

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34180B; FRL-XXXX-X] (65 FR 56305, September 18, 2000)

Pesticides; Chlorine Gas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On February 22, 1999, the Agency issued a Reregistration Eligibility Decision (RED) on the pesticide chlorine gas. The RED included a requirement for the chlorine gas registrants to submit revised labeling to the Agency by October 23, 1999. The RED also included specific guidance on the content of these label revisions. In response to this RED, several trade groups, state governments, universities, and individuals submitted comments to the Agency. This notice responds to these comments and provides additional and revised guidance to registrants concerning specific label requirements for all chlorine gas registrations. This notice also extends the due date for revised labeling and opens an additional 60-day public comment period.

DATES: Comments, identified by docket control number OPP-34180, were received on or before May 1, 1999. Comments, identified by docket control number OPP-34180B must be received no later than November 15, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-XXXXX in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Patrick Dobak (7508C), Environmental Protection Agency, USEPA, Ariel Rios Building, 1200 Pennsylvania Avenue N.W. Washington D.C. 20460; telephone number: (703) 308-8180; fax number: (703) 308-7042; e-mail address: Pat Dobak@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to the registrants of chlorine gas and members of the municipal water treatment and residential pool treatment

industries. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under “FOR FURTHER INFORMATION CONTACT.”

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select “Laws and Regulations,” “Regulations and Proposed Rules,” and then look up the entry for this document under the “**Federal Register**--Environmental Documents.” You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

To access information about chlorine gas, go directly to the website for the Office of Pesticides' Reregistration Eligibility Decisions at <http://www.epa.gov/oppsrrd1/REDs/> and select documents listed under Chlorine Gas. You will need to have an Acrobat reader or equivalent installed in your computer in order to download the documents.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-**34180B**. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-**34180B** in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number **OPP-34180B**. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. Summary of EPA position that solicited comments

EPA issued a RED for chlorine gas on February 22, 1999. The RED required label amendments for all currently registered products. The majority of uses were classified for restricted use. Only residential pool treatment and water and sewage treatment were not classified. Registrants of products bearing both restricted and unclassified uses were expected to "split" their product registrations according to classification.

In response to the RED, eleven comments were submitted to the Agency from states, trade groups, utility companies, a university and the public. Based on comments and meetings with registrant groups, EPA recognized that several critical issues exist with regard to the training requirements and the 8-month response requirement for the submission of revised labels. The Agency has reconsidered its earlier decision to not require restricted use classification for some uses and has extended the 8-month response due date to December 15, 2000.

B. The Agency's response to comments for the Chlorine Gas RED.

The comments received in response to the RED are grouped together based on content as follows:

1. **Comment:** If registrants must have two products (and two labels) to accommodate restricted and unclassified uses, they could be compelled to ship rail tank cars back to the chlorine gas producers for re-labeling. This scenario is a concern because orders may and often do change before delivery. Substantial additional costs could be incurred by the registrant.

Response: The Agency is proposing to reclassify the remaining uses, consisting of drinking and sewage water treatment and residential swimming pool treatment, as restricted uses. As a result, manufacturers will not need to have both restricted and unclassified product labels.

2. **Comment:** Some registrants, for example, those with both on-site water treatment plants and cooling towers, would have personnel that would be subject to inconsistent training requirements. These personnel, in their role as cooling tower operators, would need to be certified applicators, whereas in their role as water treatment system operators, they would not need to be. EPA's treatment of these chlorine use categories is inconsistent. These uses should be treated similarly.

Response: This inconsistency is one of the chief reasons that the Agency is revising the Chlorine Gas RED labeling and training requirements to classify all chlorine gas uses as

restricted use. Chlorine is acutely toxic through all routes and meets the triggers for restricted use classification in 40 CFR 152.170 for all uses.

3. **Comment:** The prevention of accidental releases is already subject to Clean Air Act (CAA) and Occupational Safety and Health Administration (OSHA) requirements. CAA Risk Management Program (RMP) can include many specific training, procedural, and recordkeeping requirements. OSHA Process Safety Management (PSM) training ensures adequate training for chlorine applicators.

Response: These programs are intended to address accidental releases, and certified applicator training also addresses proper application. Chlorine gas is a highly toxic gas for which specialized equipment and procedures exist. Certified applicator training should be integrated in each facility's response to PSM training and RMP requirements. Every worker will not need to receive certified applicator training; one certified applicator needs to be present for all operations, though.

The Agency is aware that by making all chlorine gas uses restricted, the other stakeholders (municipal water treatment operators and residential pool treatment applicators) may have a similar viewpoint. Since, for these stakeholders, the decision to classify these uses as restricted is a significant change, the Agency is opening up a comment period specifically to allow the stakeholders the opportunity to respond to the Agency's revised position on this one issue.

4. **Comment:** The reclassification of chlorine gas as a Restricted Use Product will result in a significant burden to state extension services.

Response: The Agency acknowledges the additional burden to state extension services as a result of reclassification; however, the Agency considers this training to be necessary based on the acutely hazardous nature of chlorine gas, and based on review of the available incident data. The Agency relied primarily on case reports from the California Pesticide Illness Surveillance Program. A lack of proper training was the most common listed cause (when one was listed) in these reports. From Florida, several fatal incidents were also reported, including two fatalities at water treatment plants and 8 from a train derailment.

