



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

Date: February 5, 2004
Expires: June 30, 2004
Report Due: December 31, 2004
File Symbols: 04-NY-05

NY State Department of Environmental Conservation
Division of Solid and Hazardous Materials
Bureau of Pesticides Management - 9th Floor
625 Broadway
Albany, NY 12233-7254

Attn: Robin Hackett

The U.S. Environmental Protection Agency (EPA) hereby grants a specific exemption 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 for the use of fenbuconazole to control mummy berry disease in blueberries. This specific exemption is subject to the following conditions and restrictions:

1. The New York State Department of Environmental Conservation is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 Code of Federal Regulations (CFR) §166.32.
2. The product, Indar 75 WSP, EPA Reg. No. 62719-421 (formerly EPA Reg. No. 707-239), (containing 75% fenbuconazole) manufactured by Dow AgroSciences LLC may be used.
3. All applicable conditions and restrictions on the federally registered product label must be observed. The conditions set forth in your application, as well as the proposed section 18 use directions submitted with your application must also be observed.
4. Indar 75 WSP may be applied by ground at a maximum rate of 2 ounces of product (1.5 ounces of active ingredient) per acre. A maximum of 5 applications are permitted; do not apply more than 10 oz. of product (0.47 lbs. a.i.) per acre per growing season.
5. A maximum of 700 acres of blueberries in New York may be treated.
6. Do not apply Indar 75 WSP within 30 days of harvest.
7. Do not graze livestock in treated fields or offer treated material as a livestock feed item.
8. Applications are not permitted within 75 feet of streams, rivers, ponds, lakes, or reservoirs.

9. Applications made in accordance with the above provisions are not expected to result in residues of fenbuconazole in excess of 1.0 part per million (ppm) in blueberries. EPA has determined that exposure to fenbuconazole in accordance with the label instructions and restrictions is adequate to protect the public health. A time-limited tolerance for residues of fenbuconazole on blueberries has been established at the level above in connection with past FIFRA section 18 emergency exemptions. This time-limited tolerance is currently set to expire on December 31, 2004. Analytical methodology to enforce the tolerance level is available. The Food and Drug Administration has been advised of this action.

10. The EPA Headquarters and Regional office shall be immediately informed of any adverse effects or misuse resulting from the use of this pesticide in connection with this exemption.

11. This specific exemption expires on June 30, 2004.

12. A final report summarizing the results of this program must be submitted to EPA Headquarters and the EPA Regional office by December 31, 2004 or prior to requesting another specific exemption for this use.

This is the seventh year that this emergency program has been sought following the cancellation of the previous control means. EPA is in receipt of a tolerance petition for fenbuconazole on blueberries from IR-4. This petition is intended to support the full registration under FIFRA of this use of fenbuconazole. Given that EPA is in receipt of a petition from IR-4 for this use, EPA considers that progress toward the registration of this requested emergency use is adequate.

EPA notes, however, that several alternative fungicides have gained registration since the initiation of this repeated exempted use. While it appears that several of these materials may not be suitable alternatives, one product in particular, Pristine (containing the active ingredients boscalid and pyraclostrobin) appears to be promising, based upon available data, and should be evaluated further in subsequent tests. EPA understands that this material is not available in sufficient quantities for use for the 2004 season, but it is expected to be available in 2005, and therefore additional efficacy/performance data on Pristine must be provided in any subsequent renewal requests for this use.

/s/

James Jones, Director
Office of Pesticide Programs

Date: 2/05/04

cc: US EPA, Region 2
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