ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[OPP–36189; FRL–5748–7]

RIN 2070–AC60

Flammability Labeling Requirements for Total Release Fogger Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This rule requires specific precautionary labeling relating to the flammability of total release fogger pesticides. EPA has found that, as currently labeled, total release foggers pose an unreasonable risk to property and pesticide users from fires and explosions that can be caused by a build up of extremely flammable propellants. EPA expects that the additional flammability label warnings required by this rule will reduce the potential for fires and explosions by alerting consumers to the dangers of total release foggers. The required labeling will also provide specific directions for proper use of these products with minimal costs to industry or consumers. Although EPA issued a proposed rule and received public comments in 1994, this action includes some labeling requirements that differ from those discussed in the proposal. EPA is therefore issuing this action as a direct final rule in order to provide an opportunity for affected entities to submit adverse comments on the new labeling requirements. If EPA receives any adverse comments on the addition of these labeling requirements for pesticides within 30 days from the date of this final rule, EPA will withdraw that paragraph of the rule to which adverse comments pertain. At that point, EPA will issue a proposed rule addressing this issue and will provide a 30–day period for public comment. If no adverse comments are received, the rule will become effective on the date specified.

DATES: This rule will become effective on April 24, 1998. Comments must be received by March 25, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VIII. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Downing, Labeling Team, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington VA, 703–308–9071, e-mail: downing.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Category	Examples of Regulated Entities
Industry	Persons who sell and distribute total release fogger products.

This table is not exhaustive, but is a guide to the entities EPA believes are regulated by this action. Read carefully the applicability criteria in § 156.10(h)(2)(iii)(C) of the regulatory text to decide whether this rule applies to you.

II. Background

A. Authority

This amendment to the labeling requirements for pesticides and devices (40 CFR 156.10) is issued under the authority of sections 3, 6, 12, and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 through 136y. FIFRA section 25(a) authorizes the Administrator of EPA to prescribe regulations to carry out the provisions of FIFRA. The statutory standard that is the basis for Agency regulation of pesticide labeling is contained in section 2(q) of FIFRA, which defines a ''misbranded'' pesticide and enumerates specific labeling deficiencies that constitute misbranding. EPA's labeling regulations interpret and elaborate upon the statutory standard.

Under FIFRA section 3(c)(5), the labeling of the pesticide must comply with the requirements of FIFRA. Sections 12(a)(1)(E) and (F) of FIFRA provide that it is unlawful to distribute or sell a pesticide or device that is misbranded. Under FIFRA section 2(q), a pesticide may be considered misbranded in a number of circumstances. Sections 2(q)(1)(E) through (G) provide part of the basis for EPA's authority to impose label restrictions to protect health and the environment. Specifically, sections 2(q)(1)(F) and (G) provide that a pesticide is misbranded if its labeling does not contain directions for use or if the label does not contain a warning or caution statement adequate to protect health and the environment. Under FIFRA section 2(x), the term ''protect health and the environment'' means protect against any unreasonable adverse effects on the environment. FIFRA section 2(bb) defines the term ''unreasonable adverse effects on the environment'' to include any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide. With this final rule, EPA is giving notice of its determination that total release fogger pesticides that are not labeled in accordance with the directions for use and warning statements required by this rule will be considered misbranded and subject to possible enforcement action.

Each provision described above is designed to prevent the sale or distribution of pesticides that, due to inadequate labeling, might cause unreasonable adverse effects to the environment.

B. Proposed Rule

EPA issued in the **Federal Register** of April 15, 1994 (59 FR 18058) (FRL–4186–4), a proposal to require additional precautionary labeling relating to the flammability of total release fogger pesticides. From the review of the fire/explosion incidents involving total release foggers, EPA found that foggers as currently labeled present a risk of unreasonable adverse effects from fires and/or explosions caused by a build up of extremely

flammable propellants. EPA concluded that this risk is not adequately addressed in current labeling of total release foggers. To mitigate this risk, EPA proposed specific label requirements including physical and chemical hazards warning statements, graphic symbols, and specific directions for total release foggers, which if complied with, would be adequate to human health and the environment. Comments about the scope of the proposed rule were also solicited.

