ROSEBURG
RESOURCES CO.

PUBLIC COMMENTS

RE: Docket ID number: EPA-HQ-OPP-2008-0129 (Sulfometuron Methyl)

Submitted: 12/31/08

By: Mark Wall

To whom it may concern,

I am an industrial timberlands forester with over 20 years experience working in western Oregon practicing intensive silviculture. I have used Sulfometuron Methyl (SM) extensively since it was first labeled for forestry use in the late 1980's. Its low use rates, ease of handling, environmental safety, and efficacy make it one of the best tools foresters have for quickly regenerating healthy and vigorous forests after harvesting.

The proposed label changes will **effectively eliminate its use in western Oregon** with unintended consequences that your Re-registration Eligibility Decision (RED) does not adequately address. In reading the RED, it is apparent that there is little scientific justification for many of the proposed rule changes. Some of them are inconsequential to the end user, but others like the new 500 foot buffer restriction will have the potential to significantly affect the use of this product in our industry and likely other applications outside forestry. I have taken the time to read the RED and would like make the following comments and observations based on data derived from the RED (words in blue italics were lifted verbatim from the RED or current product label);

- ***"SM has a low acute toxicity profile (Toxicity Category III or IV)"*** and in all acute toxicity test data, it is shown to be practically non-toxic to fish, mammals, birds, and insects.

- Typical forestry uses in Western Oregon are 2-3 oz/acre and are applied to an acre of timberland 1-2 times in the early stand establishment phase of a typical 45 yr timber crop cycle. The ai/ac is one of the lowest application rates of the herbicides used in forestry. In other words, an acre of forestland may receive up to 6 oz/acre every 45 yrs.

- The RED looks at human incident reports, residential concerns, and drinking water concerns. **In all cases, SM was shown to be *"well below the agencies level of concern" (LOC) for this product or "warrant regulatory concern".*** SM is a safe product!

- Existing data suggest that SM exceeds LOC for non-target aquatic and terrestrial plants although this data is based heavily on models and not real world data. In Western Oregon, vegetative buffers are required on many streams that would intercept any SM that happened to drift off-target. The likelihood that aquatic plants would intercept SM at the RQ levels listed in Table 6 (pg 20) is very remote. The models are agricultural in nature and do not take into account the drift

intercept potential of buffered streams. To expand this concern into a label requirement that states *"Do not apply within 500 feet of aquatic vegetation, water used as an irrigation source and crops."* is not a scientifically based conclusion and will be very difficult to comply with in practice. For one, define aquatic vegetation? By itself, this is a very vague term that only a botanist could define accurately. I would interpret this to mean that I would have to put a 500 foot buffer around any fish bearing stream or any intermittent stream or channel that may contain an aquatic plant or something that looks like an aquatic plant? What about a small inconsequential ground seep within a 40 acre clear-cut that contains aquatic vegetation. Am I required to identify and protect such areas with a 500 foot buffer? With the preponderance, in Western Oregon, of streams and side channels feeding these streams on a seasonal basis, I would interpret this label requirement to mean that I shouldn't spray within 500 feet of any of these topographic features to avoid a label violation. **The language "within 500 feet of aquatic vegetation" will singularly kill the use of SM in Western Oregon with unintended consequences**.

- As a forest manager, I still have an obligation to reforest timberlands after harvest to meet both internal company objectives and state reforestation standards as required by law. To accomplish this, and if the label changes stand as proposed, I will have little choice but to substitute other herbicides to meet my objectives. These include Triclopyr, Hexazinone, Atrazine, and Glyphosate to name a few. These chemicals are **applied at significantly higher rates of ai/ac**, are bulky to handle, are applied with carriers such as kerosene, and typically have higher acute toxicity profiles than SM. **Your label change will have the unintended consequence of forcing foresters and other users to resort to other herbicides with greater environmental risk profiles than SM. How is that a good outcome for the environment?** SM's low toxicity, safety, ease of use, and great environmental record are why so many of us have used this product to the extent we have. **It is just that much better than the alternatives.**

