

Dated: September 23, 2010.

A. Popiel,

Captain, U.S. Coast Guard, Captain of the Sector North Carolina.

[FR Doc. 2010-25380 Filed 10-7-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2010-0604-201046; FRL-9212-2]

Approval and Promulgation of Air Quality Implementation Plans; Atlanta, GA; Notice of Completeness Determination for the Purpose of Stopping Sanctions Clock

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Letter to Governor Regarding Completeness and Stopping of Sanctions Clock.

SUMMARY: EPA is now giving notice of an action that EPA has already taken to find a State Implementation Plan (SIP) revision complete and stop the sanctions clocks associated with the Atlanta, Georgia, 1997 fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS) nonattainment area (hereafter referred to as the "Atlanta Area"). Pursuant to the Clean Air Act (CAA) and its implementing regulations, EPA has made an affirmative determination of completeness for the attainment demonstration, reasonably available control measures and reasonably available control technology, annual emissions reductions to ensure reasonable further progress, and contingency measures (hereafter referred to as "nonattainment area submittals") submitted by the State of Georgia for the Atlanta Area. On September 3, 2010, a letter announcing this determination was sent to the Governor of Georgia, effectively stopping the sanctions clocks started on November 27, 2009, by "a finding of failure to submit" the 1997 PM_{2.5} nonattainment submittals for the Atlanta Area. Today's notice is simply an announcement of a determination that EPA has already made.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-0604. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business

Information 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 through www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey or Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9104. Mr. Huey can also be reached via electronic mail at huey.joel@epa.gov. Ms. Waterson may be reached by phone at (404) 562-9061 or via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION: Effective April 5, 2005, the Atlanta Area was designated nonattainment for the 1997 PM_{2.5} NAAQS. The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton Counties and portions of Heard and Putnam Counties. For the 1997 PM_{2.5} NAAQS, the State of Georgia was required to submit nonattainment area submittals by April 5, 2008. On November 27, 2009, EPA published a finding of failure to submit final rulemaking for the required SIPs (74 FR 62251).

On July 6, 2010, Georgia submitted all components for the nonattainment area submittals for the Atlanta Area. EPA has done a completeness review, in accordance with Section 2.0 "Criteria" of Appendix V of 40 CFR part 51—Criteria for Determining the Completeness of Plan Submissions, to ensure that the State has submitted all of the required information for the SIP submission.

As explained in the letter sent by EPA to the Governor of Georgia, on September 3, 2010, EPA has determined that the State has corrected the

deficiency identified in EPA's promulgated finding of failure to submit the required nonattainment area SIP submittals for the Atlanta Area. Specifically, EPA has determined that Georgia has submitted complete SIP submittals for the Atlanta Area to meet the CAA requirement for a nonattainment area under the 1997 PM_{2.5} NAAQS. EPA will make a determination on the approvability of the nonattainment area submittals for the Atlanta Area in a separate action. Today's announcement only relates to a completeness determination for the nonattainment area submittals for the Atlanta Area, and is separate from EPA's determination of approvability of these submittals. Today's action is simply a notice of a determination that EPA already made through correspondence with the Governor of Georgia.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 28, 2010.

Gwendolyn Keyes Fleming,
Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[EPA-HQ-OPP-2005-0327; FRL-8848-8]
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 an 8-month extension of the labeling compliance date from December 16, 2010 to August 16, 2011. This change is being made to provide additional time for pesticide registrants to revise labels to bring them into compliance with the regulations and for EPA and states to review and approve the revised labels.

DATES: This final rule is effective December 7, 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.

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, antimicrobials 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 reused, 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.

On June 15, 2010 (75 FR 33705), EPA promulgated a final rule that extended the labeling compliance date from August 16, 2010 to December 16, 2010 to avoid the temporary removal of a significant number of pesticides from the market while a 1-year extension proposal moves through the rulemaking process and while pesticide registrants work to update pesticide labels to comply with the labeling requirements in the container and containment regulations and EPA and states work to review and approve those revised labels.

