

Dated: June 15, 1992.

T.H. Gilmour,

Commander, U.S. Coast Guard, Alternate
Captain of the Port.

[FR Doc. 92-15223 Filed 6-29-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AF60

Burial of Unclaimed Bodies of Veterans

AGENCY: Department of Veterans
Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its rules concerning burial of the unclaimed bodies of certain veterans. The intended effect of the proposal is to allow VA regional office Directors greater flexibility in making burial arrangements when the body of a veteran has not been claimed by friends or relatives.

EFFECTIVE DATE: June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233-3005.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 14, 1992, at pages 1442 through 1443, VA published a proposed rule to allow VA regional office Directors to pay the cost of transporting unclaimed bodies of veterans to certain state-owned cemeteries as well as to national cemeteries, provided that the total amount paid by VA for transportation to and burial in a state-owned facility does not exceed the total amount payable if burial had been in a national cemetery. Interested parties were invited to submit written comments on or before February 13, 1992. Since no comments were received, the final rule is adopted as proposed.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b),

the amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of \$100 million or more;

(2) It will not cause a major increase in costs or prices;

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 64.101.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: May 27, 1992.

Edward Derwinski,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

1. The authority citation for part 3, subpart B is revised to read as follows:

Authority: 105 Stat. 386, 38 U.S.C. 501(a), 2302-2308, unless otherwise noted.

2. Section 3.1610 is revised to read as follows:

§ 3.1610 Burial in national cemeteries; burial of unclaimed bodies.

The statutory burial allowance and permissible transportation charges as provided in §§ 3.1600 through 3.1611 are also payable under the following conditions:

(a) Where burial of a deceased veteran is in a national cemetery, provided that burial in a national cemetery is desired by the person or persons entitled to the custody of the remains for interment and permission for burial has been received from the officers having jurisdiction over burials in national cemeteries; or

(b) Where the body of a deceased veteran is unclaimed by relatives or friends (see § 3.1603), the Director of the regional office in the area in which the veteran died will immediately complete arrangements for burial in a national cemetery or, his or her option, in a cemetery or cemetery section meeting the requirements of § 3.1604(d)(1)(ii)–

(iv), provided that the total amount payable for burial and transportation expenses (including the plot allowance, if entitlement is established) does not exceed the total amount payable had burial been in a national cemetery.

(Authority: 38 U.S.C. 501(a))

[FR Doc. 92-15285 Filed 6-29-92; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

RIN 2900-AF51

Veterans Education; Implementation of Legislation Affecting the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans
Affairs.

ACTION: Final regulations.

SUMMARY: The Act to amend title 38, United States Code, with respect to veterans education and employment programs which was enacted on March 22, 1991, has several provisions which affect the Montgomery GI Bill—Active Duty. These provisions affect the criteria used to determine eligibility for the educational assistance available under the GI Bill. These amended regulations will inform the public of the way in which the Department of Veterans Affairs (VA) will administer these new provisions of law.

EFFECTIVE DATE: March 22, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233-2092.

SUPPLEMENTARY INFORMATION: Public Law 102-16 contains technical amendments affecting the criteria used to determine eligibility for educational assistance payable under the Montgomery GI Bill—Active Duty. The regulations governing the Montgomery GI Bill—Active Duty must be amended to implement the law.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA finds that good cause exists for making the amendments to these regulations, like the provision of law they implement, retroactively effective on March 22, 1991. These amended regulations are intended to achieve a benefit for individuals. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of the provision of law, and might result in the denial of a benefit to someone who is entitled to it.

VA finds that good cause exists for publishing these amended regulations without prior notice and opportunity for public comment. The amended regulations conform directly with the provisions of law which were amended by section 10, Public Law 102-16. The departments have no discretion in this matter. Consequently, public comment is unnecessary.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 9, 1992.

Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

For the reasons set out in the preamble, 38 CFR part 21, subpart K is amended as set forth below.

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. chapter 30, Pub. L. 98-525; 38 U.S.C. 501(a).

2. In § 21.7042 paragraphs (a)(4) and (c)(4) and the authority citations for paragraphs (a) and (c) are revised to read as follows:

§ 21.7042 Basic eligibility requirements.

