

ownership interest in units at Plant Wansley operated by Georgia Power Company. The Administrator issued the preceding Order Responding to Remand denying a petition to object to a state operating permit issued to Oglethorpe—Wansley Combined Cycle Energy Facility (Block 8) located in Roopville, Heard County, Georgia, pursuant to title V of the Clean Air Act (the Act), 42 U.S.C. 7661–7661f. On February 4, 2002, Sierra Club had filed a petition seeking EPA's objection to the title V operating permit for Block 8 issued by the Georgia Environmental Protection Division (EPD). The Administrator denied the petition in an Order dated November 15, 2002. Pursuant to Section 502(b) of the Act, Sierra Club appealed to the U.S. Court of Appeals for the Eleventh Circuit (the Court), arguing that Oglethorpe was not entitled to a permit for Block 8 (in accordance with Georgia's Statewide Compliance Rule) because it owns part of another major stationary source that has been cited for non-compliance with the Act. On May 5, 2004, the Court granted Sierra Club's petition for review, vacated the November 12, 2002, Order, and remanded to EPA for further explanation of the manner in which the Georgia rule should be applied in cases of partial ownership. After considering the issues raised by the Court, the Amended Order Responding to Remand (like the Order Responding to Remand) reached the same conclusion as EPA's original Order, but provided a more detailed explanation.

**ADDRESSES:** Copies of the Amended Order Responding to Remand, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The amended final order is also available electronically at the following address: [http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/opcwansley\\_decision2002\\_amendedremand.pdf](http://www.epa.gov/region7/programs/artd/air/title5/petitiondb/petitions/opcwansley_decision2002_amendedremand.pdf).

**FOR FURTHER INFORMATION CONTACT:** Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or [hofmeister.art@epa.gov](mailto:hofmeister.art@epa.gov).

**SUPPLEMENTARY INFORMATION:** The Georgia Center for Law in the Public Interest originally submitted a petition on behalf of the Sierra Club (Petitioner) to the Administrator on February 4, 2002, requesting that EPA object to a state title V operating permit issued by the EPD to Oglethorpe. Other inconsistencies (with the Act) alleged by

the Petitioner were: (1) That the permit failed to require a case-by-case maximum achievable control technology determination for the emissions of hazardous air pollutants; (2) that the permit failed to include adequate monitoring of carbon monoxide; (3) that the permit impermissibly limited the enforceability of a federal stack height provision; and (4) that the permit failed to include short-term best available control technology limits. EPA's responses to the above issues in the November 12, 2002, Order were upheld by the Court; therefore, sections IV.B. through IV.E. of the November 12, 2002, Order are incorporated by reference into the Amended Order Responding to Remand.

Dated: November 27, 2005.

**A. Stanley Meiburg,**

*Deputy Regional Administrator, Region 4.*

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**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0061; FRL–7742–6]

### Azinphos-methyl Ecological Risk Assessment, Grower Impact Assessments; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's environmental fate and effects risk assessment, grower impact assessments, and related documents for the organophosphate pesticide azinphos-methyl, and opens a 60–day public comment period on these documents. EPA is in the process of reevaluating the remaining uses for azinphos-methyl, consistent with the Interim Reregistration Eligibility Decision (IRED) issued in 2001 and the May 2002 Memorandum of Agreement between EPA and the technical registrants for azinphos-methyl.

**DATES:** Comments must be received on or before February 6, 2006.

**ADDRESSES:** Comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0061, may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:**

Diane Isbell, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–

0001; telephone number: (703) 308–8154; fax number: (703) 308–8041; e-mail address: [isbell.diane@epa.gov](mailto:isbell.diane@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number EPA–HQ–OPP–2005–0061. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>.

*Agency Website.* EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at <http://www.regulations.gov>. Follow the online instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/>

to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

### *C. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number EPA-HQ-OPP-2005-0061. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number EPA-HQ-OPP-2005-0061. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access"

system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number EPA-HQ-OPP-2005-0061.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA-HQ-OPP-2005-0061. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is 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 docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket 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 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 your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your response. It would also be helpful if you provide the name, date, and **Federal Register** citation related to your comments.

## II. Background

### A. What Action is the Agency Taking?

EPA is making available the environmental fate and ecological effects risk assessment, and the grower impact assessments for azinphos-methyl. Azinphos-methyl is an organophosphate insecticide first registered in 1959, and is used in agriculture on orchard fruits, berries, nuts, and other crops. The Interim Reregistration Eligibility Decision for azinphos-methyl was issued in October 2001. During the development of the IRED, EPA evaluated the risks and benefits associated with azinphos-methyl use, considered all relevant risk mitigation options and implemented a variety of mitigation measures, including reductions in the rate and frequency of applications and precautionary labeling to reduce risks. Despite these mitigation measures, calculated risks to workers and the environment from azinphos-methyl use still indicated potential concerns. The technical registrants of azinphos-methyl entered into a Memorandum of Agreement (MOA) with EPA that was signed on May 23, 2002, which provided for the deletion or phase out of most azinphos-methyl uses. The remaining 10 uses have time-limited registrations pending the submission

and evaluation of biomonitoring, product efficacy and other data. These uses include: Almonds; apples and crab apples; blueberries, lowbush and highbush; Brussels sprouts; sweet and tart cherries; nursery stock; parsley; pears; pistachios; and walnuts. EPA intends to complete its evaluation of these uses and propose a decision in 2006.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's ecological risk and grower impact assessments for azinphos-methyl. Such comments and input could address, for example, the availability of additional data to further refine the risk or grower impact assessments, information about a specific pest problem not addressed or evaluated in the assessment, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide. Some sample questions are provided in a memorandum to the docket, dated November 29, 2005. These questions may be used as a guide for commenting on the assessments available in this docket.

Comments should be limited to issues raised within the assessments and associated documents. Failure to comment on any such issues as part of this opportunity will not limit a commenter's opportunity to participate in any later notice and comment processes on this matter. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for azinphos-methyl. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

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

The Agency is issuing this Notice in connection with decisions it will make in 2006 pursuant to section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regarding uses of azinphos-methyl and phosmet.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 23, 2005.

### Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2005-0317; FRL-7748-6]

### Notice of Filing of a Pesticide Petition for Establishment of an Exemption from the Requirement of a Tolerance for the Residues of the Biochemical Pesticide (Z)-7,8-epoxy-2-methyloctadecane in or on All Food and Feed Commodities

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a tolerance for the residues of the biochemical pesticide (Z)-7,8-epoxy-2-methyloctadecane in or on all food and feed commodities.

**DATES:** Comments must be received on or before January 6, 2006.

**ADDRESSES:** Comments, identified by docket identification (ID) number EPA-HQ-OPP-2005-0317 and pesticide petition (PP) number 5F6985, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Andrew Bryceland, Biopesticides and Pollution Prevention Division, (7511C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, telephone number: (703) 305-6928; e-mail address: [bryceland.andrew@epa.gov](mailto:bryceland.andrew@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