This is the tenth request from FDACS for emergency use of clothianidin as a soil drench application on immature citrus trees to control the transmission of HLB disease vectored by the ACP in Florida. According to the regulations at 40 CFR § 166.25(b)(2)(ii), EPA must consider “The progress which has been made toward registration of the proposed use, if a repeated specific or public health exemption is sought. It shall be presumed that if a complete application for registration of a use, which has been under a specific or public health exemption for any 3 previous years, or any 5 previous years if the use is supported for registration by the IR-4 program has not been submitted, reasonable progress towards registration has not been made.” The lack of progress toward registration and the associated tolerance petition for clothianidin does not mean that the current renewal request must be denied. Instead, EPA has the discretion under its regulations to authorize this renewal request despite the fact that no progress has been made towards registration. EPA has given due consideration to this lack of progress but has decided to reauthorize this exemption in order to avoid the significant economic losses that would occur if the request was not granted.

If FDACS requests an exemption for this use next year, EPA is making a preliminary determination that this use is not eligible for a streamlined application under the recertification program. *See* 40 CFR § 166.20(b)(5)(iii). Therefore, a full application under 40 CFR §166 would be necessary should FDACS seek this exemption in future growing seasons. Further, since this is a long-running exemption, in any future submission, EPA expects FDACS to work with its cooperators and the Florida citrus industry to research the effectiveness and feasibility of alternative pesticides and practices, discuss any additional pesticide ingredients being examined for efficacy against ACP or the plant disease itself, and analyze the feasibility of cultural practices such as individual covers to mitigate damage from ACP infesting newly planted trees.

I recommend that the attached Section 18 action be authorized.