

Dated: May 23, 2006.

**William L. Wehrum,**

*Acting Assistant Administrator, Office of Air and Radiation.*

■ For the reasons stated in the preamble, title 40, Chapter I of the Code of Federal Regulations is amended as follows:

#### **PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

■ 1. The authority citation for part 60 continues to read as follows:

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

#### **Subpart A—General Provisions**

■ 2. Amend § 60.13 by revising the first sentence of paragraph (d)(1) as follows:

##### **§ 60.13 Monitoring requirements.**

\* \* \* \* \*

(d)(1) Owners and operators of a CEMS installed in accordance with the provisions of this part, must check the zero (or low level value between 0 and 20 percent of span value) and span (50 to 100 percent of span value) calibration drifts at least once daily in accordance with a written procedure. \* \* \*

\* \* \* \* \*

[FR Doc. E6-8397 Filed 5-31-06; 8:45 am]

**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 180**

[EPA-HQ-OPP-2006-0088; FRL-8060-5]

#### **Zoxamide; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct Final rule.

**SUMMARY:** EPA issued a final rule in the *Federal Register* of September 26, 2001, concerning a tolerance for combined residues of zoxamide, 3,5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide and its metabolites 3,5-dichloro-1,4-benzenedicarboxylic acid, and 3,5-dichloro-4-hydroxymethylbenzoic acid in or on tomato and in or on the cucurbit vegetable crop group 9. This rule is being issued to correct the expression and placement of the tolerance for residues of zoxamide in or on tomato, and in or on cucurbit, vegetable crop group 9.

**DATES:** This Direct Final Rule is effective on August 30, 2006 without notice, unless EPA receives adverse comment by July 31, 2006. If, however, EPA receives adverse comment, EPA

will publish a *Federal Register* document to withdraw the direct final rule before the effective date.

If this Direct Final Rule becomes effective on August 30, 2006, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. Objections and requests for hearings must be received on or before October 30, 2006.

**ADDRESSES:** If this regulation becomes effective on August 30, 2006 because no adverse comment is received, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. To submit a written objection or hearing request follow the detailed instructions as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2006-0088. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South 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 telephone number for the Docket is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Rose Mary Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5611; fax number: (703) 308-1825; e-mail address: [kearns.rosemary@epa.gov](mailto:kearns.rosemary@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 an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).

- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR Part 180. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

###### *B. How Can I Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this *Federal Register* document through the electronic docket at <http://www.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>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office’s pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### *C. Can I File an Objection or Hearing Request?*

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2006-0088 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 31, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES.** Information not marked confidential pursuant to 40 CFR part 2

may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2006-0088, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The telephone number for the Docket is (703) 305-5805.

## II. Background

### A. What Action is the Agency Taking?

In the **Federal Register** of August 24, 2000 (65 FR 51612) (FRL-6739-1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170) announcing the filing of a pesticide petition (PP 9F5058) for a tolerance by Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19108-2399. This notice included a summary of the petition prepared by Rohm and Haas, the registrant. There were no comments received in response to the notice of filing. A correction to the notice of filing was published in the **Federal Register** of December 15, 2000 (65 FR 78490) (FRL-6756-3).

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for combined residues of the fungicide zoxamide, 3,5-dichloro-N-(3-chloro-1-ethyl-1-methyl-2-oxopropyl)-4-methylbenzamide, and its metabolites, in or on tomatoes and cucurbit, vegetable group 9 at 2.0 parts per million (ppm). EPA established the requested tolerances in 40 CFR 180.567(a)(2) (66 FR 49110, September 26, 2001, FRL-6803-7).

This rule amends 40 CFR 180.567 by taking the tomato and vegetable, cucurbit, group 9 tolerances out of § 180.567(a)(2) and placing them in § 180.567(a)(1). This change corrects an error made at the time the tomato and vegetable, cucurbit, group 9 tolerance were established. Prior to establishing

those tolerances the Agency had determined that the residue of concern in connection with the use of zoxamide on tomatoes and cucurbits is only the parent compound zoxamide, not zoxamide and its metabolites. EPA mistakenly, however, established the tomato and cucurbits tolerances in § 180.567(a)(2) which applies to tolerances for residues of zoxamide and its metabolites instead of § 180.567(a)(1) which applies to tolerances of zoxamide only.

The relevant metabolism data shows that the parent compound, zoxamide, is the major residue component identified in cucumber fruit (representing about 87% of total residues), cucumber foliage (representing about 92% of total residues), green tomatoes (representing about 48% of total residues), and red tomatoes (representing about 44% of total residues). In addition, only residues of zoxamide exceeded 10% of the total residues in all cucumber matrices and tomato samples. In comparison, most metabolite residues were present at less than 5% of the total residues. The low level of metabolites that are present in these commodities was taken into account when assessing the risk of zoxamide exposure. It was not deemed appropriate, however, to include the metabolites in the tolerances for tomatoes and cucurbits because the amounts detected were so low.

