

(j) * * *

(6) *Certain defeasance escrow earnings.* With respect to a defeasance escrow established in a remedial action for an issue of QZABs that meets the special rebate requirement under paragraph (h)(7)(ii)(C)(2) of this section, the QZAB issuer is treated as ineligible for the small issuer exception to arbitrage rebate under section 148(f)(4)(D) and paragraph (i)(5) of this section and compliance with that special rebate requirement is treated as satisfying applicable arbitrage investment restrictions under section 148 for that defeasance escrow.

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E7-20859 Filed 10-23-07; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

Outer Continental Shelf Air Regulations

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 53 to 59, revised as of July 1, 2007, in Appendix A to Part 55, on page 143, in the second column, above paragraph (b), the heading and paragraph (a) for California are reinstated to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

(a) State requirements.

(1) The following requirements are contained in *State of California Requirements Applicable to OCS Sources*, February 2006:

Barclays California Code of Regulations

The following sections of Title 17 Subchapter 6:

- 17 § 92000—Definitions (Adopted 5/31/91)
- 17 § 92100—Scope and Policy (Adopted 5/31/91)
- 17 § 92200—Visible Emission Standards (Adopted 5/31/91)
- 17 § 92210—Nuisance Prohibition (Adopted 5/31/91)
- 17 § 92220—Compliance with Performance Standards (Adopted 5/31/91)
- 17 § 92400—Visible Evaluation Techniques (Adopted 5/31/91)
- 17 § 92500—General Provisions (Adopted 5/31/91)

- 17 § 92510—Pavement Marking (Adopted 5/31/91)
- 17 § 92520—Stucco and Concrete (Adopted 5/31/91)
- 17 § 92530—Certified Abrasive (Adopted 5/31/91)
- 17 § 92540—Stucco and Concrete (Adopted 5/31/91)
- 17 § 93115—Airborne Toxic Control Measure for Stationary Compression Ignition Engines (Adopted 2/26/04)

Health and Safety Code

The following section of Division 26, Part 4, Chapter 4, Article 1:

Health and Safety Code § 42301.13 of *seq.* Stationary sources: demolition or removal (chaptered 7/25/96)

* * * * *

[FR Doc. 07-55521 Filed 10-23-07; 8:45 am]

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 158 and 161

[EPA-HQ-OPP-2004-0387; FRL-8116-2]

Pesticides: Redesignation of part 158; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is redesignating certain pesticide data requirements currently located in 40 CFR part 158 into a new part 161. The data requirements being transferred apply to antimicrobial pesticides. EPA is also making conforming changes and cross-reference revisions to the newly redesignated material. The redesignation is intended to preserve regulatory data requirements for antimicrobial pesticides, while preparing for the promulgation of final rules pertaining to data requirements for conventional pesticides, biochemical, and microbial pesticides.

DATES: This final rule is effective December 24, 2007.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2004-0387. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the [regulations.gov](http://www.regulations.gov) web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [regulations.gov](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 either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Public Docket, in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Jean Frane, Field and External Affairs Division 7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; telephone number: (703) 305-5944; e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a producer or registrant of an antimicrobial pesticide product, including wood preservatives and antifouling products. This action may also affect any person or company who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or any person or company who is interested in obtaining or retaining a tolerance in the absence of a registration, that is, an import tolerance. Potentially affected entities may include, but are not limited to:

- Producers of cleaning preparations that include an antimicrobial pesticide (NAICS code 3256).
- Pesticide manufacturers or formulators of paints or coatings that contain an antimicrobial pesticide (NAICS code 32551).

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) code has 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 persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr>.

II. What Does this Redesignation Do?

In the **Federal Register** of March 11, 2005 (70 FR 12276), EPA issued a proposed rule to revise its pesticide data requirements for conventional pesticides. Those data requirements, currently located in 40 CFR part 158, cover all pesticides. EPA’s purpose in developing data requirements devoted to conventional pesticides (and subsequently for biochemical and microbial pesticides) was to tailor data requirements for different types of pesticides to make them more transparent and flexible. As part of that effort, EPA intends in the future to issue a proposed rule updating data requirements for antimicrobial pesticides, including wood preservatives and antifoulants.

EPA is shortly issuing final rules for conventional pesticides, biochemical and microbial pesticides. Those rules would supersede current part 158 data requirements in their entirety. Unless EPA acts to preserve the data requirements applicable to antimicrobial pesticides, the promulgation of the final rules would eliminate any regulatory data requirements for antimicrobial pesticides.

Accordingly, EPA is issuing a final rule that would preserve the current data requirements for antimicrobial pesticides until such time as a final rule can be promulgated and made effective.

To accomplish this, EPA is moving those portions of current part 158 that apply to antimicrobial pesticides into new part 161, and making technical corrections to accommodate the change. Specifically, the following changes are being made:

1. EPA is removing sections of part 158 that relate only to biochemical and microbial pesticides, including §§ 158.65, 158.690 and 158.740. These sections had, and would not have, any bearing on antimicrobial data requirements.

