ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 156

[OPP–36190A; FRL–6491–1]

RIN 2070–AC46

Equivalency of Pesticides Metolachlor and S-metolachlor With Respect to Ground Water Contamination; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Request for Comment.

SUMMARY: The Agency is providing an opportunity for the public and affected parties to submit comments on additional information about a chemical contained in the proposed Ground Water and Pesticides Management Plan (PMP) Rule (61 FR 33260, June 26, 1996). In the proposed PMP rule, the Agency proposed, as a condition of continued use, that States and Tribes prepare chemical-specific management plans for four herbicides that have been shown to persist in the environment and leach to ground water, creating a potential unreasonable adverse effect on human health and the environment. One of the four pesticides in the proposed rule is metolachlor. EPA is seeking additional comment on the specific information that is being made available and which is described in this document.

DATES: Written comments, identified by the docket number OPP–36190A, must be received on or before March 24, 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** section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–36190A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Arthur-Jean B. Williams, Field and External Affairs Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone number: 703–305–5239, fax number: 703–308–3259, e-mail address: williams.arty@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This notice of data availability and request for comment is directed to the public in general. It may, however, be of particular interest to you if you register, distribute, apply, or manage the application of a pesticide that contains optically active isomeric active ingredients and, in particular, a product enriched for one (usually more pesticidally active) optical isomer. In addition, persons commenting on the Ground Water and Pesticide Management Plan proposal (61 FR 33260, June 26, 1996) (FRL–4981–9) may be particularly interested in some or all of these data. Since others 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 in the ''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 copies of this document and certain other available support documents from the EPA Internet Home Page at *http://www.epa.gov/*. On the Home Page select ''Laws and Regulations'' 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/*.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–36190A. 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 Highway, 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–36190A 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, 401 M St., SW, 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 Highway, Arlington, VA. The PIRIB is open from 8 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 6/7/8 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–36190A. 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 identified in the **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 rule 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

On June 26, 1996, EPA proposed a rule (61 FR 33260) called the Ground Water Pesticide Management Plan Rule (''PMP'' or the ''Rule'') to protect ground water from the legal, labeled use of certain pesticides. When final, this Rule will restrict the legal sale and use of four pesticides known to leach to ground water at concentrations that may be harmful to human health and the environment. The pesticides are alachlor, atrazine, metolachlor, and simazine and are classified as either ''probable'' or ''possible'' human carcinogens. In making this registration decision, EPA has determined that use of these pesticides may cause unreasonable adverse effects on human health and the environment in the absence of effective, site-specific management measures. These measures are provided by a Ground Water Pesticide Management Plan developed by States and Tribes and approved by EPA.

III. Data Available for Comments

A. What Additional Data is EPA Making Available for Comment?

The Agency is seeking comment on data provided to EPA to support the registration of a pesticide formulation enriched with the *S*-optical isomer of metolachlor. The isomer is named CGA 77102 by the registrant, and has also been referred to as chiral metolachlor, alpha-metolachlor, and *S*-metolachlor. The enriched formulation also contains *R*-metolachlor (*R*-optical isomer). Specifically, this notice invites comments on data pertaining to the products containing metolachlor, *S*-metolachlor, and *R*-metolachlor. This notice solicits comments on environmental fate data which could be relevant to the question of whether the Agency should consider acetamide, 2-chloro--*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)-,(*S*)-(common name: *S*-metolachlor), and acetamide, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2- methoxy-1-methylethyl)-,(*R*)-(common name: *R*-metolachlor) to be metolachlor (chemical name: acetamide, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)-) for purposes of the proposed Ground Water and Pesticides Management Plan (PMP) rule. While previous products of metolachlor contain equal parts (ratio of 50:50) of the *S*-metolachlor and *R*- metolachlor (referred to as a racemic mixture of optical isomers or R and S enantiomers), more recent formulations contain the *S*-metolachlor and *R*-metolachlor in a ratio of approximately 88:11. The following documents have been placed in the official Docket of the proposed rule (OPP–36190A) and are available for your review and comment as described in Unit I.B. Please note, the name alpha-metolachlor was used extensively in the documents for the formulation enriched with *S*-metolachlor and was a common name (now outdated) used by the registrant to refer to the same chemical as the *S*-optical isomer of metolachlor.