As a result of this amendment the listed tolerance levels (in "ppm") on tomato (2.0 ppm) and vegetable, cucurbit, group 9 (1.0 ppm), are not being changed. The existing tolerances in 180.567(a)(2) for potato, tuber; potato, granule/flakes; and potato, wet peel are not being revised because EPA has determined that for these commodities the tolerance expression should be written in terms of the combined residues of the parent compound zoxamide and its metabolites.

### B. What is the Agency's Authority for Taking this Action?

This action is taken pursuant to EPA's initiative under FFDCA section 408(e), 201 U.S.C. 346a(e).

## III. Direct Final Rule Procedures

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. This Direct Final Rule will be effective August 30, 2006 without further notice unless the Agency receives adverse comment by July 31, 2006. If EPA receives adverse comment on this rulemaking, the Agency will publish a timely withdrawal in the **Federal Register** and will publish a

notice of proposed rulemaking in a further issue of the **Federal Register**. The Agency will address the comments as part of that proposed rulemaking.

If EPA receives no adverse comment and this regulation becomes effective August 30, 2006, any person will have 60 days from that date to file objections to the rule as specified in Unit I.C.

## IV. Statutory and Executive Order Reviews

### A. Executive Order 12866

This direct final rule implements minor changes to 40 CFR part 180. Since this direct final rule does not impose any new requirements it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

### B. Paperwork Reduction Act

This direct final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*

### C. Regulatory Flexibility Act

Since this action makes minor changes to 40 CFR part 180, that do no more than ensure that two commodities are not incorrectly deemed to be in noncompliance with their respective tolerances, EPA certifies this action will not have significant economic impact on a substantial number of small entities. There will be no adverse impact on small entities resulting from this action. The requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

### D. Unfunded Mandates Reform Act

This action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Reform Act of 1995 (UMRA) (Public Law 104-4).

### E. Executive Order 13132

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 action does not alter the relationships or distribution of power and responsibilities established by Congress.

*F. Executive Order 13175*

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.” This direct final 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 16, 2006.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—AMENDED**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.567 is amended by removing the commodities “tomato” and “vegetable, cucurbit, group 9” from the table in paragraph (a)(2), and by alphabetically adding the following commodities to the table in paragraph (a)(1) to read as follows:

**§ 180.567 Zoxamide; tolerances for residues.**

(a) \* \* \* (1) \* \* \*

Commodity	Parts per million
* * *	* *
Tomato .....	2.0
Vegetable, cucurbit, group 9 ....	1.0

\* \* \* \* \*

FR Doc. E6-8395 Filed 05-31-06; 8:45 am]

**BILLING CODE 6560-50-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 060424110-6110-01; I.D. 052406B]

**Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Suspension of the Primary Pacific Whiting Season for the Shore-based Sector South of 42° North Latitude**

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

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces the suspension of the primary season for Pacific whiting (whiting) fishery for the shore-based sector south of 42° N. lat. at 1800 hours local time (l.t.) May 25, 2006. “Per trip” limits for whiting will be reinstated until 0001 hours June 15, 2005, at which time the primary season for the shore-based sector will be open coastwide. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. This action is intended to keep the harvest of whiting at the 2006 allocation levels.

**DATES:** Effective from 1800 hours l.t. May 25, 2006 until 0001 hours June 15, 2006. Comments will be accepted through June 16, 2006.

**ADDRESSES:** You may submit comments, identified by I.D. 052406B by any of the following methods:

- E-mail: [2006WhitingCAClosure.nwr@noaa.gov](mailto:2006WhitingCAClosure.nwr@noaa.gov). Include I.D. 052406B in the subject line of the message.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 206-526-6736, Attn: Becky Renko.
- Mail: D. Robert Lohn,

Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Becky Renko.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko at 206-526-6110.

**SUPPLEMENTARY INFORMATION:** The regulations at 50 CFR 660.323(a) established separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. For 2006, the 232,069 mt commercial harvest guideline for whiting is divided with the catcher/processor sector receiving 78,903 mt (34 percent), the mothership sector receiving 55,696 mt (24 percent), and the shore-based sector receiving 97,469 mt (42 percent). The regulations further divide the shore-based allocation so that no more than 5 percent (4,873 mt) of the shore-based allocation may be taken in waters off the State of California before the primary season begins north of 42° N. lat.

The primary season for the shore-based sector is the period or periods when the large-scale target fishery is conducted, and when “per trip” limits are not in effect. Because whiting migrate from south to north during the fishing year, the shore-based primary whiting season begins earlier south of 42° N. lat. than north. For 2006: the primary season for the shore-based sector between 42°–40°30’ N. lat. began on April 1; south of 40°30’ N. lat., the primary season began on April 15; and the fishery north of 42° N. lat. is scheduled to begin June 15.

Because the 4,873 mt allocation for the early season fishery off California is estimated to be reached, NMFS is announcing the suspension of the primary whiting season south of 42° N. lat. Regulations at 50 CFR 660.323 (b)(4) allow this action to be taken. The 20,000-lb (9,072 kg) trip limit that was in place before the start of the southern primary season is being reinstated and will remain in effect until the primary