

US EPA ARCHIVE DOCUMENT



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

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

February 18, 2009

Guidance for Products Containing the Organic Arsenicals

Why You Are Receiving this Letter

You are receiving this letter because your company holds registrations for end-use products containing organic arsenicals. The organic arsenicals consist of monosodium methanearsonate (MSMA), disodium methanearsonate (DSMA), calcium acid methanearsonate (CAMA), and cacodylic acid and its sodium salt. On January 16, 2009 and February 5, 2009, EPA reached agreement with the registrants of all existing organic arsenicals manufacturing-use products to eliminate, phase out, and modify certain uses. A copy of the January 16, 2009 Agreement in Principle ("Agreement") is attached. (The February 5, 2009 Agreement is nearly identical). The purpose of this letter is to advise you how your products will be affected and inform you of the actions you must take.

As a result of the Agreement, only products that contain the organic arsenical MSMA for use on cotton will be eligible for reregistration. MSMA products labeled for use on golf courses, sod farms and highway rights-of-way will be phased out by December 31, 2013. The labels of MSMA products registered for use on cotton, golf courses, sod farms and highway rights-of-way must be amended to add mitigation measures for these uses. All other MSMA uses must be deleted from labels with an effective date of December 31, 2009. In some cases this may be all the uses for some products. All products containing the organic arsenicals disodium methanearsonate (DSMA), calcium acid methanearsonate (CAMA), cacodylic acid and its sodium salt are to be canceled with an effective date of December 31, 2009, or at the registrant's discretion an earlier date. Use deletion and label amendment requests are due to the Agency by March 17, 2009.

As a result of the Agreement, no manufacturing-use product containing an organic arsenical may be used to formulate an end-use product unless the end-use product bears EPA approved labeling consistent with the terms of the Agreement. Any use of an MUP inconsistent with these restrictions will be considered a violation of section 12 of FIFRA and is subject to civil and/or criminal penalties. Consequently, all organic arsenical containing end-use product labels will need to be modified and, in some cases, products will need to be canceled.

Specific Provisions of the Agreement

MSMA use on Cotton

By March 17, 2009, registrants of an MSMA product labeled for use on cotton must submit an application to amend the label to adopt the following mitigation measures:
Postemergent use on cotton with 1 application at 2 lbs ai/A.

A second application at 2 lbs ai/A may be applied as salvage operation (i.e., if pigweed escapes the first application).

50 foot buffer around permanent water bodies.

Pre-plant cotton use to be deleted

MSMA use on golf courses, sod farms and highway rights-of-way

By March 17, 2009, registrants of an MSMA product labeled for use on golf courses, sod farms or highway rights-of-way must submit an application to amend the label to adopt the mitigation measures listed below. Products must also be labeled to prohibit these uses after December 31, 2013.

Golf courses:

Spot treatments only (100 square feet per spot), not to exceed 25% of total golf course acreage per year.

One broadcast application for newly constructed golf courses.

Sod farms:

1 - 2 broadcast applications.

25 foot buffer around permanent water bodies.

Highway rights-of-way (ROW):

Two broadcast applications for use only on highway rights of way.

100 foot buffer around permanent water bodies.

All other MSMA uses

By March 17, 2009, registrants of an MSMA product labeled for any of the uses listed below must submit an application to delete these uses from labels effective December 31, 2009. In some cases this may be all the uses on some products.

Residential turf (including, but not limited to: athletic fields, parks, lawns, yards, or playgrounds)

Forestry

Non-bearing fruit and nuts

Citrus, bearing and non-bearing

Bluegrass, fescue and ryegrass grown for seed

All uses of MSMA in Florida except use on cotton grown in Calhoun, Columbia, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Okaloosa, Santa Rosa, Suwannee, Walton, and Washington counties.

Drainage ditch banks, railroad, pipeline, and utility rights of way, fence rows, storage yards and similar non-crop areas.

DSMA, CAMA, cacodylic acid and its sodium salt

By March 17, 2009, registrants of a product that contains DSMA, CAMA, and/or cacodylic acid or its sodium salt, as an active ingredient must submit an application to cancel the registration of such products effective on December 31, 2009 or, at the registrant's discretion, an earlier date.