Also on June 15, 2010 (75 FR 33744), EPA published a proposed rule to provide a 1-year extension of the labeling compliance date from August 16, 2010 to August 16, 2011 to address concerns raised by stakeholders and as a result of further Agency consideration. The public comment period for this proposed rule closed on July 15, 2010. EPA received five comments from trade associations and a pesticide registrant. Four of the comments supported the proposed 1-year extension while one comment, submitted by a trade association, supported a longer extension of 18 months to 2 years.

III. What is the Agency's authority for taking this action?

These final regulations are 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.

IV. What action is the Agency taking?

EPA is amending the pesticide container and containment regulations to provide an 8-month extension of the labeling compliance date (40 CFR 156.159) from December 16, 2010 to August 16, 2011. This change is being made to provide additional time for pesticide registrants to revise labels to bring them into compliance with the regulations and for EPA and states to review and approve the revised labels.

As discussed in the June 15, 2010 proposed rule, EPA concluded that there was not sufficient time to change all labels by August 2010 because of several factors, including:

1. More antimicrobial products labels than expected require alternative rinsing instructions, so the label amendments cannot be made by notification and require more in depth reviews by EPA;
2. 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; and
3. 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 in others.

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 Agency actions through May 2010 and discussions with registrants, EPA estimates that the majority of label changes have already been submitted and approved. On the other hand, EPA estimates that there were at least 1,000, and potentially several thousand, remaining pesticide product labels that EPA still needed to review. Even taking into account the applications that have already been submitted, there is not enough time for the necessary label changes to be approved by EPA, then submitted to and approved by the states, printed, and

applied to all products that will be released for shipment after August 16, 2010.

Because EPA contributed to the large number of outstanding label changes, EPA is extending the compliance date in 40 CFR 156.159 by a total of 1 year, so that pesticide products released for shipment by a registrant after August 16, 2011 would have to bear a label that complies with the container requirements. EPA continues to believe that one additional year 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 the outstanding applications were submitted in a timely fashion. Beginning in April 2010 and repeated in the June 15, 2010 **Federal Register** notices, EPA encouraged pesticide registrants to submit applications for label changes for their products prior to the previous deadline of August 16, 2010. EPA said that the Agency would give priority to applications submitted prior to August 16, 2010 and that applications submitted after August 16, 2010 would be processed on a non-priority basis only after all applications submitted prior to that date have been processed.

EPA disagrees with the commenter who argued for an 18-month to 2-year extension. This commenter said a longer extension is necessary to avoid an interruption in the supply of antimicrobial products because of “the need for these products for public health and the industrial economy, the need for particularized language for antimicrobial pesticides necessitating amendment instead of notification, the potential for multiple review cycles, the significant workload facing the EPA, and state pesticide registration agencies.”

Based on an evaluation of the resources and time it would take for EPA to undertake a concerted effort to complete the review of these remaining labels and discussions with State regulatory agencies who estimated a range of 3 to 6 months for them to review and approve the label revisions, EPA continues to believe that label changes that were submitted by August 16, 2010 will be reviewed by EPA and states in sufficient time to allow the registrants to make the necessary changes in their labels in time to comply with the revised compliance date of August 16, 2011. The number of pesticide product labels submitted by the August 16, 2010 deadline is comparable to the average number of label changes that have been reviewed, approved and changed over each of the

past few years. Therefore, EPA believes that EPA, states and registrants can readily accomplish the steps necessary in order for the affected products to be in compliance with the pesticide container and containment regulations by August 16, 2011.

EPA believes that a longer extension is unjustified because registrants have had a reasonable amount of time to prepare and submit their label modification requests. The rule was published over 4 years ago and EPA has already extended the deadline by 1 year and 4 months. The prior extension was based on EPA’s concern that without an extension, the prior compliance date of August 16, 2010 could 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. Extending the compliance date to August 2011 was expected to allow time for the labels of the vast majority of these products to work through the review and revision process so there should not be a significant number of non-compliant products by August 16, 2011. While the number of non-compliant products is still significant, the number of applications submitted and processed to date gives EPA confidence that users will have adequate access to compliant products by August 16, 2011.