2. EPA is also removing § 158.50 pertaining to the formulators’ exemption because this material will be consolidated in § 152.85 when final rules for conventional pesticides and biochemical and microbial pesticides are promulgated.

3. EPA is making internal cross-reference changes from “158” to “161” throughout the redesignated material.

4. In new § 161.108, EPA has updated the Guidelines information to reflect the current order numbers from the National Technical Information Service.

III. Why is this Redesignation Issued as a Final Rule?

Section 553 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 final 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 EPA is acting to preserve existing data requirements that would otherwise be removed from the Code of Federal Regulations by promulgation of an impending final rule. Redesignating the material in advance of promulgation will also avoid potential errors in accomplishing a complex transition in the Code of Federal Regulations. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

This rule redesignates, makes technical changes and cross-reference corrections in the EPA regulations governing pesticides. The amendments are administrative in nature. Other than making EPA regulations clearer and more transparent, these amendments are not expected to have any impact on regulated parties or the public.

Accordingly, these amendments are not subject to review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), as a significant regulatory action. Because the Agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, this rule has been exempted from review under Executive Order 12866. Moreover, for the same reason, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et

seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since, as detailed above, these amendments will have no detrimental impact on regulated parties or the public, EPA certifies under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) that the amendments will not have a significant impact on a substantial number of small entities.

In addition, the Agency has determined that this action will not have a substantial direct effect on 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 Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” This rule is directed at pesticide manufacturers and others who seek to register, amend or maintain a registration or to establish, modify, or revoke a pesticide tolerances or exemptions, not States. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive

Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to 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 this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 158

Environmental protection, Confidential business information, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

40 CFR Part 161

Environmental protection, Pesticides and pests, Reporting and recordkeeping requirements

Dated: October 11, 2007.

James B. Gulliford,

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

PART 158—[AMENDED]

■ 1. The authority citation for part 158 continues to read as follows:

Authority: 7 U.S.C. 136 - 136y.

§§ 158.50, 158.65, 158.690 and 158.740 [Removed]

■ 2. Sections 158.50, 158.65, 158.690, and 158.740 are removed.

PART 158—[REDESIGNATED AS PART 161 AND AMENDED]

■ 3. The remainder of part 158, consisting of subparts A, B, C, and D are redesignated as part 161, subparts A, B, C, and D as shown in the Redesignation table below:

Old part, subpart or section	New part, subpart or section
Part 158--Data Requirements for Registration	Part 161--Data Requirements for Registration of Antimicrobial Pesticides
Subpart A	Subpart A
158.20	161.20
158.25	161.25
158.30	161.30
158.32	161.32
158.33	161.33
158.34	161.34
158.35	161.35
158.40	161.40
158.45	161.45
158.55	161.55
158.60	161.60
158.70	161.70
158.75	161.75
158.80	161.80
158.85	161.85
Subpart B	Subpart B
158.100	161.100
158.101	161.101

Old part, subpart or section	New part, subpart or section
158.102	161.102
158.108	161.108
Subpart C	Subpart C
158.150	161.150
158.153	161.153
158.155	161.155
158.160	161.160
158.162	161.162
158.165	161.165
158.167	161.167
158.170	161.170
158.175	161.175
158.180	161.180
158.190	161.190
Subpart D	Subpart D
158.202	161.202
158.240	161.240
158.290	161.290
158.340	161.340
158.390	161.390
158.440	161.440
158.490	161.490
158.540	161.540
158.590	161.590
158.640	161.640
Appendix A To Part 158--Data Requirements For Registration: Use Pattern Index	Appendix A To Part 161--Data Requirements For Registration: Use Pattern Index

§ 161.25 [Amended]

■ 4. In newly redesignated § 161.25, references to “§ 158.35,” “§ 158.40,” “§ 158.45,” “§ 158.60,” “§ 158.100” and “§ 158.101” are revised to read “§ 161.35,” “§ 161.40,” “§ 161.45,” “§ 161.60,” “§ 161.100,” and “§ 161.101,” respectively, wherever they occur.

§ 161.30 [Amended]

■ 5. In newly redesignated § 161.30, references to “part 158,” “§ 158.75,” and “§ 158.160” are revised to read “part 161,” “§ 161.75,” and “§ 161.160,” respectively, wherever they occur.

§ 161.32 [Amended]

■ 6. In newly redesignated § 161.32, references to “§ 158.33,” and “§ 158.34(b)” are revised to read “§ 161.33,” and “§ 161.34(b),” respectively, wherever they occur.

§ 161.34 [Amended]

■ 7. In newly redesignated § 161.34, in paragraph (b), the reference to “§ 158.34(c)” is revised to read “paragraph (c) of this section” and in paragraphs (c)(1) and (c)(2) the reference to “40 CFR 158.34” is revised to read to read “40 CFR 161.34,”.