(a) *Eligibility based solely on active duty.* * * *

(4) After completing the service requirements of this paragraph the individual must—

- (i) Continue on active duty, or
- (ii) Be discharged from service with an honorable discharge, or
- (iii) Be released after service on active duty characterized by the Secretary concerned as honorable service, and
 - (A) Be placed on the retired list, or
 - (B) Be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or
 - (C) Be placed on the temporary disability retired list, or
 - (iv) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(Authority: 38 U.S.C. 3011; Pub. L. 98-525, Pub. L. 99-576, Pub. L. 100-689, Pub. L. 102-16) (Mar. 22, 1991)

(c) *Eligibility based on withdrawal of election not to enroll.* * * *

(4) Before completing the service he or she was obligated to serve on December 1, 1988, the individual—

- (i) Must complete the requirements of a secondary school diploma (or an equivalency certificate) or
- (ii) Complete the equivalent of 12 semester hours in a program of education leading to a standard college degree.

(Authority: 38 U.S.C. 3018; Pub. L. 102-16) (Mar. 22, 1991)

3. In § 21.7044 paragraph (a)(5) and the authority citation for paragraph (a) are revised to read as follows.

§ 21.7044 Persons with 38 U.S.C. ch. 34 eligibility.

(a) *Eligibility based solely on active duty.* * * *

(5) Upon completion of the requisite active duty service the individual must either—

- (i) Continue on active duty, or

(ii) Be discharged from active duty with an honorable discharge, or

(iii) Be released after service on active duty characterized by the Secretary concerned as honorable service and

- (A) Be placed on the retired list, or
- (B) Be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or
- (C) Be placed on the temporary disability retired list, or
- (iv) Be released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

(Authority: 38 U.S.C. 3011; Pub. L. 98-525, Pub. L. 99-145, Pub. L. 99-576, Pub. L. 102-16) (Mar. 22, 1991)

[FR Doc. 92-15282 Filed 6-29-92; 8:45 am]
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38 CFR Part 21

RIN 2900-AF12

Veterans Education; Changing Programs of Education

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs Nurse Pay Act of 1990 contains a section which affects most of the educational programs VA (Department of Veterans Affairs) administers. The section revises the rules for determining whether an individual can change programs of education. These amended regulations will acquaint the public with the way in which VA intends to implement this provision of law with regard to the Survivors' and Dependents' Educational Assistance program and the Montgomery GI Bill—Active Duty.

EFFECTIVE DATE: June 1, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 865 and 866 of the Federal Register of January 9, 1992, there was published a Notice of Intent to amend 38 CFR part 21 in order to implement a provision of the Department of Veterans Affairs Nurse Pay Act of 1990 regarding changing programs of education.

Individuals were given 30 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections. Accordingly, the department is making the proposal final.

The Department of Veterans Affairs Nurse Pay Act (Pub. L. 101-366) liberalizes the rules for determining whether a veteran or eligible person can change a program of education. It is applicable to all changes of program which occur after May 31, 1991. These amended regulations implement that change in law for two of the educational programs VA administers.

VA will implement this statutory change by applying the procedures now used to determine whether a veteran's second change of program may be approved to the second change and all subsequent changes of program made after May 31, 1991. Thus, approval of changes after a second program change will not be limited to cases in which the change is necessitated by reasons beyond the individual's control.

The Act left intact the provision in 38 U.S.C. 3691(c) which allows the Secretary of Veterans Affairs to approve changes of program beyond the second change if required by circumstances beyond the individual's control. In considering changes of program after May 31, 1991, VA has determined that it will not exercise this optional provision of law. Therefore, it has not been included in the amended regulation.

VA believes that the new authority for approving changes of program when suitable to the individual's aptitudes, interests and abilities is sufficiently broad to permit VA to approve changes solely on that basis even though the need for the change may have been due to circumstances beyond the individual's control. Accordingly, the amended regulation does not include a separate provision for consideration of changes due to circumstances beyond the individual's control when the change of program occurs after May 31, 1991.

When this bill was being considered in the United States Senate, Sen. Alan Cranston suggested that VA might wish to establish additional counseling procedures for use in determining the suitability of an individual's new program of education. VA has not done so, and has not included the type of procedures envisioned by Sen. Cranston in the amended regulation.