Because comments received in response to the proposal have caused the Agency to include in this final rule certain requirements which were not discussed in the proposal (see discussion in Unit III.B., of this preamble), EPA is issuing this action as a direct final rule in order to provide an opportunity for affected entities to submit adverse comments on the new labeling requirements.

C. Hazards Caused by Total Release Foggers

For several years EPA has received reports of incidents of fires and explosions involving total release foggers. For instance, the New York City Fire Department (NYCFD) reported 40 incidents of fires or explosions (28% resulting in personal injuries) reported to be caused by total release foggers over a 12-year period. Fifteen of the 40 reported incidents occurred in 1990 and 1991 alone. In 32 of those 40 documented incidents, the specific total release fogger product involved was identified. In its proposal, the Agency identified many incidents, and solicited for additional incidents involving foggers. However, no additional incidents were submitted in the comments, but the Agency did receive reports of several incidents connected with use of foggers from various other locations around the country from states and media articles which revealed extensive property damage. These reports are in the public information docket for this rule.

Fire experts have indicated to the Agency that the actual number of such incidents occurring around the country is much higher. Due to the lack of a nationwide reporting system that could capture these type of fire incidents, EPA believes the reports it has received are only the ''tip of the iceberg''; annually, there are many more such incidents occurring for which EPA does not receive reports.

III. Comments Received on the Proposed Rule

Twenty-two comments from registrants, trade associations, public interest groups, and others were received on the proposed rule. Most of the comments generally agreed with the need for label improvement for total release foggers. The significant comments are presented below with EPA's response to the comment. A detailed response to comments is available in the public record.

A. Graphic Symbols

EPA proposed the use of graphic symbols (one symbol depicting fire and one symbol representing explosive potential) to alert users of the potential dangers of misuse of total release foggers. Six commenters expressed concern with the use of graphic symbols or they were definitely opposed to the use of graphic symbols. Their biggest concerns were that the proposed symbols would be confusing, and could unduly alarm consumers or that consumers might ''misunderstand or misinterpret'' the meaning of the symbols. One commenter stated, ''We have a strong concern that users will not understand the graphic symbols. For example, the bursting symbol may actually portray to a person that the product is meant to burst to disperse the product properly during usage when such, of course, is not the case. On the other hand, the symbol may be interpreted by others to mean that it presents far more of a danger than actually exists. Unlike an industrial worker audience, consumers are not generally educated as to the meaning of symbols.''

As an alternative, one of the six commenters suggested using the fire symbol, but not the proposed explosion (bursting) symbol. One of the commenters supporting the use of symbols encouraged the use of the internationally accepted graphic symbol for fire.

The Agency has decided to retain the use of the fire symbol, but to eliminate the proposed explosion symbol. The Agency believes the fire symbol is widely recognized and is necessary to capture the pesticide user's attention to alert the user to the potential hazards of these products. EPA's fire symbol is similar to many other fire symbols used by other agencies for many years. The U.S. Department of Transportation, the European Community, and Canada use a fire symbol that incorporates a fire as a symbol of flammability. Because there are slight variations in the presentation of the fire symbol among various authorities, and to allow maximum flexibility, EPA has decided to allow use of an ''equivalent'' fire symbol as an alternative to the one in the proposed rule. Since a fire graphic is widely understood by the public, EPA believes that slight variations among existing symbols will not reduce the value of the information conveyed by the symbol. On the other hand, the Agency agreed with several commenters that the explosion symbol on total release foggers could be misunderstood or misinterpreted or that it might not be effective. Therefore the proposed explosion symbol was omitted from the final rule.