EPA continues to believe that the pesticide container labeling requirements serve important roles in the management of pesticide risks, as explained in the August 16, 2006, pesticide container and containment final rule (71 FR 47330). Absent compelling competing public interests, EPA believes that it is essential for the labels to clearly identify containers as nonrefillable containers or refillable containers by August 16, 2011 when compliance is required with the refillable container and repackaging requirements. Having the label identify a container as a refillable container is essential to the successful implementation of the refillable container and repackaging regulations.

V. Statutory and Executive Order Reviews

This action 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.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this final rule does not have a significant adverse economic impact on a substantial number of small entities. The extension of the compliance date is not expected to have any adverse economic impacts on affected entities, regardless of their size. The factual basis for the Agency’s determination is presented in the 2006 addendum to the economic analysis, a copy of which is available in the docket for this rulemaking. In general, EPA strives to minimize potential adverse impacts on small entities when developing regulations to achieve the environmental and human health protection goals of the statute and the Agency. EPA solicits comments specifically about potential small business impacts.

State, local, and tribal governments are rarely pesticide applicants or registrants, so this final rule is not expected to affect these governments. Accordingly, pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538), EPA has determined that this action is not subject to the requirements in sections 202 and 205 because it does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector in any one year. 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. For the same reasons, EPA has determined that this final rule does not have “federalism implications” as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), because it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this final rule. Nor does it have "tribal implications" as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 22951, November 9, 2000). EPA is not aware of any tribal governments which are pesticide registrants. Thus, Executive Order 13175 does not apply to this action.

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 Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this final rule.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action 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).

VI. FIFRA Mandated Reviews

In accordance with FIFRA section 25(a) and (d), the Agency submitted a draft of this final rule to the Committee on Agriculture in the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry in the United States Senate, the Secretary of Agriculture, and the FIFRA Scientific Advisory Panel (SAP). The SAP and the Secretary of Agriculture waived review of this final rule.

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: September 29, 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 August 16, 2011 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. 2010-25425 Filed 10-7-10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 100330171-0388-02]

RIN 0648-AY79

Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Framework

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS amends the framework regulations specifying procedures for implementing fishing capacity reduction programs (reduction programs) in accordance with the Magnuson-Stevens Fishery Conservation and Management (Magnuson-Stevens) Reauthorization Act of 2007. A reduction program pays harvesters in a fishery that has more vessels than capacity either to surrender

their fishing permits including relevant fishing histories for that fishery, or surrender all their fishing permits and cancel their fishing vessels' fishing endorsements by permanently withdrawing the vessel from all fisheries. The cost of the program can be paid by post-reduction harvesters, taxpayers, or others. The intent of a program is to decrease the number of harvesters in the fishery, increase the economic efficiency of harvesting, and facilitate the conservation and management of fishery resources in each fishery in which NMFS conducts a reduction program.

DATES: This final rule is effective November 8, 2010.

ADDRESSES: Copies of the Regulatory Impact Review prepared for this action may be obtained from Michael A. Sturtevant, Financial Services Division, NMFS-MB5, 1315 East-West Highway, Silver Spring, MD 20910.

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule to Michael A. Sturtevant at the above address and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (*Attention:* NOAA Desk Officer) or e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7825.

FOR FURTHER INFORMATION CONTACT: Michael A. Sturtevant at 301-713-2390 or michael.a.sturtevant@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at <http://www.gpoaccess.gov/fr>.

I. Statutory and Regulatory Background

Many U.S. fisheries have excess fishing capacity. Excess fishing capacity decreases earnings, complicates management, and imperils conservation. To provide for fishing capacity reduction programs, in 1996 Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by adding section 312(b)-(e) (16 U.S.C. 1861a(b)-(e)). The framework regulations to conduct these reduction programs were published as an interim final rule on May 18, 2000 (65 FR 31430) and codified as subpart L to 50 CFR part 600. To finance reduction costs, Congress amended Title XI of the Merchant Marine Act, 1936 (Title XI), by adding new sections 1111 and 1112. The Title XI provisions involving