Key Dates

- **March 17, 2009** ---- Registrants of an MSMA product labeled for use on cotton, golf courses, sod farms or highway rights-of-way must submit an application to amend each affected MSMA product to adopt the mitigation measures as noted above. The application also must include a request to cancel the golf courses, sod farms or highway rights-of-way uses effective December 31, 2012. All other uses must be deleted from labels.

Registrants must submit requests for voluntary cancellation to EPA for all products containing DSMA, CAMA, cacodylic acid and its sodium salt, with an effective date of December 31, 2009.

- **December 31, 2009** ---- After this date, registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way. Registrants are also prohibited to sell or distribute existing stocks of products containing DSMA, CAMA, cacodylic acid and its sodium salt.
- **June 30, 2010** ----- After this date, persons other than registrants are prohibited from selling or distributing existing stocks of (1) products containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way, and (2) products containing DSMA, CAMA, and/or cacodylic acid and its sodium salt.
- **December 31, 2012** ---- After this date, registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for use on sod farms, golf courses, and highway rights-of-way.
- **June 30, 2013** ---- After this date, persons other than registrants are prohibited from selling or distributing existing stocks of products containing MSMA labeled for use on sod farms, golf courses, and highway rights-of-way.

- **December 31, 2013** ---- After this date, use of products containing MSMA labeled for all uses, except cotton, is prohibited.

Procedure for Submissions

The following checklists are provided to assist you in making complete submissions.

For Applications for Amended Registrations:

- Clearly and prominently mark both the envelope and cover letter "**Arsenic Agreement**"
- Your cover letter must include:
 - A request pursuant to section 6(f) of FIFRA to terminate the uses of your products that will be deleted from manufacturing-use product labeling as provided in the Agreement.
- Include an Application for Pesticide Registration (form 8570).
- Include five copies of draft labeling that is consistent with the terms of the Agreement.
- Include one copy of your current label marked-up to show which portions of the label are being amended.
- No** citation of data or offer of compensation is required because no new uses may be added as part of this action.
- A new formulator's exemption form for products using a registered source of active ingredient is **not required** if the applicant's source product was not changed from the current CSF and the source remains registered.

For Requests for Product Cancellations:

- Clearly and prominently mark both the envelope and cover letter "**Arsenic Agreement**"
- Your cover letter or email must include:
 - A request pursuant to section 6(f) of FIFRA to cancel any product(s) labeled only for uses that will be deleted from manufacturing-use product labeling as provided in the Agreement.
 - A list of the registration numbers of the products you are requesting to be canceled.

Mail your applications for amendment and requests for voluntary cancellation to:

Document Processing Desk (**Arsenic Agreement**)
Office of Pesticide Programs (7504P)
US Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Attention: Jim Tompkins, Herbicide Branch, Registration Division (7505C)

For **deliveries by courier** the address is:

Document Processing Desk (**Arsenic Agreement**)
Office of Pesticide Programs (7504P)
US Environmental Protection Agency
One Potomac Yard
2777 S. Crystal Dr.
Arlington, VA 22202

Attention: Jim Tompkins, Herbicide Branch, Registration Division (7505P)

Contact for More Information

If you have questions related to the Arsenical Agreement in Principle, or this letter, or submission of your label amendments, you may contact Tom Myers, Team Leader, in the Special Review and Reregistration Division at (703) 308-8589 or Jim Tompkins in the Registration Division at (703) 305-5697.

Attachment: Labeling Changes Summary Table for Products Containing MSMA

Labeling Changes Summary Table for Products Containing MSMA

The following table sets forth the label changes that must be made for products containing MSMA. An application for amended registration making these changes must be submitted by March 17, 2009.

