

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act of 1995**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required. Even so, the Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This amendment will not directly affect any small entities. Therefore, this amendment is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analysis requirements of sections 603–604.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance Program number and title for the program affected by this document are 64.114, Veterans Housing—Guaranteed and Insured Loans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on June 4, 2010 for publication.

**List of Subjects in 38 CFR Part 36**

Condominiums, Handicapped, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Dated: June 9, 2010.

**Robert C. McFetridge,**  
*Director of Regulation Policy and Management, Office of the General Counsel.*

■ For the reasons stated in the preamble, VA amends 38 CFR part 36 as follows:

**PART 36—LOAN GUARANTY**

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

**Subpart B—[Removed]**

■ 2. Remove subpart B.

**Subpart F—[Redesignated as Subpart B]**

■ 3. Redesignate subpart F as new subpart B.

**§§ 36.4800 through 36.4893 [Redesignated as §§ 36.4300 through 36.4393]**

■ 4. Redesignate §§ 36.4800 through 36.4893 as follows:

Old section	New section
36.4800	36.4300
36.4801	36.4301
36.4802	36.4302
36.4803	36.4303
36.4804	36.4304
36.4805	36.4305
36.4806	36.4306
36.4807	36.4307
36.4808	36.4308
36.4809	36.4309
36.4810	36.4310
36.4811	36.4311
36.4812	36.4312
36.4813	36.4313
36.4814	36.4314
36.4815	36.4315
36.4816	36.4316
36.4817	36.4317
36.4818	36.4318
36.4819	36.4319
36.4820	36.4320
36.4821	36.4321
36.4822	36.4322
36.4823	36.4323
36.4824	36.4324
36.4825	36.4325
36.4826	36.4326
36.4827	36.4327
36.4828	36.4328
36.4829	36.4329
36.4830	36.4330
36.4831	36.4331

Old section	New section
36.4832	36.4332
36.4833	36.4333
36.4835	36.4335
36.4836 [Reserved]	36.4336 [Reserved]
36.4837	36.4337
36.4838	36.4338
36.4839	36.4339
36.4840	36.4340
36.4841	36.4341
36.4842	36.4342
36.4843	36.4343
36.4845	36.4345
36.4846	36.4346
36.4847	36.4347
36.4848	36.4348
36.4849	36.4349
36.4850	36.4350
36.4851	36.4351
36.4852	36.4352
36.4853	36.4353
36.4854	36.4354
36.4855	36.4355
36.4856	36.4356
36.4857	36.4357
36.4858 [Reserved]	36.4358 [Reserved]
36.4859	36.4359
36.4860	36.4360
36.4861	36.4361
36.4862	36.4362
36.4863	36.4363
36.4864	36.4364
36.4865	36.4365
36.4867	36.4367
36.4868	36.4368
36.4869	36.4369
36.4870	36.4370
36.4875	36.4375
36.4877	36.4377
36.4878	36.4378
36.4879	36.4379
36.4880	36.4380
36.4890	36.4390
36.4891	36.4391
36.4892	36.4392
36.4893	36.4393

[FR Doc. 2010–14156 Filed 6–14–10; 8:45 am]

**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 156**

[EPA–HQ–OPP–2005–0327; FRL–8830–7]

RIN 2070–AJ74

**Pesticide Management and Disposal; Standards for Pesticide Containers and Containment; Change to Labeling Compliance Date**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the pesticide container and containment regulations to provide a 4-month extension of the 40 CFR 156.159 labeling compliance date from August

16, 2010 to December 16, 2010. This change is being made because there is insufficient time for pesticide registrants, EPA and states to complete the label amendments. This change will avoid the temporary removal of a significant number of pesticides from the market while a 1-year extension proposed elsewhere in today's **Federal Register** proceeds through the rulemaking process, and while pesticide registrants, EPA and states work to update the pesticide labels to comply with the label requirements in the container and containment regulations.

