



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

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

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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



Bayer CropScience LP
 P.O. Box 12014, 2 T.W. Alexander Drive
 Research Triangle Park, North Carolina
 27709
 1-866-99BAYER (1-866-992-2937)
<http://www.bayercropscienceus.com>

Folicur® 3.6 F Foliar Fungicide

**For Use on Soybean to control Rust
 (*Phakopsora pachyrhizi*)**

**SECTION 18 QUARANTINE EXEMPTION
 File Symbol: 04-NY-18**

**FOR DISTRIBUTION AND USE ONLY IN THE STATE OF
 NEW YORK
 UNDER SECTION 18 QUARANTINE EXEMPTION**

This labeling must be in possession of the user at the time of pesticide application. It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Read entire Directions for Use and Disclaimer of Warranties before using this product. Follow all applicable directions, restrictions, Worker Protection Standard requirements, and precautions on the registered product label for Folicur® 3.6 F Foliar Fungicide (EPA Registration Number 264-752).

Any adverse effects resulting from the use of Folicur® 3.6 F Foliar Fungicide under this quarantine exemption must be immediately reported to the New York Department of Environmental Conservation.

EFFECTIVE PERIOD:

This labeling becomes effective 08/27/04 and expires on 03/01/07.

DIRECTIONS FOR USE

A maximum of 140,000 acres of soybeans may be treated under this exemption.

RECOMMENDED APPLICATIONS		
CROP	DISEASES	RATE OF FOLICUR® 3.6 F
Soybean	Rust (<i>Phakopsora pachyrhizi</i>)	3 to 4 fl oz per acre
<p>Use Directions: Apply Folicur® 3.6 F as a broadcast foliar spray at first appearance of rust pustules on any leaves within the plant canopy. Repeat applications on a 10 to 14-day spray interval if environmental conditions are favorable for continued disease development. Applications may be made up to the R6 (full seed) soybean growth stage. Use of the higher rates and shorter spray intervals are recommended when disease pressure is severe. For optimum benefit, the lowest label recommended rate of a spray surfactant must be tank-mixed with Folicur® 3.6 F. Folicur® 3.6 F should be applied in a minimum of 10 gallons of spray solution per acre by ground sprayer or in a minimum of 5 gallons per acre by aircraft spray equipment.</p> <p>Restrictions: Applications may not be made within 21 days of harvest. Do not apply more than 2 applications per season. Do not apply more than 8 fl. oz/A per use season. Do not enter treated fields for 12 hours after application.</p>		

ENVIRONMENTAL HAZARDS

This pesticide is toxic to freshwater, estuarine and marine fish and invertebrates. Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Runoff may be hazardous to aquatic organisms in neighboring areas. Do not contaminate water when disposing of equipment washwater or rinsate. Do not feed soybean forage and hay to livestock.

For MEDICAL And TRANSPORTATION Emergencies ONLY Call 24 Hours A Day 1-800-334-7577

For PRODUCT USE Information Call 1-866-99BAYER (1-866-992-2937)

or

Visit our worldwide web site at www.bayercropscienceus.com

As with any crop-protection product, always read and follow label directions.

For additional information call toll-free 1-866-99BAYER (1-866-992-2937)).