Summary of Labeling Changes for Monosodium Methanearsonate (MSMA)		
Description	Amended Labeling Language	Placement on Label
Manufacturing Use Products		
For all Manufacturing Use Products	<p>“Only for formulation into an herbicide for the following use(s): cotton, golf courses, sod farms, or highway rights-of-way.”</p> <p>“This product may not be used to formulate a pesticide product unless such pesticide product has either received its initial registration from EPA after January 16, 2009, or EPA has approved an amendment to such registration after January 16, 2009.”</p> <p>“Only end-use products labeled for use on cotton are allowed to be formulated after December 31, 2012. All other uses must be deleted.”</p>	Directions for Use
End Use Products		
Note to Registrant	<p>The use sites and uses listed below must be deleted. In addition, any language inconsistent with the language required for end use products below MUST be deleted from product labels.</p> <ul style="list-style-type: none"> • Residential turf (including, but not limited to: athletic fields, parks, lawns, yards, or playgrounds) • Forestry • Non-bearing fruit and nuts • Citrus, bearing and non-bearing • Bluegrass, fescue and ryegrass grown for seed • All uses in Florida except use on cotton grown in Calhoun, Columbia, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Okaloosa, Santa Rosa, Suwannee, Walton, and Washington counties. • Drainage ditch banks, railroad, pipeline, and utility rights of way, fence rows, storage yards and similar non-crop areas. 	Not Applicable

<p>PPE Requirements for all MSMA formulations</p>	<p>“Personal Protective Equipment (PPE)” “Some materials that are chemical-resistant to this product are” (<i>registrant inserts correct chemical-resistant material</i>). “If you want more options, follow the instructions for category” [<i>registrant inserts A,B,C,D,E,F,G, or H</i>] “on an EPA chemical-resistance category selection chart.”</p> <p>“All mixers, loaders, applicators, and other handlers must wear: > Long-sleeved shirt and long pants, > Shoes plus socks, and > Chemical-resistant gloves.”</p>	<p>Immediately following/below Precautionary Statements: Hazards to Humans and Domestic Animals</p>
<p>Application Restrictions for all products</p>	<p>“Do not apply this product in Florida except on cotton in the counties listed in the cotton use section of the label.”</p> <p>“Aerial application is prohibited, except when applying to cotton.”</p>	<p>Directions for Use</p>
<p>Application Restrictions for cotton</p>	<p><u>Cotton (Postemergent use only)</u></p> <p>Only 1 application at 2 lbs ai/A is allowed per season, except when a salvage operation is needed.</p> <p>If a salvage operation is needed (i.e., if pigweed escapes the first application), then a second or repeat application at 2 lbs ai/A is allowed.</p> <p>A second or repeat application, if needed, should be timed 1 to 3 weeks after the first application. Apply only as a salvage operation. Apply only to healthy rapidly growing cotton 3 inches high, but no later than 6 inches high or early square, whichever occurs first. Preference should be given to directed spray. In order to minimize injury, the second application should be made as a directed spray when possible.</p> <p>Do not make more than two (2) applications per season.</p> <p>“Do not apply more than a total of 4 lbs ai/A per season.”</p> <p>“Do not apply pre-plant to cotton.”</p> <p>“Do not apply within 50 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries.”</p>	<p>Directions for Use</p>

	<p>“Do not apply in Florida except on cotton grown in the following counties: Calhoun, Columbia, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Okaloosa, Santa Rosa, Suwannee, Walton, and Washington.”</p>	
<p>Application Restrictions For golf courses</p>	<p><u>Golf Courses</u> For newly constructed golf courses one broadcast application is allowed. For all other applications to golf courses, only spot treatments (100 square feet maximum per spot) are allowed. A spot treatment must not exceed 25% of total golf course acreage per year.</p> <p>“After December 31, 2013, applications to golf courses are prohibited.”</p>	<p>Directions for Use</p>
<p>Application Restrictions For sod farms</p>	<p><u>Sod Farms</u> Only 2 broadcast applications are allowed per season.</p> <p>“Do not apply within 25 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries.”</p> <p>“After December 31, 2013, applications to sod farms are prohibited.”</p>	<p>Directions for Use</p>
<p>Application Restrictions For highway rights-of-way (ROW)</p>	<p><u>Highway Rights-Of-Way (ROW)</u> Only 2 broadcast applications are allowed per season.</p> <p>“Do not apply within 100 feet of permanent water bodies or aquatic habitat, including, but not limited to, lakes, reservoirs, rivers, streams, marshes, ponds, and estuaries.”</p> <p>“After December 31, 2013, applications to highway rights-of-way are prohibited.”</p>	<p>Directions for Use</p>