B. Number of Foggers to be Used and Pilot Lights

EPA proposed to limit the number of foggers to be used. By limiting the use to one fogger per room and eliminating all ignition sources, the risks of fire and/or explosions can be substantially reduced, if not eliminated. From an evaluation of the incidents, the Agency recognizes that fires/explosions are generally due to excessively high concentrations of highly flammable gases (propellent in the foggers) in the area being fogged. This is caused by too many foggers being used with the presence of an ignition source. Furthermore, the Agency has learned from fire officials that the elimination of ignition sources is very important to safe use of foggers containing highly flammable propellants. Several fire officials EPA talked with acknowledged the risk of consumers extinguishing and relighting their pilot lights. However, they agreed that those risks were far outweighed by the risks associated with activation of foggers with pilot lights unextinguished. A record of these conversations is available in the public information docket. Therefore, EPA has concluded that limiting the number of foggers to be used and eliminating all ignition sources are paramount to continued safe use of total release foggers. No commenter disagreed with the proposal to eliminate all ignition sources before using a total release fogger. In fact, two commenters recommended the label instruct users to extinguish pilot lights and other ignition sources. In earlier comments on a previous notice dated February 19, 1991 (56 FR 6856), a commenter had raised the issue of the hazard of instructing fogger users (consumers) to turn off their gas pilot lights; the danger of consumers extinguishing and relighting their own pilot lights was emphasized.

After consultation with fire safety professionals and gas industry representatives, the Agency has decided to instruct users to turn off all ignition sources such as pilot lights, other open flames and running electrical appliances. One fire professional suggested referring fogger users to their

gas utility or management company for assistance in extinguishing and relighting pilot lights. The Agency believes the risks of consumers improperly extinguishing and relighting pilot lights are outweighed by the benefits of eliminating all ignition sources before total release foggers are used; and that instructing consumers to contact their gas utility or management company for assistance will further reduce any risks.

This approach of limiting the number of foggers used and extinguishing pilot lights will also eliminate the issues from the proposed rule of the six-foot ''buffer zone'' and the square footage limitation. As was pointed out by one commenter, the flammability of total release fogger use is not a function of distance from an ignition source, but a function of the concentration of the highly flammable (propellant) gas. By eliminating sources of ignition altogether, risks can be reduced without complex decisions by consumers about distances between foggers and ignition sources. By simplifying the label instructions, EPA believes consumers are more likely to be able to comply.

One commenter, S.C. Johnson Son, Inc. conducted a consumer-based label testing and development program to determine the most effective method of improving consumer comprehension regarding the proper use of total release foggers. This study included qualitative research to decide which fogger labeling best communicates proper use and safety information and evaluated consumers' perceptions of room size. Quantitative research, also a part of the study program, tested various fogger labels, including a fogger label amended according to the proposed rule. An ''optimized label'' developed from the quantitative research was also tested, which included the simpler instructions ''Do not use more than one fogger in a room.'' and ''Extinguish All Flames and Pilot Lights.''

The results of the S.C. Johnson study suggested limiting the user to only one fogger per room, as is shown in the final rule language. The study showed that consumers have difficulty accurately estimating room size. Less than 10% of consumers could accurately estimate cubic feet. Therefore, the approach (''DO NOT use more than one fogger per ____ square feet.'') of the proposed rule was judged by EPA not to be very effective after all. However, limiting the use to one fogger per room to manage the concentration of highly flammable gases in the area to be fogged was judged to be the most effective. Furthermore, EPA has determined that a limit of one fogger per room will be adequately protective. An added safety factor is the limit of ''Do not use in a room 5 ft. x 5 ft. or smaller. . .'', as was shown on the ''optimized label'' used in the S.C. Johnson study. This limit would help a fogger user avoid using too many foggers in a dwelling with many small rooms. This limit of a room 5 ft. x 5 ft. (the typical ''walk-in'' closet or small bathroom) or smaller was judged to be appropriate.

