

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 156**

[OPP-250111; FRL-4988-5]

Worker Protection Standard; Labeling Revisions Required for Pesticide Products within the Scope of the Worker Protection Standard**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Policy Statement.

SUMMARY: EPA is issuing a final policy statement on labeling revisions required by the Worker Protection Standard (WPS) for sale or distribution of certain agricultural pesticides after October 23, 1995. This policy addresses pesticide products that are within the scope of the WPS, do not bear full WPS labeling, and are being sold or distributed by any person, other than the registrant. Certain statements are required to be placed on the labeling of all pesticide products within the scope of the WPS. These statements reference the WPS and certain practices intended to reduce or eliminate human exposure to pesticides. In most instances, these statements were required to appear on all WPS products by April 21, 1994. Wholesalers and dealers may have stocks of product that do not have WPS complying labeling. This policy presents options for the registrant to relabel the product or authorize the person(s) holding the product for distribution or sale to relabel the product. This policy statement does not apply to growers, custom applicators, or other persons holding product for their own use, unless they also distribute and sell pesticides or are registrants.

EFFECTIVE DATE: This policy became effective on September 28, 1995. The contents of this statement were issued on September 28, 1995, as Pesticide Regulation (PR) Notice 95-5.

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SUPPLEMENTARY INFORMATION: The Agency is issuing a final policy statement that allows registrants or their authorized representatives that sell or distribute pesticides to relabel non-complying pesticide products in their possession. The policy provides

examples of mechanisms to bring labels into compliance with WPS requirements, so that such products may be legally sold and distributed after October 23, 1995. The required actions for registrants, wholesalers, and retailers to relabel products are discussed to aid compliance with the policy. All products within the scope of WPS must bear final, printed WPS replacement labeling after October 23, 1996. Except for products that have been canceled, products accompanied only by generic supplemental labeling, as outlined in PR Notice 93-11, are not considered labeled in compliance with the WPS provisions after October 23, 1995.

I. Summary of the Policy

EPA will permit registrants or their authorized representatives to relabel non-complying stocks of products that do not bear full WPS labeling. Under this policy, the registrant has the option to either relabel the product or provide written authorization to the person(s) holding the product for distribution or sale to relabel the product. Both the registrant and the person(s) holding such pesticides are responsible for relabeling these products in accordance with the WPS and this policy statement. This policy statement does not apply to growers, custom applicators, or other persons holding products for their own use, unless they also distribute and sell pesticides or are registrants.

Using the decision diagram presented in this policy statement, registrants may determine if they hold non-complying products that require amended labeling. If a product requires amended labeling, the registrant may conduct or provide written authorization for wholesalers or retailers to do relabeling, and provide product-specific WPS labeling. Options for amended labeling include: a final printed WPS-complying replacement label and supplemental product-specific labeling. Supplemental labeling must be provided to the end-user whenever the product is offered for sale and a "STOP sticker" is affixed to the existing label. Pesticide-specific relabeling may occur at any site without registration of the site as a pesticide-producing establishment. Under the provisions of this policy, relabeling of stocks of products with non-complying labels may be carried out by person(s) acting under the authority of the registrant as an "authorized agent" of the registrant. The policy also addresses how to revise labels of orphaned and deleted use products, products that have been transferred, and dormant products.

II. Background

The 1992 WPS requires that certain statements be placed on the labeling of all pesticide products within the scope of the standard. These statements reference the WPS and certain practices intended to reduce or eliminate human exposure to pesticides. The WPS also established a schedule for meeting these labeling requirements. The schedule required that, by April 21, 1994, all registrants of pesticides covered by the WPS had to amend product labeling in accordance with PR Notice 93-7 and 93-11. Most products sold or distributed by registrants since April 21, 1994, should have WPS-complying labeling. In some instances, wholesalers and retailers may have stocks of products that do not have WPS complying labeling. These stocks could have originated from these sources: (1) Products shipped by registrants before the April 21, 1994 date; (2) products distributed or sold by registrants under the "released for shipment" option allowed under PR Notice 93-11; or, (3) "deleted use" products, for which the registrant has amended the registration to delete certain uses and these deletions place the product outside the scope of the WPS. After April 21, 1994, under the "release for shipment" option, registrants could sell or distribute products without the WPS label if the registrant agreed to either recall and relabel, or relabel products at wholesaler sites through an "authorized agent" by April 1996.

The WPS provides that any person other than a registrant (e.g., pesticide retailers or wholesalers) who has under their ownership, custody or control existing stock of product that is within the scope of the WPS, but does not bear WPS labeling, may *not* legally sell or distribute the product after October 23, 1995. The primary purpose of this policy statement is to describe the process for relabeling to bring products into compliance.

III. Definitions

The following definitions apply for the purposes of this policy statement:

Distribute or sell means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.