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May 29, 2018

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Subject: 2018 New Jersey Request for a Recertified Expedited FIFRA Section 18 Emergency Exemption for Bifenthrin to Control the Brown Marmorated Stink Bug on Apple, Peach and Nectarine Tree Fruit.

Dear Andrea,

The New Jersey Department of Environmental Protection (NJDEP) Office of Pesticide Evaluation and Monitoring, is requesting of EPA to be granted recertified / expedited specific exemptions under the provisions of Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, to the NJDEP for use of **bifenthrin on apple, peach, and nectarine tree fruit to control the brown marmorated stink bug (BMSB).**

The NJDEP is recertifying that the emergency conditions still exist, incorporates by reference all information submitted in the previous application submitted August 24, 2017, that there are no changes to the use directions, including the use rates and type of application, as approved in the last **EPA authorization dated September 8, 2018** on Section 18 labels with the **EPA file symbols 17-NJ-01 (apple), 17-NJ-02 (peach), and 17-NJ-03 (nectarine).**

The use of the following three EPA and NJ registered pesticide parent products is being requested under these specific exemptions with an expiration date of October 15, 2018:

- **Bifenture EC Agricultural Insecticide (25% bifenthrin, EPA Reg. No. 70506-57, United Phosphorus, Inc.)**

- **Bifenture l0DF Insecticide/Miticide (10% bifenthrin, EPA Reg. No. 70506-227 United Phosphorus, Inc.)**

- **Brigade WSB Insecticide/Miticide, (l0% bifenthrin, EPA Reg. No. 279-3108, FMC Corp.).**

This is the **seventh year** emergency exemption requests are being made for the use of bifenthrin on apple, peach, and nectarine tree fruit. EPA has already granted other states streamlined registration of these uses while awaiting data to support Section 3 labelling. These requested Specific Exemptions for bifenthrin use for controlling BMSB on tree fruit would **expire on October 15, 2018.**

The supporting documents attached for this NJ recertified repeat Section 18 Specific Exemption include:

- NJDEP signed Expedited Emergency Exemption (Section 18) Request Letter
- EPA Expedited Emergency Exemption (Section 18) Request Form
- New Jersey's Endangered and Threated Species List
- Section 18 Exemption Draft Labels
- Section 18 Previous Use Report from Dean Polk, Professor and NJ Statewide Fruit IPM Agent, Rutgers Agricultural Research and Extension Center
- Letter of Request and Support Documentation from Dean Polk, Professor and NJ Statewide Fruit IPM Agent, Rutgers Agricultural Research and Extension Center
- Letter of Request from the Registrant
- Current New Jersey (parent) product labels
- EPA-stamped (FIFRA Section 3) product labels

All applicable directions, restrictions, and precautions on the EPA-registered product and Section 18 labels, will be followed. These are Restricted Use Products (RUPs) with applications labeled to be made post-bloom, *by ground only,* at a rate of 0.08 to 0.2 lb. active ingredient (ai) bifenthrin per acre, with no more than a total of 0.5 lb. a.i. bifenthrin per acre to be applied per year. Multiple applications are made at a minimum of 30 day intervals; a restricted entry interval (REI) of 12 hours and a pre-harvest interval (PHI) of 14 days must be observed.

The NJDEP has not been made aware of any adverse effects resulting from the use of bifenthrin under previous specific exemptions. In accord with 40 CFR 66.32(b), a

Summary Use Report dated **May 25, 2018** is being submitted which tabulates program results from the last year of use by Dean Polk of The Rutgers Agricultural Research and Extension. For 2018, a total maximum of 7,500 acres of apple, peach, and nectarine tree fruit is requested for treatment under these specific exemptions.

Residues of bifenthrin resulting from applications made in accordance with these Section 18 exemptions are not expected to exceed 0.5 ppm in/on apple, peach, or nectarine. Time-limited bifenthrin tolerances for these fruits are found in 40 CFR 180.442 (Section 18 exemptions) and **expire after December 31, 2018.**

To help minimize exposure and risk from the use of these highly toxic products to pollinators and aquatic organisms, these products must be applied according to all label (Section 3 and Section 18) use directives. In mitigating risks to aquatic organisms, the following Section 3 registered product label requirements must be strictly followed and are repeated below:

Vegetative Buffer Zones Requirements: Construct and maintain a minimum 10-foot-wide vegetative filter strip of grass or other permanent vegetation between the field edge and down gradient aquatic habitat (such as, but not limited to, lakes; reservoirs; rivers; permanent streams; marshes or natural ponds; estuaries; and commercial fish farm ponds).

Buffer Zone Requirements for Ground Applications: Do not apply within 25 feet of aquatic habitats (such as, but not limited to, lakes, reservoirs, rivers, permanent streams, marshes, natural ponds, estuaries, and commercial fish ponds).

Spray Drift Requirements: All requirements regarding wind direction and speed, nozzle orientation and height, droplet size, and temperature inversion as listed on the registered product label must be carefully followed.

All other additional factors affecting off-site drift or runoff of bifenthrin must be carefully considered and factored before product use. The use of bifenthrin is prohibited in areas that may result in exposure of endangered species to bifenthrin. At the present time, the use of bifenthrin under these exemptions is not considered to present an unacceptable risk to endangered species under these specific exemptions.

Thank you for your consideration of these FIFRA Emergency Exemption Requests. If you need additional information, please contact Areta Wowk of the NJDEP C&E Pesticide Evaluation and Monitoring until May 31, 2018. After this date, please send your correspondence to the address on this letterhead or contact Ed Reilly, Research Scientist 1, NJDEP Pesticide Laboratory Manager, directly at 609-530-8293.

Thank You,
Areta Wowk

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