As part of proposing to restrict the municipal water and sewage treatment and residential pool treatment uses, it was also necessary for the Agency to examine how the states and industry would need to respond to these training requirements. State regulatory agencies, extension agents, and their regulatory partners, will need to determine if it is possible and beneficial to rely on existing training programs like water treatment certification. Some states have existing water treatment certification programs that could be considered equivalent for certified applicator training. In those cases, it would be possible for those states to modify existing categories and training programs to include the other uses of chlorine. The Agency is aware that this option

may not be available to some states. The Agency will be working with the states and chlorine industry in developing new training and certification programs or modify relevant existing programs for the chlorine restricted uses categories.

The EPA is aware that the training and certification burden on states and industry will vary from state to state. Pennsylvania already regulates chlorine gas as a restricted use pesticide under state law. In some states, the water treatment operators may not be able to be exempted from the core pesticide training requirements, which are directed more to agricultural pesticides. The Agency does not consider the burden of training to be unreasonable given the acutely hazardous nature of chlorine gas, and the severity of some of the reported incidents. Chlorine is one of the few pesticides with reported deaths that is not currently restricted use. Many of the most severe non-fatal incidents reviewed and two of the three fatal incidents from the use of chlorine gas were associated with water treatment.

Since implementing the restricted use labeling will require legislative action on the part of many states, the Agency has extended the period in which the registrants may distribute and sell chlorine gas products bearing the existing unclassified labels/labeling until December 15, 2002, or two years after the publication of this notice. Persons other than the registrants may distribute or sell such products for an additional year or until December 15, 2003. After that date, all chlorine products must bear new labels.

The RED also stated that residential pool treatments would be an unclassified use. That decision was based on the lack of reported incidents for this use. EPA Region 9, however, stated that they were aware of several unreported incidents and suspected that incidents were under-reported for this use. The Agency is reclassifying this use as restricted based on the issues raised in Comment 1.

5. Comment: The RED does not specify whether repackaging of chlorine into 20 lb. cylinders will require a basic or supplemental registration.

Response: Supplemental registrations for residential pool treatment will be allowed.

6. Comment: Chlorine gas is highly toxic and some of the byproducts of water treatment are persistent and bioaccumulative. Alternative disinfectants are available and economically viable. EPA should do more to encourage chlorination alternatives to drinking water treatment, particularly ozonation.

Response: The Agency considers drinking water chlorination to be a critical public health use. The Agency will be requiring label improvements and handler training for all registered chlorine uses, including drinking water treatment. The Agency also required industry to provide data on several disinfection byproducts of drinking water chlorination. These data are intended to help further characterize potential risks associated with drinking water consumption. Should

particular risks from chlorination be identified in the future, the Agency would take action at that time.

C. What Guidance Does this Notice Provide?

1. **Time extensions** - The Agency is granting a time extension for the submission of revised labeling. The revised labels are due to the Agency by December 15, 2000, and must be mailed to Wanda Mitchell, 7510C, USEPA, Ariel Rios Building, 1200 Pennsylvania Avenue N.W., Washington D.C. 20460. Chlorine Gas registrants should already have submitted all other requirements for the 8-month response. Because of the time needed for the states to develop training materials, programs and test materials, and establish the training categories, the Agency is extending until December 15, 2002 the date when the registrants sell and distribute only products bearing new labeling.

2. **Amended labeling requirements** - The Agency is revising the labeling requirements that were included in the Chlorine Gas RED. All labeling requirements originally included in the RED that have not addressed in this notice remain in force.

For the residential pool treatment use only, the amended label requirements are:

You must add the following directions for use to product labels registered for swimming pool water treatment:

"Do not use pool until the free active chlorine residual has dropped to 4 ppm as determined by a test kit. Pool owners must be made aware of the requirement not to enter the pool until the free active chlorine drops to 4 ppm. Trained personnel must instruct pool owners on how to use a test kit for this purpose."

3. **Training requirements** - Based on the comments received and an examination of the available regulatory responses, the Agency is now proposing to classify products which allow for water and sewage treatment and use in residential swimming pools as restricted use pesticides. All pesticidal uses of chlorine gas will become restricted use. Although water and sewage applicator certification exists in most states, it is not classified as a restricted use. It would only be possible to allow states the option of relying on this existing training program to satisfy the certified applicator training requirements for chlorine uses if water and sewage treatment is also classified as a restricted use. The Agency considers the additional regulatory burden on the states and industry to be reasonable based on chlorine's high acute toxicity and review of the available incident information.

D. What is the Agency's Authority for Taking this Action?

Pursuant to 40 CFR 152.170, EPA has the authority to reclassify uses and chemicals to restricted use. Reclassifying unclassified uses as restricted uses is one of the methods available to the Agency to address the risks associated with acutely hazardous pesticides. Chlorine gas is acutely toxic

through all routes of exposure. This action will bring the remaining unclassified uses of chlorine gas up to parity with the other uses of chlorine and other acutely hazardous pesticides in general.

List of Subjects

Environmental protection, Administrative practice and procedure, Pests and Pesticides.

Dated: _____

[Insert signer's title].

[FR Doc. 00-?????? Filed ??-??-00; 8:45 am]

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