



March 12, 2010

Subject: EPA Issues an “Interim Cancellation Order” for Movento™ and Ultor™.

Dear Movento/Ultor Customer:

This afternoon, EPA issued the attached Interim Cancellation Order for Movento and Ultor. The order states that “use of product in the possession of the applicators is permitted provided such use is consistent with the previously approved labeling for the products.” Growers can continue to use material they have purchased and is in their possession.

EPA also states “as of today’s date, it is unlawful to sell or distribute these products except for the limited purpose of return to the manufacturer, or for proper disposal.” Therefore, distributors and retailers should immediately stop all distribution, sale, and offering for sale of Movento and Ultor.

EPA states that it is issuing the Interim Cancellation Order because it has “been unable to complete its review of the comments it received” in response to its January 25 cancellation notice. EPA states that it is continuing to review those comments and “intends, in the very near future, to issue a final order.” According to EPA, the final order will either continue or modify the provisions announced today, and the terms of that final order will “supersede” the terms of the interim order.

Due to the fact that the final cancellation order will soon be published and may be different from the interim order, Bayer recommends that distribution hold Movento and Ultor inventory until the final order is issued. If the policy is unchanged, Bayer will communicate the process on how distributor stocks will be handled and product return procedures, if needed.

Bayer is extremely disappointed by the terms of EPA’s interim cancellation order. It is completely inconsistent with EPA’s own long-standing existing stocks policy, as well as the Agency’s statements in its January 25 “Spirotetramat – Notice of Cancellation Order; Opportunity for Public Comment.” That policy and the notice both make clear that where, as here, EPA has identified no significant risk concerns associated with a cancelled product, “the Agency will generally allow unlimited use of existing stocks, and unlimited sale by persons other than the registrant.” EPA’s procedural error is the only reason that these registrations have been cancelled.

We are puzzled how EPA can conclude that, due to its own errors in its registration process, it is appropriate to punish innocent parties, and to arbitrarily limit the availability of existing stocks of this “reduced risk” product to growers. EPA’s interim action today undermines the environmental and agricultural policies EPA is charged to serve, as well as its credibility with the agricultural industry it depends upon to develop and register innovative reduced-risk products. We hope and expect that EPA’s “final” existing stocks order will be issued promptly, will avoid imposing needless burdens on growers and distributors, and will be more consistent with EPA’s statutory obligations to protect the environment and promote responsible agricultural production.

Sincerely,

Kevin Adam

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