- SM is very effective at helping control non-native noxious invasive species like scotchbroom and french broom and post harvesting native invasive species like red alder, and ceanothus spp. Early on in my career, I used to spray 1500-2000 acres/year with 2 qts/ac of 2, 4-D to control red alder. **The use of SM to eliminate the germination of these species in our plantations has eliminated this project and with it, the need to apply up to 1000 gals of 2, 4-D annually.** 0**Your RED does a very poor job of evaluating the effect of the new label changes on end users and the substitution and additional applications that will occur as a result of these label changes.** The inability to use SM to control scotch broom will have dramatic impacts on my company's timberlands. Plantations will see significant increases in scotch broom densities and as a result, conifer survival and vigor will suffer **and attempts to control it using alternative herbicides such as 2, 4-D and triclopyr will increase significantly**. I am confident that other users of SM have similar invasive species they are dealing with effectively through the use of SM that would be equally impacted and looking to alternative herbicide prescriptions. On page 25 of the RED, the agency states that "*based on currently available data, the Agency cannot identify a unique niche for this chemical but neither can it determine if adequate alternatives are available. SM provides another form of chemical control for the management of weedy species in the registered use sites and, as such, provides benefits to its users."* **The consequence of the proposed buffer label change on end users needs to be fully understood before implementation.**

- Page 22 of the RED lists a total of only 35 reports of incidents documenting off target damage due to SM. Of these 35 incidents, only 1 was classified as highly probable, 20 were classified as probable and 14 were classified as possible**. In almost 20 years of use on up to 1.5 million acres/year, this is an impressive track record and says a lot about the overall responsible use and environmental safety of SM. Why isn't more credence given to these statistics? What is the motivation and science behind the 500 foot buffer?**

- The current SM label includes a requirement for *200 foot buffers around homesteads, non-target plantings, and agriculture land*. Based on the low level of incidents related to SM, history would suggest that the current buffer requirements are more than adequate. **It is my recommendation that the 500 ft buffer zone requirement be rescinded and that the current buffer requirements remain unchanged.**

- The proposed PPE rule changes are unnecessary in my opinion given the "*practically non-toxic"* status of SM to humans but are nonetheless not a burden and are acceptable as presented.

- On page 32 of the RED, under Environmental Hazards the term except "*under the forest canopy"* was added. This term is very vague, open to interpretation, and accomplishes nothing but confusion in the context of the sentence it was added to. This term should be clarified, dropped or re-worded.

- On page 33 of the RED, under Other Application Restrictions (Risk Mitigation) it states: "*Do not apply SM to powdery dry soil or light sandy soil when less than a 60% chance of rainfall is predicted to occur in the treatment area within 48 hours of application."* It goes on to add a second precaution; "*Do not apply SM in counties where the average annual rainfall is 10 inches or less."* The first precaution is open to interpretation and litigation and should be modified from its current wording or struck completely. Am I violating the label if it doesn't rain within 48 hours or if TV station X said a 60% chance of rain but TV station Y said 50% and Radio station X said 40% chance? The current label recommends not applying SM onto "*powdery dry soil or light sandy soil when there is little likelihood of rainfall soon after treatment*." This adequately addresses the concern of dry soil or dry land application and should be left as is without adding additional verbiage that accomplishes little other than to expose users to potential unintended label violations. The second precaution fails to recognize that even in areas of limited rainfall, there is a time of year when it is probably safe to apply SM. The ten inch rainfall limitation seems arbitrary and without scientific basis and will severely impact the Bureau of Land Management efforts to deal with invasive species such as cheat grass on federal lands. I think language that talks about timing applications during the rainy season or when soils are moist would better address the concern of SM blowing off site due to dry soils.

In conclusion, I would like to see the label changes related to buffer widths and post application rainfall rescinded and for the original language to be retained. SM is one the safest herbicides we use and is very safe for both the applicator and the environment. If the label rules go through as proposed, we will see significant substitution of other less safe products (higher toxicity profile) applied at significantly higher rates of active ingredient/acre as end users comply fully with the new label language. Additional treatments will be incurred to deal with invasive species that are not as efficiently controlled with these other products. **Is this what you intended with these label changes? If the objective of the RED is environmental protection then it fails to accomplish that as currently stated.** I think I have raised some valid issues that warrant further analysis by your agency before the RED is finalized. Thank you in advance for your time and consideration of my concerns.

Sincerely

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