



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

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Maureen P. Serafini, Director  
Bureau of Pesticides Management  
New York Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12233-7257

Attn: Robin Hackett  
Fax: (518)485-8990

**Date Issued:** August 27, 2004  
**Interim**  
**Reports Due:** March 1, 2005  
March 1, 2006  
**Final Report Due:** September 1, 2007  
**Expiration Date:** March 1, 2007  
**File Symbol:** 04-NY-18

The Environmental Protection Agency hereby grants a quarantine exemption under the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, to the New York Department of Environmental Conservation (NYDEC) for the use of tebuconazole, formulated as the product Folicur, on soybeans to control soybean rust. The NYDEC requested to be included in the lead exemption request submitted by the Minnesota and South Dakota Departments of Agriculture.

Use of this chemical under this quarantine exemption will not be allowed until the time that the fungal species *Phakopsora pachyrhizi* has been confirmed to be present in the continental United States or Puerto Rico by the United States Department of Agriculture/Animal and Plant Health Inspection Service (USDA/APHIS). The less aggressive fungal species known to cause soybean rust, *Phakopsora meibomiae*, is already present in the Western Hemisphere, including Puerto Rico. Once USDA/APHIS has confirmed that *Phakopsora pachyrhizi* is present, all existing EPA-approved section 18s for soybean rust will be automatically released for implementation in New York as the

NYDEC feels is appropriate. This quarantine exemption is subject to the conditions set forth in the lead request, as well as the following conditions and restrictions:

1. The New York Department of Environmental Conservation is responsible for ensuring that all provisions of this quarantine exemption are met. It is also responsible for providing a report about the results and effectiveness of this exemption on an annual basis in accordance with 40 CFR 166.32. This information must be submitted to EPA headquarters and the EPA regional office.
2. The registered product, Folicur 3.6 F Foliar Fungicide (EPA Reg. No. 264-752), manufactured by Bayer CropScience, may be applied. All applicable directions, restrictions, and precautions on the submitted section 18 use directions (as modified) as well as the EPA-registered product label must be followed.

The use directions must be modified by changing the maximum number of applications allowed per season from 3 to 2, changing the maximum amount of product that can be applied per acre per season from 12 fluid ounces to 8 fluid ounces and by including a statement prohibiting the feeding of soybean forage and hay to livestock.

3. As stated in the lead request, a maximum of two total applications using approved section 18 products collectively will be made under this soybean rust section 18. This includes those products that are already approved for soybean rust under section 18 as well as those which may be approved for use at a later date.

Should growers include tebuconazole in their treatment program, a maximum of two applications may be made by ground or air at a rate of 3-4 fluid ounces of product per acre (0.0813 to 0.1125 pounds of a.i./acre).

4. A restricted entry interval (REI) of 12 hours and a pre-harvest interval (PHI) of 21 days will be observed.
5. A maximum of 140,000 acres of soybeans may be treated in New York under the soybean rust emergency exemption.
6. This use of tebuconazole on soybean is not expected to adversely affect human health. The available data support a time-limited tolerance of 0.1 ppm in soybean, as well as a temporary tolerance of 0.1 ppm in swine and poultry tissues. Time-limited tolerances will be established at these levels.
7. The proposed use is not expected to pose an unreasonable risk of adverse effects to water resources, avian and mammalian wildlife, fish or aquatic invertebrates, or to non-target plant

species in New York. No Federally-listed threatened or endangered species in New York are likely to be adversely affected by this use.

Any future correspondence in connection with this exemption should refer to file symbol 04-NY-18.

\_\_\_\_\_/Signed/ (Donald Stubbs for)  
Lois Rossi, Director  
Registration Division  
Office of Pesticide Programs

Date: August 27, 2004

cc: U.S. EPA Region II  
Attn: Adrian Enache

U.S. Food & Drug Administration  
Division of Field Science (HFC-141)  
5600 Fishers Lane  
Rockville, MD 20857  
Attn: Ms. Donna Porter

U.S. Food & Drug Administration  
Center for Food Safety and Applied Nutrition (CFSAN)  
Case Processing Branch (HF5-607)  
200 C Street, SW  
Washington DC 20204  
Attn: Ms. Sonia Delgado

ASTHO Representative  
New York Department of Health  
Coming Tower Building, Empire State Plaza  
Rm 1482  
Albany, NY 12237