The Agency has attempted to allow efficacious, but not excessive use, while creating a restriction that can be easily understood and carried out by the typical fogger user. The circumstances in which foggers can be used vary widely. Room size, natural ventilation, ambient temperatures, humidity, presence and proximity of ignition sources, etc. are different from structure to structure, yet each factor can have an impact on risk. While the one fogger per room approach may allow for more concentrated use than that permitted by the language of the proposed rule, it is still within a safe level of use considering the fact that the ignition sources will be eliminated as well. EPA also believes that the efficacy of foggers will be unaffected by this requirement. Users are far more likely to understand and successfully follow the one fogger per room approach than would have been the case from the formula approach of the proposed rule (''DO NOT use more than one fogger per ____ square feet.''). Based on the above, EPA has determined that the ''one fogger per room'' label language achieves equivalent risk mitigation as the language of the proposed rule and has adopted this language and included it in the final rule.

C. Flammability Terminology

EPA proposed the use of the term ''extremely flammable'' to describe the hazard of the hydrocarbon propellant. Several commenters opposed the use of this term, stating that it would conflict with required flammability labeling already required in the Physical and Chemical Hazards statement for the product as a whole. EPA currently requires that a pressurized product bear a hazard statement of either ''Flammable'' or ''Extremely Flammable'' based on flash point and flame extension test results. The commenter's point is that a fogger that bears the statement ''Extremely Flammable'' under the proposal because it contains a flammable propellant might, based upon flammability characteristics of the product as a whole, bear only the term ''Flammable.''

EPA acknowledges that sometimes this could be true. However, EPA also believes it likely that total release foggers containing significant levels of hydrocarbon propellant requiring ''Extremely Flammable'' labeling under this rule would also require ''Extremely Flammable'' labeling under the current regulations. The ''Extremely Flammable'' term is required only when the propellant has a flash point of <20 °F. The same flash point triggers the flammability hazard warning for the product as a whole. Thus, a product would have to have a significant amount of non-propellant ingredients with flash points above 20 °F to compensate for the extremely flammable nature of the propellant. Even if this were the case, some number of products would likely fail the flame extension test for pressurized products (flashback to the valve opening) and would still require the ''Extremely Flammable'' statement.

Because of the potential for confusion with some fogger products, EPA has decided to require the term ''Highly Flammable'' instead of ''Extremely Flammable.'' The Agency believes that most consumers would not distinguish between the two terms and believes the same message would be conveyed to the fogger user. EPA recognizes that it is very important that the user know the product contains highly or very flammable ingredients. This terminology, in addition to the fire symbol, is extremely important in communicating to the user the hazards of total release foggers containing extremely flammable propellants.

D. Format

EPA did not propose specific formatting or presentation criteria for the required label language. However, several commenters suggested setting off the warning language contained in the final rule with boxes, contrasting colors, and pictograms on the total release fogger labels. Many of these formatting ideas were a part of the S.C. Johnson consumer study mentioned earlier. EPA is not prescribing such formatting in this rule. However, registrants are encouraged to use formatting appropriate for the hazard statement that will highlight the statement for consumers.

E. General Comments

EPA solicited comments concerning the scope of the proposed rule, i.e., for total release foggers only. Most comments concurred with EPA's decision to limit labeling changes to the total release foggers. Two comments indicated that regulatory changes should be extended to aerosol pesticide products overall. However, no additional data were submitted

indicating unreasonable adverse effects from other aerosol pesticide products, so EPA has decided to limit the scope of this rule to total release foggers as proposed.

IV. Provisions of the Final Rule

This final rule amends 40 CFR 156.10 to add required label language to the ''Directions for Use'' and the ''Physical and Chemical Hazards'' warning statements. This new language warns fogger users about the hazard of a concentration of gases that could cause a fire or explosion. These warnings limit the number of foggers that can be released within the dwelling. The precautionary label language reads as outlined in Units IV.A. and IV.B. of this preamble.

A. Labeling Changes to the ''Physical and Chemical Hazards'' Section

This product contains a highly flammable ingredient. It may cause a fire or explosion if not used properly. Follow the ''Directions for Use'' on this label very carefully.

This wording is slightly different from that which was contained in the proposed rule. In the final rule, the Agency decided to alter the wording to improve communication. In addition to the above label language, EPA is requiring on all total release foggers the use of a standard graphic symbol representing fire.

