

US EPA ARCHIVE DOCUMENT



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

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Mr. Donald Butler
Director, Arizona Department of Agriculture
1688 W. Adams Street
Phoenix, Arizona 85007

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear ^{Don}Mr. Butler:

Thank you for your letter of January 28, 2010, regarding implementation of mitigation measures required by EPA's Amended Reregistration Eligibility Decisions (REDs) for the soil fumigants chloropicrin, dazomet, metam sodium/potassium, and methyl bromide. You request EPA delay implementation of mitigation measures scheduled to go into effect during 2010, to allow more time for training pesticide inspectors and for education and outreach to pesticide users.

EPA is aware changes to the fumigant label requirements will result in substantial modifications to soil fumigant practices and will require additional training and expertise from the State Lead Agencies. We appreciate and share your concern about the importance of users being able to comply with the new labeling. For this reason, EPA announced in the June 2009 amended decisions that, at the request of users and industry stakeholders, the Agency would delay implementation of the more challenging aspects of the decisions, for example buffer zones and related measures, until 2011, to allow EPA, states, and stakeholders to conduct outreach during 2010. At that time, EPA announced the only measures implemented in 2010 would be those that can be clearly and effectively communicated in labeling—for example, rate reductions, use of best practices, worker protection measures, and plans for safe, effective fumigations.

It is clear soil fumigants pose significant risks to workers and communities. This conclusion is supported by the Agency's soil fumigant risk assessments, which were developed through an extensive public participation process begun in 2004 and culminating in the 2008 REDs. Based on a large body of high-quality data showing direct relevance of toxic effects to humans, these assessments support the conclusion that risk reduction measures are needed to protect the health and safety of applicators, workers and communities. Delaying implementation of the fumigant mitigation measures beyond 2010 would further delay delivery of needed protections established in 2008.

EPA understands the importance of educating growers and users about the new soil fumigant requirements, and recognizes time is needed for registrants to process label revisions reflecting the new measures and for states to approve revised labels. As a result of recent dialogue with the states, the Agency has developed a revised implementation schedule for the 2010 mitigation, so these measures will be adopted beginning later this year. EPA is confident the 2010 soil fumigant mitigation measures will be implemented in an effective and expeditious manner.

Revised Implementation Schedule for 2010 Mitigation Measures

- EPA will begin to approve new fumigant labels by the end of March 2010 and will complete its review and approval of all remaining fumigant labels by the end of April 2010;
- Registrants have indicated they will need approximately 6 weeks to revise their labels and submit them to states for approval (i.e., by April – mid-June 2010);
- States will review and approve labels (May 2010 – October 2010);
- Registrants indicated they will need approximately 6 weeks subsequent to receiving state approvals to finalize labels and begin releasing products bearing revised labels (October 2010 – November 2010);
- Sale and distribution of product bearing old labels will end December 1, 2010. After December 1, only products bearing new labels will be allowed for sale and distribution.

In your letter, you raise concerns that the timeframe in which the labels will be finalized impacts the ability of the states to prepare and complete related activities (e.g., preparation of education and training materials) to support use of the fumigants with the new subset of mitigations that will be required in 2010. Given the coordinated efforts between the states and EPA over the last 8 to 9 months to review label language, the Agency believes any remaining challenges can be addressed during the remainder of 2010.

As you may know, individual label statements have been available since the publication of the 2009 Amended REDs and were subsequently subjected to review and revision through the State FIFRA Issues Research and Evaluation Group (SFIREG) in June and July 2009. Since SFIREG undertook its review in the summer of 2009, very few changes were made to the labels. However, as part of the Agency's subsequent review of registrant submitted-labels, which will be completed in March and April 2010, the Agency also shared labels with all states that requested to see them. This multi-step, collaborative review process with the State Lead Agencies, while not changing the required risk mitigation measures, did enhance clarity and enforceability of the label terminology. In addition, this collaboration provided the State Lead Agencies with the means to prepare for their respective label review processes, and to begin planning for outreach, education, and training materials. These materials are linked to the final labels; however, given the opportunities for the State Lead Agencies to participate in label review, combined with the stability of the mitigation measures outlined in the 2009 Amended REDs, the Agency feels the states and stakeholders can complete the preparation of outreach, education, and training materials specific for the 2010 labels.

EPA recognizes outreach and training are vital components to successful implementation of the soil fumigant mitigation measures. We are working to identify top priorities for outreach and training resources for fumigant users and state officials. During the years leading up to the fumigant REDs, EPA created a web page devoted to the soil fumigants, and the Agency offers a broad range of general and detailed fact sheets and other information at this web site: http://www.epa.gov/oppsrrd1/reregistration/soil_fumigants/. EPA also visited areas of high

fumigant use including the Southeast, Midwest, Pacific Northwest, and California, to understand state and stakeholder perspectives on mitigation options.

Since issuing the amended fumigant REDs, EPA has undertaken development of a range of education and outreach materials and activities. For example, the Agency is funding and planning a week-long soil fumigant Pesticide Inspector Residential Training (PIRT) course in Tampa, Florida in April. Fumigants will also be a featured topic at the Pesticide Regulators Education Program (PREP) course in Fort Myers, Florida in May. In conjunction with these and other programs, EPA will also develop and disseminate various presentations, fact sheets, and training and outreach materials to be used by participants in their roles as inspectors, program managers, and outreach specialists to ensure fumigant applicators can comply with revised labels. We welcome your input; if states and users will let us know your outreach, education and training needs, EPA will work with you to meet those needs.

Finally, some states have alerted us to problems with adequate funding for implementing fumigant mitigation. EPA is committed to working with the State Lead Agencies to leverage and maximize the impact of all resources available to address soil fumigant issues. We anticipate providing greater flexibility in addressing what have traditionally been considered core pesticide program activities, and working with the states to provide national and local training for inspectors and other program implementers. Further, EPA believes we can work with the states to modify your enforcement priorities in a manner suitable to your needs and budget. The 2011 – 2013 cooperative agreement guidance will be explicit about providing leeway to allow states to address priorities in their programs as needed with a limited budget.

We appreciate your letter and are committed to working with the State Lead Agencies to implement the soil fumigant mitigation measures. Through continuing cooperation and work on each of our parts, we believe even with limited resources EPA and the states will be able to successfully implement the Agency's soil fumigant decisions. To discuss soil fumigant issues further with the Agency, please contact Rick Keigwin, Director of the Pesticide Re-evaluation Division, at 703-308-8000. For further discussion about enforcement grant issues, please contact Daniel Helfgott of the Field and External Affairs Division at 703-308-8054.

Sincerely,



Stephen A. Owens
Assistant Administrator

cc: Mike Anable, Office of Governor Janice K. Brewer
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