**DATES:** This final rule is effective August 16, 2010.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0327. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Nancy Fitz, Field and External Affairs Division (FEAD) (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7385; fax number: (703) 308-2962; e-mail address: [fitz.nancy@epa.gov](mailto:fitz.nancy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Does this Action Apply to Me?**

You may be potentially affected by this action if you are a pesticide formulator. Potentially affected entities may include, but are not limited to:

- Pesticide formulators (NAICS code 32532), e.g., establishments that formulate and prepare insecticides, fungicides, herbicides or other pesticides from technical chemicals or concentrates produced by pesticide manufacturing establishments.

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**.

**II. Background**

On August 16, 2006, EPA promulgated a final rule titled "Pesticide Management and Disposal; Standards for Pesticide Containers and Containment" (71 FR 47330) (container and containment rule), establishing 40 CFR part 165 and amending 40 CFR part 156. The container and containment rule established regulations for the safe storage and disposal of pesticides to reduce the likelihood of unreasonable adverse effects on human health and the environment. The container and containment regulations include requirements for pesticide container design; procedures, standards, and label language to facilitate removal of pesticides from containers prior to their being used, recycled, or discarded; and requirements for containment of stationary pesticide containers and procedures for container refilling operations. The 2006 rule required that all pesticide products distributed or sold by a registrant as of August 16, 2009, bear labels that comply with the rule's label language requirements (40 CFR 156.159). On October 29, 2008, EPA promulgated a final rule that made various amendments to the container and containment rule, including extending the original labeling compliance date from August 16, 2009 to August 16, 2010.

Specifically, 40 CFR part 156, subpart H, titled "Container Labeling," requires the following information or statements on certain pesticide product labels:

- A statement identifying the container as nonrefillable or refillable.
- On nonrefillable containers, statements providing basic instructions for managing the container and a batch code.
- Cleaning instructions for some nonrefillable containers.
- Cleaning instructions for refillable containers at the end of their useful lives.

In addition, the container and containment rule modified several existing requirements in 40 CFR 156.10,

including allowing for blank spaces on the labels of some refillable containers for the net contents and EPA establishment number and adding a reference to the container and containment regulations in 40 CFR part 156 subpart H.

The 2008 rule that amended the container and containment rule by extending the original labeling compliance date to August 16, 2010, also changed the phrase "sold or distributed" to "released for shipment" as associated with all of the compliance dates and made several other changes to the label requirements and various minor editorial changes.

**III. What Action is the Agency Taking?**

EPA is amending the container and containment regulations to provide a 4-month extension of the 40 CFR 156.159 labeling compliance date from August 16, 2010 to December 16, 2010. This change is being made to allow more time for the Agency to propose and solicit comments on the consideration of a 1-year extension to address concerns raised by stakeholders and as a result of further Agency consideration.

Accomplishing the label amendments required in 40 CFR part 156 subpart H is a multistep process. Registrants must identify the changes appropriate for their particular products and apply to EPA for an amended registration. EPA must review the proposed changes and determine whether they are consistent with the regulations, and advise the registrant of the Agency's findings. If the EPA approves the changes, the registrant must then seek approval of the various state pesticide regulatory agencies. Upon approval of the state agencies, the registrant must have the new labels printed and applied to its products.

In March 2010, EPA was contacted by stakeholders with concerns about being able to have all labels changed by the label compliance date of August 16, 2010. Some registrants have asserted that they will not have sufficient time to change all labels for pesticides that are released for shipment after August 16, 2010 despite efforts by registrants, EPA's Office of Pesticide Programs (OPP) and state agencies. The time constraints are due to several factors, including:

- More antimicrobial product labels than expected require alternate rinsing instructions, rather than the standard text in the regulations. Therefore, these amendments cannot be made by notification, and require more time consuming reviews by EPA.