§ 161.35 [Amended]

■ 8. In newly redesignated § 161.35, references to “§ 158.20(b),” “§ 158.40,” “§ 158.45,” “§ 158.60,” “§ 158.75” and “§ 158.80” are revised to read “§ 161.20(b),” “§ 161.40,” “§ 161.45,” “§ 161.60,” “§ 161.75,” and “§ 161.80,” respectively.

§ 161.70 [Amended]

■ 9. In newly redesignated § 161.70, reference to “§ 158.20(d)” is revised to read “§ 161.20(d).”

§ 161.75 [Amended]

■ 10. In newly redesignated § 161.75(a), reference to “part 158” is revised to read “part 161”.

§ 161.100 [Amended]

■ 11. In newly redesignated § 161.100, reference to “§§ 158.150 through 158.740”, is revised to read “§§ 161.150 through 161.640” and the reference to “§ 158.108” is revised to read “§ 161.108”.

§ 161.101 [Amended]

■ 12. In newly redesignated § 161.101, reference to “§ 158.45” is revised to read “§ 161.45,” wherever it occurs.

■ 13. Newly redesignated § 161.108 is revised to read as follows:

§ 161.108 Relationship of Pesticide Assessment Guidelines to data requirements.

The Pesticide Assessment Guidelines contain the standards for conducting acceptable tests, guidance on evaluation and reporting of data, definition of terms, further guidance on when data are required, and examples of

acceptable protocols. They are available through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703–605–6000). The following Subdivisions of the Pesticide Assessment Guidelines, referenced to the appropriate sections of this part, are currently available:

Subdivision	Title	NTIS order no.	Corresponding section(s) in this part
D	Product Chemistry	PB83–153890	161.150 – 161.190
E	Hazard Evaluation: Wildlife and Aquatic Organisms	PB83–153908	161.490
F	Hazard Evaluation: Humans and Domestic Animals	PB83–153916	161.340
G	Product Performance	PB83–153924	161.640
I	Experimental Use Permits	PB83–153932	161.20 – 161.640
J	Hazard Evaluation: Nontarget Plants	PB83–153940	161.540
K	Reentry Protection	PB85–120962	161.390
L	Hazard Evaluation: Nontarget Insect	PB83–153957	161.590
N	Environmental Fate	PB83–153973	161.290
O	Residue Chemistry	PB83–153961	161.240
R	Spray Drift Evaluation	PB84–189216	161.440

§ 161.150 [Amended]

■ 14. In newly redesignated § 161.150, references to “§§ 158.175,” and “§ 158.155,” are revised to read “§ 161.175” and “§ 161.155,” respectively, wherever they occur.

§ 161.155 [Amended]

■ 15. In newly redesignated § 161.155, reference to “§ 158.175” is revised to read “§ 161.175,” wherever it occurs.

§ 161.162 [Amended]

■ 16. In newly redesignated § 161.162, reference to “§ 158.165” is revised to read “§ 161.165.”

§ 161.165 [Amended]

■ 17. In newly redesignated § 161.165, reference to “§ 158.162” is revised to read “§ 161.162”, wherever it occurs.

§§ 161.190, 161.240, 161.290, 161.340, 161.390, 161.440, 161.490, 161.540, 161.590, and 161.640 [Amended]

■ 18. In newly redesignated §§ 161.190, 161.240, 161.290, 161.340, 161.390, 161.440, 161.490, 161.540, 161.590, and 161.640, reference to the phrase “Sections 158.50 and 158.100 through 158.102” is revised to read “Sections 161.100 through 161.102”.

§ 161.340 [Amended]

■ 19. Newly redesignated § 161.340 is further amended in paragraph (b)(22)(i) by revising the reference to “§ 158.202” to read “§ 161.202.”

Appendix A [Amended]

■ 20. Appendix A to newly redesignated part 161 is amended under the topic “How to use this Index,” in paragraph 4, by revising the phrase “in §§ 158.120 through 153.170” to read “in §§ 161.155 through 161.640”.

[FR Doc. E7–20836 Filed 10–23–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0234; FRL–8152–4]

Fluazinam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluazinam in or on aronia berry; buffalo currant;

bushberry subgroup 13B; Chilean guava; European barberry; ginseng; highbush cranberry; honeysuckle, edible; jostaberry; junberry; lingonberry; native currant; pea and bean, dried shelled, except soybean, subgroup 6C, except pea; pea and bean, succulent shelled, subgroup 6B, except pea; salal; sea buckthorn; turnip, greens; vegetable, Brassica leafy, group 5; and vegetable, legume, edible-podded, subgroup 6A, except pea. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 24, 2007. Objections and requests for hearings must be received on or before December 24, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0234. To access the electronic docket, go to <http://www.regulations.gov>, select “Advanced Search,” then “Docket Search.” Insert the docket ID number where indicated and select the “Submit” button. Follow