1. Ciba-Geigy letter dated 1/15/96 to EPA Document Processing Desk, Attn: Joanne Miler. Application for registration under the Agency reduced risk initiative - PR notice 93–9.
2. Data summary submitted by Ciba-Geigy Corporation, dated 1/11/96 and 1/12/96 to support the registration of CGA 77102. The reports details the magnitude of the residues in corn and soybeans.
3. Replacement of metolachlor technical with *S*-metolachlor -- review of bridging data, EPA memo dated November 15,1996, from Linda L. Kutney, Health Effects Division, to Rich Griffin, Registration Division. Reviews bridging data and provides conclusions and recommendations.
4. Ciba-Geigy notice dated 12/19/96 filing for use of existing tolerances for metolachlor and addressing the Food Quality Protection Act. Cover letter to Joanne Miller, EPA Registration Division, from Karen Stumpf, Ciba-Geigy Senior Regulatory Affairs.
5. EPA memorandum D223753, D223769, D233184 dated 4/11/97 from Dan Reider, EPA Environmental Fate and Effects Division, to Joanne Miller, EPA Special Review and Reregistration Division. Review of studies for CGA 77102, a metolachlor isomer.
6. Environmental fate data from Ciba-Geigy in support of registration of CGA 77102 (DP Barcode D232589, chemical code 10800). This package reviews the bridging environmental fate data (soil photolysis, mobility, aerobic soil metabolism, unaged leaching, adsorption/desorption, and aged soil column leaching) submitted in support of registration.
7. EPA RfD/Peer Review Report of *S*-metolachlor dated 7/16/97, cover memo from George Z. Ghali PhD, EPA Health Effects Division, to Joanne Miller, EPA Registration Division. This package reviews toxicological data in support of *S*-metolachlor, including data evaluations records (DERS) for developmental toxicity studies in rats and rabbits, subchronic toxicity studies in rats and dogs, and a battery of mutagenicity studies.

B. Why is EPA Seeking Comment on this Additional Data?

EPA believes these data show that the fate of metolachlor (the 50:50 racemic mixture) in the environment is basically the same as the fate of CGA–77102 (the enriched *S*-metolachor mixture containing *R*-metolachor with respect to its impact on the environment. This includes the major routes of degradation and the propensity to leach to and contaminate ground water, and is the reason bridging data were used for registering the product enriched with *S*-metolachlor, containing less *R*-metolachlor. Also, limited toxicological investigation was submitted on behalf of *S*-metolachlor in support of the registration as requested by the registrant based on the fact that S-metolachor has already been subject to extensive toxicological testing during development of metolachor. EPA is seeking comment on these points because metolachlor and *S*-metolachor contain the same chemicals and only differ in the proportion of *R*-metolachor and *S*-metolachor in their mixtures, with the CGA 77102 mixture having a

higher percentage of more biologically active *S*-metolachor.

These data also raise the question of whether a pesticide that would be subject to the Proposed Ground Water and Pesticide Management Plan Rule (including metolachlor) that is reformulated with a different proportion of optical isomers should also be subject to the Proposed Rule. If the enriched mixture containing the *R*- and *S*-enantiomers is not subject to the Proposed Rule, then the objective of the Proposed Rule, to prevent ground water contamination by the metolachor active ingredient, could fail to be achieved. Also, monitoring could not determine the effectiveness of the Proposed Rule to prevent contamination of metolachlor since water quality testing by the States or Tribes could not distinguish between metolachlor with a 50:50 mixture of optical isomers or an enriched mixture of these isomers.

