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

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

New York State 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: JUL 06 2018
Expiration Date: October 15, 2018
Report Due: April 15, 2019
File Symbols: 18-NY-01 (apple), -02 (peach), & -03 (nectarine)

Attn: Jeanine Broughel

The Environmental Protection Agency hereby re-issues specific exemptions under the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) as amended, to the New York State Department of Environmental Conservation (NYSDEC) for use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stink bug (BMSB).

The NYSDEC re-certified that the emergency conditions still exist and that there were no changes to the use directions as approved in the last authorization dated June 26, 2017, including the use rates and type of application. These exemptions are subject to the conditions set forth in your request dated June 26, 2018, as well as the following conditions, modifications, and restrictions below:

1. The NYSDEC is responsible for ensuring that all provisions of these specific exemptions are met. The NYSDEC 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 18-NY-01 (apple), -02 (peach), & -03 (nectarine).

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. active ingredient (a.i.) bifenthrin 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 referenced in your request, must be followed.

5. A maximum of 7,321 acres of apples, peaches, and nectarines may be treated.

6. These exemptions expire October 15, 2018, and a final report summarizing use, as required by the regulations at 40 CFR 166.32(b), must be submitted to EPA within 6 months following this expiration (by April 15, 2019).

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. Time-limited tolerances established in connection with past exemptions at 40 CFR 180.442 will be adequate to cover any residues resulting from these exemption uses.

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) a 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.*

This is the seventh year that emergency exemption requests have been made for the uses of bifenthrin on apple, peach, and nectarine. An IR-4 petition to support a section 3 registration is currently undergoing review within the Agency. While progress toward registration is adequate at this time, you are encouraged to remain in contact with the registrant on status updates. In the event that NYSDEC requests emergency exemptions for these uses next year, EPA is making a preliminary determination that they are eligible for the re-certification program (40 CFR 166.20(b)(5)) in 2019.

If you have any questions regarding these authorizations, please contact Emergency Response Team Member, Andrea Conrath (703.308.9356; conrath.andrea@epa.gov) or the Acting Emergency Response Team Leader, Nikhil Mallampalli (703.308.1924; mallampalli.nikhil@epa.gov).

Michael Goodis acting for

Richard P. Keigwin, Jr., Director
Office of Pesticide Programs

Date: July 6, 2018

cc: Audrey Moore
USEPA Region 2

Michael Brannick, Tribal Coordinator
USEPA Region 2