For many years VA has had to determine whether an individual's new program of education was suitable to his or her aptitudes, interests and abilities. The department has developed many procedures for doing this, including counseling. VA believes that rather than

mandate counseling for everyone who wishes to change a program of education, VA would make the most efficient use of its resources if it continued the procedures it has had in effect for many years. Under these procedures counseling is available for those who wish it.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA finds that good cause exists for making these amended regulations, like the provision of law they implement, retroactively effective on June 1, 1991. These regulations are intended to achieve a benefit for individuals. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of the provision of law, and might result in the denial of a benefit to someone who is entitled to it.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.117 and 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 13, 1992.

Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

For the reasons set out in the preamble, 38 CFR part 21, subparts D and K are amended as set forth below.

1. The authority citation for part 21, subpart D is revised to read as follows:

Authority: 72 Stat. 1114; 38 U.S.C. 501(a).

2. In § 21.4234, paragraph (d)(4) and its authority citation are added to read as follows:

§ 21.4234 Change of program.

(d) Other changes of program.

(4) Notwithstanding any provision of any other paragraph of this section, if a third or subsequent change of program occurs after May 31, 1991, VA will apply only the applicable provisions of paragraph (d)(2) of this section. If the applicable provisions of paragraph (d)(2) of this section are met, VA will approve the change of program. VA will not apply any of the provisions of paragraph (d)(3) of this section in determining whether the change of program should be approved.

(Authority: 38 U.S.C. 3691; Pub. L. 101-366) (June 1, 1991)

3. The authority citation for part 21, subpart K is revised to read as follows:

Authority: 38 U.S.C. chapter 30, Pub. L. 98-525; 38 U.S.C. 501(a).

4. Section 21.7114 and its authority citation are revised to read as follows:

§ 21.7114 Change of program.

In determining whether a veteran or servicemember may change his or her program of education under 38 U.S.C. ch. 30, VA will apply the provisions of § 21.4234 of this part. VA will not consider programs of education a veteran or servicemember may have pursued under 38 U.S.C. ch. 34 or 36 before January 1, 1990, if he or she wishes to change programs of education under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 3034, 3691; Pub. L. 98-525, Pub. L. 101-366) (June 1, 1991) [FR Doc. 92-15283 Filed 6-29-92; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Mailability of Sharps and Other Medical Devices

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: As a result of the comments received regarding its proposed rule titled "Mailability of Sharps and Other Medical Devices", dated March 18, 1992 (57 FR 9404), the Postal Service has decided to amend its regulations to require that used sharps and other used medical devices be sent as First-Class or Priority Mail, effective June 30, 1992. The Postal Service will also require in 180 days that used sharps be packaged in a primary container that is securely sealed, leak resistant, and puncture resistant. The primary container must be packaged in a watertight secondary containment system. The secondary containment system may consist of more than one component. If, however, one of those components is a plastic bag, it must be, at a minimum, 3.0 mils in thickness. Each primary container and secondary containment system (or sets of primary containers in a secondary containment system) must be enclosed in a shipping container constructed of 200-pound grade corrugated fiberboard or material of equivalent strength. Enough absorbent material must be enclosed within a watertight barrier to absorb three times the total liquid allowed in the package. The total volume of liquid in the primary container and secondary containment system (or set of primary containers in a secondary containment system) may not exceed 50 ml., and there will be a 35-pound weight limit for each mailed parcel. To ensure compliance with these standards, all distributors and manufacturers of sharps containers will be required to obtain an authorization from the U.S. Postal Service for their products to be transported in the mails. All packaging must be "type-tested" and certified by an independent company or organization before application is made for a U.S. Postal Service mailing authorization. Packaging will be required to pass the environmental and test conditions in 49 CFR 178.604, 178.606, 178.608 and 178.609.

Other used medical devices which do not have or contain a projecting sharp must be packaged in a securely sealed, leak resistant primary container. The primary container must be enclosed in a shipping container that is constructed of 200-pound grade corrugated fiberboard or similar material of equivalent

strength. The total volume of liquid in the primary and shipping container must not exceed 50 ml., unless the devices are mailed in a formalin solution or its equivalent. There must be sufficient absorbent material between the primary and shipping container to absorb three times the total liquid allowed within the primary container, except when the device is being shipped in a formalin solution.

EFFECTIVE DATE: This final rule will be effective December 28, 1992, except that sharps as defined in new section 124.382e and other medical devices as defined in new section 124.382f must be mailed as First-Class or Priority Mail effective June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Earl Hohbein, (202) 268-5309.

