



Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007
(602) 542-3575 FAX (602) 542-0466

February 8, 2010

Ms. Meredith Laws
U.S. Environmental Protection Agency
Office of Pesticide Programs
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE: Spirotetramat – Notice of Cancellation Order; Existing Stocks Provisions

Dear Ms. Laws:

The Arizona Department of Agriculture is submitting comments on the existing stocks provisions that the Agency is considering because of a court vacatur and subsequent cancellation of the federal registration of pesticide products containing the active ingredient, spirotetramat. Based on information received, the spirotetramat registration cancellation has been stayed until February 16, 2010, and the Agency is seeking comments on the regulation of existing stocks in the possession of sellers, distributors, and users.

The Agency is going to cancel spirotetramat registrations under FIFRA Section 6(a)(1), noting that this section of the law provides that: "The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is suspended or canceled under [sections 3, 4 or 6 of FIFRA] to such extent, under such conditions, and for such uses as the Administrator determines that such sale or use is not inconsistent with the purposes of [FIFRA]." The Agency also points out that in such circumstances, USEPA orders can be issued that can, among other things, "...contain limitations or conditions on the sale, distribution, or use that the Administrator determines to be appropriate," and that, "one such limitation that EPA frequently applies to existing stocks is a condition that any authorization of use of such stocks is limited to use that is consistent with the previously-approved labeling accompanying the product."

The registration of spirotetramat products is being vacated and cancelled because the Agency failed to provide an opportunity for public comment prior to granting registration. The cancellation is not the result of identification of unacceptable risk issues but is being caused by a procedural misstep by the agency.

We have one product with the A.I. spirotetramat registered for sale and distribution in Arizona, Movento. This product has been registered since 2008. The product is registered for a wide array of fruits and vegetables grown here and I learned through educational seminars from University of Arizona researchers, of the importance of this product to our growers. This product is used to control serious economic pests such as white flies, aphids, scale and thrips.

We have received no complaints or other indications that spirotetramat has caused unreasonable adverse effects to non-target organisms in Arizona when the product is used according to label directions.

Given these observations and in view of the fact that the use season is now in full swing in Arizona, it is important that the USEPA allow for the continued distribution, sale and use of existing stocks that are in the hands distributors, dealers, and users. We strongly support the Agency issuing enforceable orders to allow such use, provided that spirotetramat products are used in accordance with the label. We request that Agency's orders be crafted to enable the Department to continue to take enforcement action in the event of non-compliant applications. Additionally, it is important for the Agency to maintain food tolerances for spirotetramat, so that growers will be able to market legally treated crops without penalty.

We appreciate your consideration of our comments. If you have any questions, please do not hesitate to contact me. I can be reached at 602-542-3575 or jpeterson@azda.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Peterson", with a long horizontal flourish extending to the right.

Jack Peterson
Associate Director, ESD

Cc: Donald Butler
Al Fournier
Peter Ellsworth
John Palumbo
Shelly Tunis
Robert Shuler