B. Labeling Changes to the ''Directions for Use'' Section

DO NOT use more than one fogger per room. DO NOT use in small, enclosed spaces such as closets, cabinets, or under counters or tables. Do not use in a room 5 ft. x 5 ft. or smaller; instead, allow fog to enter from other rooms. Turn off ALL ignition sources such as pilot lights (shut off gas valves), other open flames, or running electrical appliances that cycle off and on (i.e., refrigerators, thermostats, etc.). Call your gas utility or management company if you need assistance with your pilot lights.

V. Risks/Benefits of this Rule

As discussed in the proposed rule, the Agency recognizes the benefits of total release foggers and has taken into consideration these benefits regarding the Agency's assessment of the risks of total release foggers. The Agency has determined that these label changes will be adequate to reduce the risks from total release foggers. EPA believes fewer fires/explosions with loss of life or property will result from the better labeling of these products. Further, these labeling requirements do not reduce the benefits of these products, but provide for safer use.

Overall, as was concluded in the proposed rule, EPA believes these label changes are needed and that the benefits of such changes outweigh the risks. The modification to the required label language mentioned above does not change in any way the Agency's risk-benefit determination. Labeling for improved hazard warnings of foggers does not affect the sale or use of such products.

VI. Implementation

Under 40 CFR 152.130, EPA may prescribe timeframes for the implementation of Agency directed label changes. This unit describes how EPA will implement the changes in this rule. EPA will provide detailed instructions directly to registrants. After the effective date of the final rule, applications for new registrations of total release foggers will not be approved unless they comply with these labeling requirements. Further, no total release fogger products containing an extremely flammable propellant may be distributed or sold by registrants after October 1, 1999, unless the product bears the amended label language required by this rule. Thereafter, EPA may initiate cancellation proceedings under FIFRA section 6, or an enforcement action for misbranding under FIFRA section 12(a)(1)(E), for any total release fogger product not in compliance with the requirements of FIFRA and this rule.

VII. Statutory Review

A draft of this rule was provided to the Secretary of Agriculture (USDA), the Committee on Agriculture, Nutrition, and Forestry of the United States Senate, and to the Committee on Agriculture, of the U.S. House of Representatives. The FIFRA Scientific Advisory Panel waived its review of this rule.

VIII. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number ''OPP–36189'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the Virginia address in **ADDRESSES** at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–36189.'' Electronic comments on this final rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB).

According to the Economic Assessment conducted by the Agency, the costs per product of this rule were between $8,000 and $13,000. The total costs for the industry would be between $1.87 million and $3 million (net present value). A copy of the Economic Assessment is available in the public docket for this rule.

B. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action does not impact any small entities. Information relating to this determination is provided upon request to the Chief Counsel for Advocacy of the Small Business Administration, and is included in the docket for this rulemaking.

The label changes for aerosol pesticides, known as total release foggers, will not impose a significant adverse economic impact on a substantial number of small entities. The estimated cost impacts associated with the label changes are less than 1% (0.07%) of the annual revenues for small businesses. One of the main benefits of the rule is to reduce the number of accidents that occur from the misuse of total release foggers.

EPA will allow all registrants almost 2 years to incorporate the label changes. This compliance time will allow all registrants, including those that are small businesses, to revise labels in the

normal course of business, thus minimizing the economic impact. Therefore, no regulatory flexibility analysis was prepared. However, the economic assessment for this rule is available in the public docket for this rule.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. In accordance with the procedures at 5 CFR 1320.11, OMB has assigned OMB control number 2070–0060 (EPA ICR No. 277.10) to this activity. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information subject to OMB approval under the PRA unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial publication in the **Federal Register**, are maintained in a list at 40 CFR part 9.

Public reporting burden for this collection of information is estimated to average 0.85 hours per product, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send any comments on the burden estimates and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques within 30 days to EPA at the address provided above, with a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Please remember to include the ICR number in any correspondence.

