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

OFFICE OF CHEMICALSAFETY
AND POLLUTION PREVENTION

New York Department of Environmental Conservation
Division of Materials Management
Bureau of Pest Management
Product Registration & Pest Management Alternatives Section
625 Broadway, 9th Floor
Albany, New York 12233-7257

Date Issued: JUN 07 2013
Expiration Date: October 15, 2013
Report Due: April 15, 2014
File Symbols: 13-NY-04

Attn: Cynthia Crowley

The Environmental Protection Agency hereby issues specific exemptions under the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to the New York Department of Environmental Conservation for use of bifenthrin on apple, peach, and nectarine to control brown marmorated stink bug (BMSB). These exemptions are subject to the conditions set forth in your request dated April 4, 2013, as well as the following conditions, modifications, and restrictions below:

1. The New York Department of Environmental Conservation (NYDEC) is responsible for ensuring that all provisions of these specific exemptions are met. NYDEC is also responsible for providing information in accordance with 40 CFR 166.32(b). Accordingly, a report summarizing the results of this program must be submitted to EPA Headquarters and the EPA Regional office within 6 months following the expiration of these exemptions, or prior to requesting subsequent specific exemptions for these uses. In accordance with 40 CFR 166.32(a), these offices shall also be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions. Any future correspondence regarding these exemptions should refer to file symbols 13-NY-04.

2. The registered products, Brigade WSB (10% bifenthrin, EPA Reg. No. 279-3108, manufactured by FMC Corporation) Bifenture EC (25% bifenthrin, EPA Reg. No. 70506-227), and Bifenture 10DF (10% a.i., EPA Reg. No. 70506-57), both manufactured by United Phosphorus, Inc. may be applied.

3. Applications must be made post-bloom, by ground only at a rate of 0.08 to 0.2 lb. per acre; no more than 0.5 lb. a.i. per acre may be applied per year; multiple applications may be made at a minimum of 30 day intervals; a restricted entry interval (REI) of 12 hours and pre-harvest interval (PHI) of 14 days must be observed.

4. All applicable directions, restrictions, and precautions on the EPA-registered product labels, as well as those outlined on the section 18 use directions submitted with your request, must be followed.

5. A maximum of 5,974 acres of apples, peaches, and nectarines may be treated under these specific exemptions.

6. These exemptions expire October 15, 2013.

7. Residues of bifenthrin resulting from applications made in accordance with these exemptions are not expected to exceed 0.5 ppm in/on apple, peach, or nectarine. EPA has determined that these levels are adequate to protect human health. Time-limited tolerances have been established at 40 CFR 180.442 to support these emergency exemptions and will expire December 31, 2015.

8. To help minimize exposure to pollinators, the following statement on the application timing must be observed: "Do not apply this product until after petal fall."

9. To mitigate risks to aquatic organisms, section 3 product label requirements must be strictly followed. For ground applications (the only method allowed under this exemption) 10 ft vegetative buffer strip, or 25 ft buffer zone is required between the site of application and adjacent bodies of water. Recommendations on the section 3 product labels regarding droplet size, wind direction and speed, temperature inversions, and other factors affecting off-site drift or runoff of bifenthrin must also be carefully followed.

10. In addition, the following statements from the section 3 labels are reiterated:

This pesticide is extremely toxic to fish and aquatic invertebrates. Use with care when applying in areas adjacent to any body of water. Do not apply directly to water, to areas where surface water is present or to intertidal areas below the mean high water mark. Do not make applications when weather conditions favor drift from treated areas. Drift and runoff from treated areas may be hazardous to aquatic organisms in neighboring areas. Do not contaminate water when disposing of equipment wash waters.

This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds while bees are actively visiting the treatment area.

The use of bifenthrin is prohibited in areas that may result in exposure of endangered species to bifenthrin. Prior to use in a particular county contact the local extension service for procedures and precautions to use to protect endangered species.

Although the information provided in support of the exemption requests generally supports the claim of an emergency situation, EPA recommends that additional information, outlined below, be provided in any future exemption requests for these uses. This information is needed in order to better characterize the biological and economic impacts due to the pest situation.

- Additional information regarding BMSB damage to apple, peach, and nectarine from all requesting states
- Efficacy comparisons between bifenthrin and currently registered insecticides that are conducted under actual growing conditions
- Additional information regarding marketing (including figures for fruit unmarketable for fresh market due to BMSB damage) and price differentials between fresh and processed fruits.

Although this is the first year that NYDEC has requested this use, it is the second year emergency exemption requests have been made for the uses of bifenthrin on apple, peach, and nectarine. The registrants indicate they are working with IR-4 to support working toward registration of these uses, and that residue trials are scheduled for this year (2013). Progress towards obtaining registration of these uses will be a consideration in evaluating future requests for section 18s, and any repeat exemption requests must provide an update on the efforts toward obtaining registration of these uses. In the event that NYDEC requests this use next year under an emergency exemption, EPA is making a preliminary determination that this use is eligible for the re-certification program (40 CFR 166.20(b)(5)) in 2014.

If you have any questions regarding these authorizations, please contact my staff member Andrea Conrath, at (703) 308-9356 or by email: conrath.andrea@epa.gov.

(for)

Lois Rossi, Director
Registration Division
Office of Pesticide Programs

Date: 6/7/2013

cc: US EPA Region 2
Adrian Enache