



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

Arnold Schwarzenegger
Governor

December 29, 2004

EXECUTIVE OFFICE #04-03

TO: County Agricultural Commissioners

SUBJECT: FACT SHEET ON METHYL BROMIDE CRITICAL USE EXEMPTION RULE FOR 2005

The Department of Pesticide Regulation (DPR) has received a number of questions regarding the methyl bromide phase out and critical use exemption. As you know, methyl bromide is being phased out under the Montreal Protocol and Clean Air Act due to its ozone depleting effects. These effects and regulatory actions are separate from the exposure issues DPR has been addressing.

Methyl bromide was originally scheduled for complete phase out (except essential uses, such as quarantine and preshipment), as of January 1, 2005. However, the U.S. Environmental Protection Agency (U.S. EPA) and other federal agencies negotiated an extension of some uses with the other signatories to the Montreal Protocol. On December 15, 2004, U.S. EPA finalized a regulation regarding the critical use exemption that allows use to continue for certain commodities and situations. The regulation becomes effective on January 1, 2005. Under the rules, certain methyl bromide importers/producers will be allowed to distribute additional methyl bromide for 16 specific crops, at specific locations, and under specific conditions. In addition, the regulation allows use of existing methyl bromide stocks for all labeled uses.

U.S. EPA's regulation for critical use exemptions uses legal authority under the Clean Air Act, not the Federal Insecticide, Fungicide, and Rodenticide Act. As stated, U.S. EPA will be keeping all labeled uses for methyl bromide. U.S. EPA will regulate production, importation, and sales, rather than use. The compliance with the critical use exemption will be handled between U.S. EPA and the methyl bromide importer/producer.

The critical use exemption only applies to methyl bromide produced or imported in fiscal year 2005. The regulation and related information may be found at <http://www.epa.gov/spdpublic/mbr/>.

Since U.S. EPA's rules are geared toward regulating the importer/producer, tracking compliance at the user level is not practical nor is it sought. You should not attempt to utilize the permit process to ensure compliance with the rule. You should continue to issue methyl bromide permits in terms of protecting workers and the public.



County Agricultural Commissioners
December 29, 2004
Page 2

If you have any questions, please feel free to contact one of the following people:

- Mr. Kerry Drake, U.S. EPA Associate Director, (415) 947-4157, <drake.kerry@epamail.epa.gov>.
- Mr. John Donahue, DPR Agricultural Commissioner Liaison, (916) 445-3906, <jdonahue@cdpr.ca.gov>.
- Mr. Randy Segawa, DPR Senior Environmental Research Scientist, (916) 324-4137, <rsegawa@cdpr.ca.gov>.

Sincerely,



Mark Rentz
Deputy Director of Policy Coordination
(916) 324-0614

cc: Mr. Kerry Drake
Mr. Tom Land, U.S. EPA National Office
Ms. Katherine Taylor, U.S. EPA Region 9
Ms. Mary-Ann Warmerdam, DPR Director
Mr. Paul Gosselin, DPR Chief Deputy Director
Mr. John Donahue
Mr. Randy Segawa