SUPPLEMENTARY INFORMATION: On March 18, 1992, the Postal Service proposed (57 FR 9404) to amend its regulations concerning the mailing of sharps and other medical devices. Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553 (b) and (c)) regarding the proposed rule, the Postal Service invited comments.

We received 17 comments during the 45-day period which ended May 4, 1992. Most of the commenters expressed support for the proposed changes in the present regulations.

One organization disagreed with the proposal in its entirety. This organization indicated that the labeling, required manifest, and testing were too expensive, and that the container specifications regarding the integrity and capability to withstand the specified maximum and minimum temperatures were "overkill." This same commenter objected to the financial responsibility requirement, but misunderstood that this is to be borne by the manufacturer or distributor of the containers, or both, not the generator.

The Postal Service believes that a bond is essential to avoid or minimize the expenses incurred for containing and cleaning up spills and leaks that occur on postal property, in addition to disposing of regulated medical waste addressed for delivery at closed disposal sites.

Another organization disagreed with all the provisions of this proposal. However, the commenter made an erroneous assumption that the proposed regulations dealt with clinical specimens.

Three comments suggested that we require 200 pound grade corrugated fiberboard for the shipping container. One of these commenters has a total

shipping system consisting of syringes, medication, and a container made of 200 pound test fiber board. Another commenter maintains that it is impossible to construct a parcel measuring $8\frac{1}{2} \times 4 \times 2\frac{1}{2}$ inches (having a gross shipping weight of 8 to 10 ounces) of 275-pound grade fiberboard. The last commenter stated that the 275-pound grade fiber board is excessive when a 200 pound test fiber board shipping container can hold weights up to 60 pounds which exceeds the maximum weight limit by 25 pounds.

In view of the additional information received regarding this matter, the Postal Service has decided to revise the proposal and allow the shipping containers to be constructed of 200-pound fiber board or similar material of at least that strength.

Three commenters asked for clarifications or a partial relief from the required package testing. One company suggested that we supply the results of the tests and methods of corrective action. An association said the testing is an excessive financial burden. Another company requested relief from the leakproof and vibration tests. A fourth commenter asked for clarification on the pass/fail criteria.

The packaging criteria and the mandatory testing proposed in the notice are essential to assure that postal employees, customers and mail are protected from the results of broken or leaking parcels. Any additional information obtained from the testing organizations regarding specifics about the results of the tests may be obtained directly from the testing organization before conducting the tests. The Postal Service is interested only in obtaining the results of the tests and not in suggestions concerning corrective action.

There were two comments concerning the manifesting requirement; one stated that the manifest appears to be too complicated for the "home generator" to complete and another stated that a barcoding system should be considered as an alternative to the "hard-copy" manifest.

The Postal Service believes that the manifest can be designed in a simplified or "user friendly" manner. However, the suggestion to use a barcoding system as an alternative to a "hard-copy" manifest is not adopted.

One commenter stated that sharps should be mailed as registered mail.

The Postal Service will not require the use of registered mail for the following reasons: (1) Many home generators would cease using the "mail-back" system for the disposing of sharps

because they are physically unable to travel to the post office, (2) the extra cost associated with registered mail will detour this regulated medical waste into landfills and other undesirable or illegal methods of disposal. Furthermore, stringent packaging requirements will insure safe transport of the packages while in the mail stream.

Two other commenters suggested that we include enforcement provisions in the new regulations.

We will promulgate enforcement provisions in postal regulations if incidents occur that call for this type of action.

One concern was expressed about establishing a premature effective date, causing a financial hardship for those organizations with extensive distributed inventory. In order to minimize the possibility of financial hardship and encourage a smooth transition to mailing operations which satisfy the new requirements, the effective date will be 180 days after publication.

Finally, there were a few comments requesting that we either clarify some of the definitions or terminologies used in the proposed regulations. Definitions or terminologies in the final rule have been revised to deal with those concerns.

