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Debbie Edwards/Steven Bradbury
Office Director - OPP
Special Review and Reregistration Division
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Forest Tree Nursery Comments - Risk mitigation for MBr and chloropicrin

EPA-HQ-OPP-2007-0350 & EPA-HQ-OPP-2005-0123

November 8, 2008

Dear Debbie Edwards/Steven Bradbury:

As Director of the Southern Forest Nursery Management Cooperative, I wish to comment to EPA specifically on the proposed mitigation measures for chloropicrin and methyl bromide as soil fumigants. On behalf of the Nursery Cooperative, we wish commend EPA on its continued review of the safety of soil fumigants including chloropicrin and methyl bromide. However, we find the proposed mitigation measures to be excessive, cumbersome, and onerous with minimal benefit to human health. The buffer zone and other chloropicrin and methyl bromide RED mitigation measures will result in a crippling blow to the entire forest industry in the southern United States. As written, the current rules will significantly affect forest tree seedling production as the continued use of both chloropicrin and methyl bromide soil fumigation under these RED's will be impractical for many. Further, the RED for these soil fumigants does not take into account the unique needs and challenges of forest seedling production systems. To quote EPA personnel who '*understands the importance of these pre-plant soil fumigants to the agricultural community*' and then impose such restrictive measures for their continued use is counter intuitive.

Considerable angst has been occurring within the forest nursery industry since the RED's were published in July 2008. I understand that there have been numerous contacts to your office to your attention from landowners and stakeholders throughout the southern United States. The proposed rules will not allow many forest tree nurseries to continue to operate and thus, the RED's are of a great concern to the entire forest industry and forest landowners.

There are many other stakeholders affected by these RED's, of which I am not in a position to comment, thus, the following points are given as a proposal to EPA as it pertains to those nurseries in the southern United States. The rational for these suggestions are based on 5 decades of soil fumigant use and the production system as outlined in comments to EPA during the previous Phases of Risk Mitigation. I asked the 16 members of the Nursery Cooperative the following question;
"Given the RED's as published, what could you operate with using your current seedling

production system, remain in operation economically, and still provide Risk Mitigation to handlers, workers and neighbors"

The most critical aspect from nursery producers for continued operation is the buffer zone restrictions and I have summarized their answers below. Forest tree nurseries and members of the Southern Forest Nursery Management Cooperative ask EPA to consider the following points.

Buffer zone distances. Minimum 25' plus and 1 foot per contiguous acre fumigated in any 24 hr period. Thus, a 20 acre block would be 45', a 50 acre block would be 75'.

REI restrictions. Restrictions on entry into buffer areas after fumigation ends needs to be removed. Buffer zones have never been required in the past and entry into this area has been allowed up to the fumigated border. If there was any concentration in this near field area, the entrant would have sensory observation and would not remain.

Minimum and maximum buffer zone distances. Minimum of 25 feet. No maximum with the size dependent upon the contiguous area fumigated within 24 hours. See buffer zone distances above.

Buffer zone overlap. It is not feasible, practical or advisable to wait for buffer zones to expire to complete a fumigation of a field. When the soil parameters are within the fumigant GAP's it is important to complete the application. There is a short biological window for proper soil fumigation. EPA should rather have the applicator conducting the job during optimum conditions rather than return with multiple field re-entry's when conditions (rain, temperature, wind) can change overnight. Thus, buffer zones of different application blocks should be allowed to overlap. Simply put, buffer zones will not prevent off-site movement, that is why both FMP's and GAP's were recommended by EPA. As modify above, the buffer zone rules will allow nurseries to use the fumigants and operate under the strict guidelines of the FMP's and GAP's which will prevent off-site movement.

Structures under the control of owner/operator. Any occupied structure under the control of the owner/operator within the buffer zone and used for overnight housing should be evacuated for the first 24 hours after fumigation has started. In lieu of evacuation, on-site monitoring point at dusk the day of treatment should be conducted. Structures other than housing (office, packing, machine sheds, e.g.) that fall within the buffer zone should be exempt from evacuation as occupants/workers/bystanders can leave due to any sensory observation that would provide the clue that fumigant concentrations are present.

Areas not under the control of the owner/operator. Occupants not under control of the owner/operator that fall within the buffer zone should be evacuated for the first 24 hours after fumigation has started. In lieu of evacuation, on-site monitoring point at dusk the day of treatment should be conducted. Monitoring of house after the first 24 hrs could be conducted to ensure air quality is safe to return under EPA's recommendations for methyl bromide and

chloropicrin.

Posting requirements of buffer zone. If the buffer zone is contained on the property of the owner of the fumigation site, then treated area posting as currently required on the label should be sufficient. Additional posting beyond the buffer zone and treated area is not necessary. Posting should be required if any part of the buffer zone perimeter falls onto land not controlled by the owner/operator.

Notification of neighbors. If under the above buffer zone changes, occupied dwellings still fall within the buffer zones, then notification of the neighbors should be required. If, private land or occupied dwellings do not fall within the buffer zones, then notification should not be required. Registrants and/or applicators should be required to report to first responders 36 hrs prior to fumigation so as to let them know of impending treatment. Notification of neighbors will simply increase the potential for litigation. There are many case studies that bear this out.

Onsite monitoring. Applicators should be required to carry respirators for applicators and handlers during the fumigation process and use them if sensory observation is reached. Self contained breathing apparatus should be required for emergency use only. Given the suite of buffer zones, notification of first responders, GAP's and FMP's, monitoring the area for concentrations of methyl bromide and chloropicrin for 48 hrs is simply overly restrictive given the safety record in forest tree nurseries. On site monitoring should be conducted for residences that fall within the buffer zone described above. Monitoring of house after the first 24 hrs could be conducted to ensure air quality is safe to return under EPA's recommendations for methyl bromide and chloropicrin.

Sensitive sites. There is a need to protect forest tree seedling producers from the possibility of sensitive sites (daycare, church, etc) becoming established near nurseries. The State of Wisconsin has adopted regulations for soil fumigation near sensitive sites that requires a 1/8 mile buffer for tarped applications, ¼ for un-tarped and only requires notification if the forest tree nursery existed before the sensitive site was established. Similar rules need to be developed for forest tree nurseries throughout the US using Wisconsin's rule.

Tarp Removal: Decrease the 24 hr waiting time between cutting and removing tarps. If 7 days is required to keep tarps in place (to mitigate off gassing), then cutting and removing the same day should be adequate for mitigating risk to handlers. A shorter window after cutting, e.g. 2 hrs, (as well as minimal cutting to make sure the tarp doesn't blow into the power lines, trees, etc) and subsequent removal is more practical and just as safe to the handler.

We are confident that our application standards to date have been effective in minimizing any adverse impact of soil fumigants on our employees, contractors and communities. To that end, methyl bromide and chloropicrin have been used for over 50 years, across 40+ forest tree nurseries in the southern United States without incident. We hope that with the above mentioned risk mitigation options proposed by the forest nursery industry, we can continue to

produce seedlings that will continue to supply clean water, clean air, carbon sequestration, habitat for wildlife, products for our homes, and do so without risk to our neighbors.

If you have any questions concerning the above recommendations, please do not hesitate to contact me. I look forward to hearing from you.

Sincerely,

Dr. Scott Enebak – Director