Implicit in the decision to consider *S*-metolachlor as equivalent to metolachlor for purposes of the PMP Rule is the acceptance of the Health Advisory (HA) for metolachlor as the reference point for *S*-metolachlor. This is consistent with the bridging of metolachlor toxicity studies to support the registration of *S*-metolachlor. If, in the future, EPA's Office of Drinking Water and Ground Water recalculates an HA for *S*-metolachlor, or establishes a Maximum Contaminant Level (MCL) for the chemical, the new value would become the new reference point for metolachlor.

IV. Do Any Regulatory Assessment Requirements Apply to this Action?

No. This action is not a rule, it merely announces the availability of and requests comments on additional data and/or information related to, among other things, a proposed rule that previously published in the **Federal Register** of June 26, 1996, 61 FR 33260. For information about the applicability of the regulatory assessment requirements to the proposed rule, please refer to the discussion in Unit VIII of that document (61 FR 33293).

List of Subjects

40 CFR Part 152

Environmental protection, Administrative practice and procedure, Pesticides and pest, Reporting and recordkeeping requirements.

40 CFR Part 156

Environmental protection, Labeling, Occupational safety and health, Pesticides and pest, Reporting and recordkeeping requirements.

Dated: February 16, 2000.

Susan H. Wayland,

Deputy Assistant Administrator Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–4243 Filed 2–22–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC90

Disaster Assistance; Insurance Requirements for the Public Assistance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: As a means to achieve a nationally consistent level of responsibility among public and certain private non-profit entities for natural disaster risks, we (FEMA) are considering making a minimum amount of building insurance coverage a criterion for eligibility for Public Assistance. In order to encourage the purchase of such insurance, we are considering whether and how to make uninsured buildings ineligible for Public Assistance. We have sought out the advice of numerous insurance experts and program stakeholders on this, but believe we will benefit by sharing our thinking on these issues to the widest audience possible and seeking their views and comments before we publish a proposed rule. We also have various specific questions for your consideration.

DATES: We invite written comments on this and will accept them until April 10, 2000.

ADDRESSES: Please send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Curtis Carleton, Chief, Community Services Branch, Federal Emergency Management Agency, 500 C Street SW., room 713, Washington, DC 20472, 202–646–4535, (facsimile) 202–646–3147; or (email) *Curtis.Carleton@fema.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act), authorizes the President to pay at least 75 percent of the costs to repair infrastructure damaged by a presidentially declared major disaster. The Public Assistance Program provides grants to applicants—including State and local governments, Native Americans or authorized tribal organizations, Alaskan Native villages and organizations, as well as certain eligible private non-profit organizations—for emergency protective measures, for debris removal, and for disaster-damaged infrastructure.

Our objective with this advance notice of proposed rulemaking (ANPR) is to focus on natural disaster-damaged infrastructure, and more specifically, building damage. The Stafford Act has directives and requirements on insurance. Our information up to this point is that, with a few exceptions, insurance is available for buildings. Therefore, we have interpreted that these directives and requirements can be applied to that category of public infrastructure.

It is clear from the Stafford Act and from its supporting and background materials that the Congress views the purchase of insurance as an effective risk management device.

- The Stafford Act encourages obtaining insurance in its preamble, § 101.
- Further, it says in § 311 that an applicant must agree to obtain and maintain insurance as a condition of receiving a Public Assistance grant.
- Insurance is defined as a benefit under § 312, and as such, a Public Assistance grant may not be awarded so as to duplicate it.

Our current regulations, found in 44 CFR, Subchapter D, Part 206, Subpart I, translate the insurance purchase requirement to mean that the amount of insurance to be purchased must be at least up to the amount of eligible damage under the Public Assistance program. If the eligible damage is far less than the replacement value of the building, and if the corresponding minimal level of insurance coverage can actually be purchased, this may result in a vastly underinsured building. The current regulations do not speak to the type of insurance required—actual cash value or replacement cost value—and they do not address deductibles. This is important both from the standpoint of the insurance purchase requirement and the amount of the Public Assistance grant awarded. Most importantly, the current regulations do not have any mechanism to encourage insurance on public buildings that have not yet received disaster assistance. The absence of meaningful encouragement