- EPA's position on the appropriate container-related statements

(particularly rinsing and treatment of rinsate) for certain pesticides has changed over time as a result of experience with product-by-product label reviews. This has resulted in reconsideration of some decisions, and has caused some confusion in the regulated community.

- The length of time for states to review and approve labels is understood to be increasing due to the furlough days for staff in some states and staffing reductions due to budget shortfalls.

EPA has concluded that there is insufficient time to change all labels by August 2010. Since registrants can decide which registered products they wish to market at any given time, the Agency does not have a precise count of the total number of label changes that ultimately will be submitted to EPA for review. However, based upon a review of recent Agency actions and discussions with registrants, EPA estimates that the majority of label changes already have been submitted and approved. On the other hand, EPA estimates that there are at least 1,000 labels and potentially several thousand remaining pesticide product labels that EPA still needs to review. Even if all of those applications were submitted immediately, there would not be enough time for the label changes to be approved by EPA and the states, printed, and applied to all products that will be released for shipment after August 16, 2010.

Because EPA actions contributed to the large number of outstanding label changes, EPA believes that it is appropriate to extend the §156.159 compliance date by 1 year, to August 16, 2011, and has published in the Proposed Rules section of today's **Federal Register** a Notice of Proposed Rulemaking soliciting public comment on such a 1-year extension. Because that rulemaking effort could not become effective before August 16, 2010, EPA is issuing this final rule providing for a 4-month extension. As discussed in Unit IV., EPA believes an additional 4 months will be sufficient to allow the proposed rule to become final and effective, and that the proposed additional year (not cumulative with the 4-month extension) will provide enough time for EPA and the states to review the label changes and for registrants to incorporate the changes into their labels, provided that all applications are submitted soon.

During this 4-month extension, pesticide registrants should continue to submit applications for label changes for their products prior to the current deadline of August 16, 2010. EPA will give priority to applications submitted

prior to August 16, 2010, with the goal of processing them to allow sufficient time for the registrant to obtain state approvals of the new labeling by the revised compliance date. Applications submitted after August 16, 2010 will be processed on a non-priority basis only after all applications submitted prior to that date have been processed.

Registrants should carefully consider this and the timing of their submission to ensure that they have sufficient time to obtain state approvals by the revised compliance date.

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

This final rule is issued pursuant to the authority given the Administrator of EPA in sections 2 through 34 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136-136y. Sections 19(e) and (f) of FIFRA, 7 U.S.C. 136a(e) and (f), grant EPA broad authority to establish standards and procedures to assure the safe use, reuse, storage, and disposal of pesticide containers. FIFRA section 19(e) requires EPA to promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides. FIFRA section 19(f) requires EPA to promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal. FIFRA section 25(a), 7 U.S.C. 136w(a), authorizes EPA to issue regulations to carry out provisions of FIFRA.

Section 553(b)(B) 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 rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is contrary to the public interest, for the following reasons.

EPA is extending by 4 months the existing August 16, 2010 deadline for complying with the 40 CFR part 156 subpart H requirements that pesticide products bear label language to facilitate the safe use, refill and reuse of containers and the removal of pesticides from containers prior to their being recycled or discarded. Providing a comment period would not allow enough time to make the rule change effective before the compliance deadline. Publishing a proposed rule for comment would be contrary to the

public interest because the August 16, 2010 deadline, if left unchanged, would temporarily remove from the market a significant number of pesticides important to the protection of public health and the nation's food supply, without comparable benefits to public health or the environment.

