

the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of November 16, 2005. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the rule Summary (VA139-5073a) for Virginia is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: November 8, 2005.

**Donald S. Welsh,**

*Regional Administrator, EPA Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2004-0326; FRL-7741-7]

#### S-metolachlor; Pesticide Tolerance Technical Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of August 31, 2005 concerning regulations establishing tolerances for combined residues (free and bound) of S-metolachlor in or on certain commodities as set forth in Unit II of the **SUPPLEMENTARY INFORMATION** of that document. This document is being issued to correct errors in the amendatory language and amendments.

**DATES:** This final rule is effective on August 31, 2005.

**ADDRESSES:** Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** final rule of August 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7610; e-mail address: [jackson.sidney@epa.gov](mailto:jackson.sidney@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

Please refer to the final rule that published on August 31, 2005 for general information about potentially affected entities and accessing this document electronically.

##### II. What Does This Correction Do?

EPA published in the **Federal Register** of August 31, 2005 (70 FR 51628) (FRL-7716-1) regulations establishing tolerances for combined residues of S-metolachlor in or on certain commodities as set forth in Unit II of the **SUPPLEMENTARY INFORMATION** of that document. Portions of the regulatory amendments and the regulatory text were set out incorrectly. This document is being published to correct those errors.

##### III. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public

interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because the use of notice and comment procedures are unnecessary to effectuate this correction. As such, EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### IV. Do Any of the Statutory and Executive Order Reviews Apply to This Action?

No. This action only corrects errors in the amendatory language for a previously published final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive Orders for the underlying rule is discussed in Unit VII. of the August 31, 2005, final rule (70 FR 51628).

#### V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 2005.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

#### PART 180—[AMENDED]

■ Therefore, 40 CFR part 180 is corrected as follows:

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

#### § 180.368 [Corrected]

■ 2. On page 51637, in the second column, in the amendments to § 180.368, amendatory instruction 2. iii. should read: By designating the existing

text as (c)(1) and adding paragraph (c)(2).

#### **§ 180.368 [Corrected]**

■ 3. On pages 51637 and 51638, in the third and first columns respectively, in the table to § 180.368 (a)(3), remove the stars wherever they appear.

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### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[OPP-2005-0270; FRL-7740-1]

#### **Sulfosulfuron; Pesticide Tolerances for Emergency Exemptions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of sulfosulfuron and its metabolites in or on Bahiagrass, forage; Bahiagrass, hay; Bermudagrass, forage; Bermudagrass, hay; milk; fat (of cattle, goat, horse and sheep); meat (of cattle, goat, horse and sheep); and meat byproducts (of cattle, goat, horse and sheep). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Bahiagrass and Bermudagrass pastures and hayfields. This regulation establishes maximum permissible levels for residues of sulfosulfuron in these food commodities. The tolerances will expire and are revoked on December 31, 2009.

**DATES:** This regulation is effective November 16, 2005. Objections and requests for hearings must be received on or before January 17, 2006.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

**INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP-2005-0270. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9364; e-mail address: [pemberton.libby@epa.gov](mailto:pemberton.libby@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does This Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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 Access Electronic Copies of This Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket>), you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available on E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

##### **II. Background and Statutory Findings**

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and

Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the herbicide sulfosulfuron, [1-(4,6-dimethoxypyrimidin-2-yl)-3-[(2-ethanesulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea and metabolites converted to 2-(ethylsulfonyl)-imidazo[1,2-a]pyridine (calculated as sulfosulfuron), in or on Bahiagrass, forage at 11 parts per million (ppm); Bahiagrass, hay at 40 ppm; Bermudagrass, forage at 11 ppm; Bermudagrass, hay at 40 ppm; milk at 0.02 ppm; fat (of cattle, goat, horse and sheep) at 0.04 ppm; meat (of cattle, goat, horse and sheep) at 0.02 ppm; and meat byproducts (cattle, goat, horse and sheep) at 0.50 ppm. These tolerances will expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of the FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and