Based on the proposed rule, and after careful consideration of the comments received, as described above, the Postal Service adopts the following amendments to part 124 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section 124.382 of the Domestic Mail Manual is amended by adding sections 124.382e and 124.382f. Section 124.384 is revised by replacing old subsections 124.384 a and b with new subsections 124.384 a and b and adding new subsections 124.384 c through j. Section 124.385 is replaced with new section 124.385 a through e. Old section 124.385 is renumbered to 124.386 and section 124.386 is renumbered to section 124.387. The text is as follows:

124 NONMAILABLE MATTER—
ARTICLES AND SUBSTANCES;
SPECIAL MAILING RULES

.38 Etiologic Agent Preparation, Clinical Specimens, Sharps, Medical Devices and Biological Products

.382

e. "Sharps" mean items having a projecting cutting edge or fine point that have been used in animal or human patient care or treatment or in medical research, or industrial laboratories, including but not limited to hypodermic needles, syringes (with or without the attached needles), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of the presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides or cover slips. The term "sharps" does not include new unused medical devices such as hypodermic needles, syringes, scalpel blades, etc.

f. "Other medical devices" mean any devices used in animal or human patient care or treatment or in medical research which are not, or do not contain, a projecting sharp.

.384 Sharps

a. A mailed parcel containing the types of used materials defined in section 124.382e is nonmailable unless it bears the "Infectious Substance" label required by 49 CFR 172.432. Such parcels will be nonmailable, effective (date of publication), if they are not mailed as First-Class or Priority Mail.

b. Used sharps must be packaged in a securely sealed, leak resistant, and puncture resistant primary container, the total volume of liquid contents of which can not exceed 50 ml. The primary container must maintain its integrity when exposed to temperatures between 0 degrees and 120 degrees Fahrenheit.

c. The primary container must be packaged within a water-tight secondary containment system. The secondary containment system may consist of more than one component; however, if one of the components is a plastic bag, it must be, at a minimum, 3.0 mils in thickness, and must be reinforced with a fiberboard sleeve. A plastic bag will not by itself satisfy the requirement for a secondary containment system. Several primary containers may be enclosed within a secondary containment system to prevent breakage during ordinary processing.

d. The secondary containment system must be enclosed within an outer

shipping container constructed of 200-pound grade corrugated fiberboard or similar material of equivalent strength.

The secondary containment system must fit securely within the shipping container to prevent breakage during ordinary processing.

e. There must be sufficient absorbent material within a watertight barrier to absorb and retain three times the total liquid allowed within the primary container (150 ml per primary container) in case of leakage.

f. Each parcel must not weigh more than thirty-five pounds.

g. Each package prepared for mailing must be designed and constructed so that, if subjected to the environmental and test conditions prescribed in 49 CFR 178.604, (Leakproof test), 178.606 (Stacking test), 178.608 (Vibration standard), 178.609 (Test requirements for packaging for infectious substances {etiologic agents}), in addition to a bursting test for the shipping container and an adsorbency test for the absorbent material commensurate with the requirements in subsection e, there will be no release of the contents to the environment, and no significant reduction in the effectiveness of the packaging.

h. All mailed packages containing used sharps must be accompanied by a four-part manifest or mail disposal service shipping record. The manifest must be placed in an envelope which is affixed to the outside of the shipping container, and must comply with any applicable requirements imposed by the laws of the State from which the package is mailed.

At a minimum, the following information must appear on the manifest:

1. Generator (Mailer)

- Name
- Complete address (Not a P.O. Box)
- Telephone number
- Description of contents of shipping container: use either "Infectious Substances, affecting animals only" or "Infectious Substances affecting humans." No other description or proper shipping name should be used.

e. Date the shipping container was mailed, and

f. State permit number of the approved facility in which the contents will be disposed.

2. Destination Facility (Disposal Site)

Complete Address (Not a P.O. Box)

3. Generator's (Mailer's) Certification

"I certify that this carton has been approved for the mailing of used

medical sharps, has been prepared for mailing in accordance with the directions for that purpose, and does not contain excess liquid or nonmailable material in violation of the applicable postal regulations. I am aware that full responsibility rests with the generator (mailer) for any violation of 18 U.S.C. 1716 which may result from placing improperly packaged items in the mail. I also certify that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and in proper condition for carriage by air according to the applicable national governmental regulations."

This printed statement is to be followed by the printed name of the generator (mailer), the signature of the generator, and the date the manifest was signed.