D. Unfunded Mandates Reform Act and Executive Order 12875

Under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), this action does not result in the expenditure of $100 million or more by any State, local, or tribal governments, or by anyone in the private sector, and will not result in any ''unfunded mandates'' as defined by Title II. The costs associated with this action are described in the Executive Order 12866 unit above.

Under Executive Order 12875 (58 FR 58093, October 28, 1993), EPA must consult with representatives of affected State, local, and tribal governments before promulgating a discretionary regulation containing an unfunded mandate. This action does not contain any mandates on States, localities, or tribes and is therefore not subject to the requirements of Executive Order 12875.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 rule in today's **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, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 4, 1998.

Carol M. Browner

Administrator.

Therefore, 40 CFR part 156 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 - 136y.

2. In § 156.10, by revising paragraph (h)(2)(iii) and adding paragraph (i)(2)(x)(D) to read as follows:

§ 156.10 Labeling requirements.

* * * * *

(h) * * *

(2) * * *

(iii) *Physical or chemical hazards.* (A) Warning statements on the flammability or explosive characteristics of all pesticides are required as set out in Table 1 and Table 2 of this paragraph as follows:

Table 1.—Pressurized Containers

Flash Point	Required Text
Flash point at or below 20 °F; if there is a flashback at any valve opening	Extremely flammable. Contents under pressure. Keep away from fire, sparks, and heated surfaces. Do not puncture or incinerate container. Exposure to temperatures above 130 °F may cause bursting
Flash point above 20 °F and not over 80 °F or if the flame extension is more than 18 inches long at a distance of 6 inches from the flame	Flammable. Contents under pressure. Keep away from heat, sparks, and open flame. Do not puncture or incinerate container. Exposure to temperatures above 130 °F may cause bursting
All other pressurized containers	Contents under pressure. Do not use or store near heat or open flame. Do not puncture or incinerate container. Exposure to temperatures above 130 °F may cause bursting.

Table 2.—Nonpressurized Containers

Flash Point	Required Text
At or below 20 °F	Extremely flammable. Keep away from fire, sparks, and heated surfaces.
Above 20 °F and not over 80 °F	Flammable. Keep away from heat and open flame.

Table 2.—Nonpressurized Containers—Continued

Flash Point	Required Text
Above 80 °F and not over 150 °F	Do not use or store near heat or open flame.

(B) A ''total release fogger'' is defined as a pesticide product in a pressurized container designed to automatically release the total contents in one operation, for the purpose of creating a permeating fog within a confined space to deliver the pesticide throughout the space.

(C)*(1)* If the pesticide product is a total release fogger containing a propellant with a flash point at or below 20 °F, then the following special instructions must be added to the ''Physical and Chemical Hazards'' warning statement:

This product contains a highly flammable ingredient. It may cause a fire or explosion if not used properly. Follow the ''Directions for Use'' on this label very carefully.

(2) A graphic symbol depicting fire such as illustrated in this paragraph or an equivalent symbol, must be displayed along with the required language adjoining the ''Physical and Chemical Hazards'' warning statement. The graphic symbol must be no smaller than twice the size of the first character of the human hazard signal word.

Highly Flammable Ingredient
Ingrediente Altamente Inflamable

(i) * * *
(2) * * *

(x) * * *

(D) For total release foggers as defined in paragraph (h)(2)(iii)(B) of this section, the following statements must be included in the ''Directions for Use'':

DO NOT use more than one fogger per room. DO NOT use in small, enclosed spaces such as closets, cabinets, or under counters or tables. Do not use in a room 5 ft. x 5 ft. or smaller; instead, allow fog to enter from other rooms. Turn off ALL ignition sources such as pilot lights (shut off gas valves), other open flames, or running electrical appliances that cycle off and on (i.e., refrigerators, thermostats, etc.). Call your gas utility or management company if you need assistance with your pilot lights.''

* * * * *

[FR Doc. 98–4562 Filed 2–20–98; 8:45 am]
BILLING CODE 6560–50–F