EPA had anticipated that the August 16, 2010 deadline would allow an appropriate length of time for new language to be incorporated into the labels of roughly 15,000 registered products. In order to facilitate this process, EPA has allowed expedited amendments to pesticide registrations (per 40 CFR 152.46(a)) for changes that exactly match the sample language provided in the regulation. EPA has recently become aware that a disproportionate number of the remaining products will require individualized review and approval of alternative, and often unique, label language. Moreover, a majority of the products that require individualized decisions are public health disinfectants and sanitizers, which are critical to maintaining safe and sanitary conditions in hospitals, food preparation areas, and other institutional settings. While EPA believes that the 40 CFR part 156 subpart H requirements will provide substantial benefits to public health and the environment over the long term, EPA does not believe that the public interest is served by removing these products from the market during the time necessary to approve and implement the new label language. The statutory and procedural steps required for full notice and comment rulemaking under FIFRA could not be completed before the August 16, 2010 compliance date. Therefore, EPA is issuing this final rule to extend the compliance date by 4 months to give the Agency time to complete the notice and public comment procedure, which EPA is initiating with the accompanying Notice of Proposed Rulemaking that is published in the Proposed Rules section of today's **Federal Register**.

#### **V. Statutory and Executive Order Reviews**

This final rule only amends an existing regulation to extend the current compliance date, it does not otherwise amend or impose any other requirements. As such, this action is not subject to review by the Office of Management and Budget (OMB) as a "significant regulatory action" under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Nor does it impose or change any information

collection burden that requires additional review by OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection activities contained in the regulations are already approved under OMB control number 2070-0133 (EPA ICR No. 1632). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as stated in Unit IV. of this preamble, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531-1538). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This rule does not have tribal implications, as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), or federalism implications as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and 13211, *Actions concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

This rule does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

EPA's compliance with these statutes and Executive Orders for the existing regulations is discussed in the August

16, 2006 and October 29, 2008 **Federal Register** documents.

## VI. FIFRA Mandated Reviews

As provided in FIFRA section 25(a)(2) and (d), the Secretary of Agriculture and the FIFRA Scientific Advisory Panel waived review of this final rule. Also in accordance with FIFRA section 25(a), the Agency transmitted this final rule to the Secretary of the Senate and the Clerk of the House of Representatives.

## VII. 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 to each House of the Congress and 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 the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 156

Environmental protection, Labeling, Pesticides and pests.

Dated: June 9, 2010.

**Lisa P. Jackson**,  
Administrator.

■ Therefore, 40 CFR chapter I is amended as follows:

### PART 156—[AMENDED]

■ 1. The authority citation for part 156 continues to read as follows:

**Authority:** 7 U.S.C. 136 through 136y.

■ 2. Revise § 156.159 to read as follows:

#### § 156.159 Compliance date.

Any pesticide product released for shipment by a registrant after December 16, 2010 must bear a label that complies with §§ 156.10(d)(7), 156.10(f), 156.10(i)(2)(ix), 156.140, 156.144, 156.146 and 156.156.

[FR Doc. 2010-14403 Filed 6-14-10; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 228

[EPA-R10-OW-2006-0409; FRL-9161-7]

### Ocean Dumping; Correction of Typographical Error in 2006 Federal Register Final Rule for Designation of Ocean Dredged Material Disposal Site at Coos Bay, OR, Site F; Restoration of Coordinates for Ocean Dredged Material Disposal Site at Coos Bay, OR, Site H

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to correct a typographical error in the Final Rule for the Ocean Dumping; De-designation of Ocean Dredged Material Disposal Site and Designation of New Site near Coos Bay, Oregon.

**DATES:** This rule is effective on August 16, 2010 without further notice, unless EPA receives adverse comment by July 15, 2010. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit any comments, identified by Docket ID No. EPA-R10-OW-2006-0409 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for accessing the docket and materials related to this direct final rule and for submitting comments.
- *E-mail:* [Winkler.Jessica@epa.gov](mailto:Winkler.Jessica@epa.gov).
- *Mail:* Jessica Winkler, U.S.

Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA-088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy during normal business hours for the regional library at the U.S. Environmental Protection Agency, Region 10, Library, 10th Floor, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101. For access to the documents at the Region 10 Library, contact the Region 10 Library Reference Desk at (206) 553-1289, between the hours of 9 a.m. to 12 p.m., and between the hours of 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Jessica Winkler, U.S. Environmental