4. Destination Facility (Storage or Disposal Site)

a. Printed Certification of receipt, treatment, and disposal—"I certify that the contents of this package have been received, treated, and disposed of in accordance with all local, state, and Federal regulations."

b. Printed or typed name of an authorized recipient at the destination facility.

c. Signature of the authorized recipient at the destination facility.

d. Date destination facility's representative signed manifest.

5. Transporter or Intermediate Handler Other Than the U.S. Postal Service (If Different From the Destination Facility)

a. Name.

b. Complete address (NOT A P.O. BOX).

c. Printed name of transporter or intermediate handler.

d. Signature of transporter or intermediate handler.

6. The manifest or mail disposal service shipping forms must be serialized.

7. The form must contain an area reserved specifically for discrepancies and comments, especially if an alternate destination facility is used.

8. Instructions for completing form and distribution of copies.

a. One copy must be retained by the generator (mailer).

b. One copy must be retained by the transporter or intermediate handler for 90 days.

c. One copy must be retained by the destination facility for 90 days.

d. One copy must be mailed to the generator by the destination facility.

9. The form must bear the following statement with appropriate information: "In Case of Emergency, or the Discovery of Damage or Leakage, Call 1-800-XXX-XXXX"

i. U.S. Postal Service Authorization to Mail Sharps—Each distributor or manufacturer of mailing kits or packaging assemblies, including containers, cartons, and any other related material to be used to mail sharps to a storage or disposal facility, must obtain an authorization from the United States Postal Service. Before applying for this authorization, each such type of the mailing kit must be tested and certified against the standards in section 125.384g by an independent company or organization. This authorization may be obtained by applying in writing to the Office of Classification and Rates Administration, Business Requirements Division, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260-5906. The letter of application must contain the following information: the address of the headquarters or general business office of the distributor or manufacturer; the addresses of all disposal and storage sites; a list of all types of mailing kits to be covered with proof of package testing certifications by the independent testing facility that subjected the materials to the testing requirements prescribed above; a copy of the proposed manifest to be used with all mailings; 24-hour telephone numbers for emergencies; and a list of the types of sharps that will be mailed for disposal.

j. Each package must be mailed using merchandise return service (section 919) and each authorized manufacturer (or distributor) must provide to the Office of Classification and Rates Administration a surety bond of \$50,000 or a letter of credit as proof of sufficient financial responsibility to cover disposal costs if the manufacturer (or distributor) ceases doing business before all its shipping containers are disposed of, or to cover clean-up costs if spills occur while the containers are in the possession of the Postal Service. Each primary and shipping container must bear a label, which cannot be detached intact, bearing (1) the company name of the manufacturer or the distributor, (2) the "U.S. Postal Service Auth. No. XXXX", (3) the container ID number (or unique model number) signifying that the packaging material has been certified and the manufacturer or distributor has obtained an authorization required by subsection i.

385 Other Used Medical Devices

a. Effective (date of publication) other unused medical devices, as defined in

section 124.382f, must be mailed as First-Class or Priority Mail.

b. Other used medical devices must be packaged in a securely sealed, leak resistant primary container, the total liquid volume of which must not exceed 50 mL, unless the devices are being shipped in formalin or its equivalent. The primary container must maintain its integrity when exposed to temperatures between 0 degrees and 120 degrees Fahrenheit.

c. The primary container must be enclosed in an outer shipping container constructed of 200-pound grade corrugated fiberboard or similar material of equivalent strength. The primary container must fit securely within the shipping container to prevent breakage during ordinary processing.

d. There must be sufficient absorbent material between the shipping container and the primary container to absorb three times the total liquid allowed within the package unless the device is mailed in a formalin solution or its equivalent.

e. Each parcel containing other used medical devices must bear a complete return address (not a post office box).

A transmittal letter making these changes in the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the *Federal Register* as provided by 39 CFR 111.3.

Neva R. Watson,

Attorney, Legislative Division.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E3489/R1148; FRL-4067-4]

RIN 2070-AB78

Pesticide Tolerances for 4-(Dichloroacetyl)-3,4-Dihydro-3-Methyl-2H-1,4-Benzoxazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of 4-(dichloroacetyl)-3,4-dihydro-3-methyl-2H-1,4-benzoxazine when used as an inert ingredient (safener) in pesticide formulations containing metolachlor in or on the raw agricultural commodities for which tolerances have been established for metolachlor. This