

purposes until that policy has been submitted by the state as a program change and approved by NOAA. A previously approved enforceable policy will no longer be legally enforceable under state law if subsequent Federal law preempts the state policy.

(d) Changes to a management program's Federal consistency list or a new or revised geographic location description under part 930 of this subchapter, subparts C, D, E, F or I. For changes to a management program's list of Federal actions or a new or revised geographic location description, the state's effects analysis shall be based on information that would allow NOAA to find that the listed activity, either within the state's coastal zone or within a geographic location described outside the state's coastal zone, would have reasonably foreseeable effects on the uses or resources of the state's coastal zone. A state's analysis asserting impacts to uses or resources outside of the coastal zone shall not, by itself, demonstrate a coastal effect; rather, the state shall describe a causal connection of how an impact outside the coastal zone could result in a coastal effect. A state's effects analysis shall not be based on unsupported conclusions, speculation or the mere existence of coastal uses or resources within a geographic location. A state's coastal effects analysis shall, to the extent practicable, identify:

(1) The affected uses (*e.g.*, commercial and recreational fishing, boating, tourism, shipping, energy facilities) and resources (*e.g.*, fish, marine mammals, reptiles, birds, landmarks).

(2) Where and in what densities the uses and resources are found.

(3) How the state has a specific interest in the resource or use. States should be specific in showing the connection to the coastal zone of the state (*e.g.*, economic values, harvest amounts, vulnerabilities, seasonal information relevant to the proposed activity).

(4) Where the proposed activity overlaps with these resources, uses and values.

(5) Impacts to the resources or uses from the proposed activity.

(6) A reasonable showing of a causal connection to the proposed activity, including how the impacts from the activity results in reasonably foreseeable effects on the state's coastal uses or resources.

(7) Why any required mitigation may be inadequate.

(8) Empirical data and information that supports the effects analysis and: Can be shown to be reliable; visualizes the affected area, resources and uses

with maps; and shows values, trends and vulnerabilities.

**§ 923.85 Procedural requirements of other Federal law.**

NOAA shall determine on a case-by-case basis whether each program change requires NOAA to take additional actions under any other Federal requirements.

(a) If a state's program change will affect the resources or interests of any federally-recognized Indian Tribe (tribe), NOAA shall contact the affected tribe(s) and determine if Government-to-Government consultation is desired under Executive Order 13175 (Nov. 6, 2000).

(b) If, for the purposes of ESA, NHPA, MSFCMA or MMPA compliance, NOAA determines that a state's program change will have effects on listed threatened or endangered species, historic properties, essential fish habitat or marine mammals, then NOAA shall determine if consultation is needed with the applicable Federal agency under the ESA, NHPA, MSFCMA and MMPA.

(c) When NOAA determines whether to consult under other Federal statutes or tribal executive orders, NOAA's ability to require changes to a state's proposed program change are limited by the following:

(1) Once NOAA approves a state's management program, NOAA cannot require a state to change its program. NOAA can, through periodic evaluations of a state's management program under section 312 of the Act, establish necessary actions if NOAA finds a state is not adhering to its NOAA-approved program, but NOAA can only recommend that a state change its program to create a different state standard or to address emerging issues; and

(2) NOAA can approve or disapprove a program change request. When NOAA reviews a program change, NOAA has a limited ability to require a state to make changes to state policies. If NOAA disapproves a program change request, this does not require a state to change state law. Therefore, there is no effect from NOAA's denial on the implementation of state law at the state (or local government) level. NOAA's denial means the disapproved state policy is not part of the state's NOAA-approved management program and cannot be used for CZMA Federal consistency purposes. NOAA cannot use a program change to require changes to other parts of a state's management program.

[FR Doc. 2019-16513 Filed 8-5-19; 8:45 am]

**BILLING CODE 3510-08-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2019-0213]

RIN 1625-AA87

**Security Zone; Burke Lakefront Airport, Lake Erie, Cleveland, OH**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a security zone for certain navigable waters of Lake Erie, Cleveland, OH. This action is necessary to protect the public and surrounding waterways from terrorist acts, sabotage, or other subversive acts, accidents, or other causes of a similar nature. This regulation prohibits persons and vessels from being in the security zone unless specifically authorized by the Captain of the Port (COTP) Buffalo or a designated representative.

**DATES:** This rule is effective September 5, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0213 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, contact LT Sean Dolan, Chief Waterways Management Division at 716-843-9322 or email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

Previously, COTP Buffalo implemented emergent security zones around Burke Lakefront Airport, Cleveland, OH, whenever Senior Government Officials or foreign dignitaries utilized the airport. On April 29, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Security Zone; Burke Lakefront Airport, Lake Erie, Cleveland, OH (84 FR 17981). There we stated why we issued the NPRM, and invited

comments on our proposed regulatory action related to this security zone. During the comment period that ended June 28, 2019, we received one comment.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051. The purpose of the rulemaking is to ensure the safety and security of vessels, the public, and navigable waters within the security zone before, during, and after the arrival and departure of certain individuals. The COTP Buffalo determined that a security zone is necessary to protect those within the security zone and surrounding area from terrorist acts, sabotage, or other subversive acts, accidents, or other causes of a similar nature.

### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published April 29, 2019. The comment stated based upon our listed coordinates that we had the wrong distance contained within the zone. The comment also requested that we include a statement about the datum of the coordinates. In response to the comment we updated the distance from the shore covered by the security zone, and included a statement about the datum of the coordinates. There are no other changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a security zone that will be enforced only upon notice by the COTP Buffalo. The COTP Buffalo will provide notice of enforcement of the security zone established by this section, including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The COTP Buffalo will also issue a Broadcast Notice to Mariners notifying the public when enforcement of the security zone is established by this section is suspended.

The security zone will encompass all waters in Lake Erie within a line connecting the following geographical positions: 41°31'45" N, 081°39'20" W; then extending northwest to 41°32'23" N, 081°39'46" W; then extending southwest to 41°31'02" N, 081°42'10" W; then extending southwest to the shoreline at 41°30'38" N, 081°41'53" W (NAD 83); then following the shoreline back to the point of origin.

The Captain of the Port Buffalo determined that the security zone in this rule is necessary to protect Senior

Government Officials or foreign dignitaries. No vessel or person is permitted to enter the security zone without obtaining permission from the COTP or a designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16 or at 716-843-9525.

### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the need to protect individuals, personnel, vessels, the public, and surrounding waterways from terrorist acts, sabotage, or other subversive acts, accidents or other causes of a similar nature. We conclude that this rule will have a minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The security zone created by this rule will be relatively small, effective only during the time necessary to protect individuals, personnel, vessels, the public, and surrounding waterways, and is designed to minimize its impact on navigable waters. Furthermore, the security zone has been designed to allow vessels to transit around it. Thus restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the security zone when permitted by the Captain of the Port.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended,

requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a security zone that encompasses all waters in Lake Erie within a line connecting the following geographical positions: 41°31'45" N, 081°39'20" W; then extending northwest to 41°32'23" N, 081°39'46" W; then extending southwest to 41°31'02" N, 081°42'10" W; then extending southwest to the shoreline at 41°30'38" N, 081°41'53" W (NAD 83); then following the shoreline back to the point of origin. It is categorically excluded from further review under paragraph L[60](a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is

available in the docket where indicated under **ADDRESSES**.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.913 to read as follows:

#### **§ 165.913 Security Zone; Burke Lakefront Airport, Lake Erie, Cleveland, OH.**

(a) *Location.* This security zone includes all waters extending from the surface to the sea floor within approximately 650 yards seaward from the shoreline of the Burke Lakefront Airport and encompasses all waters in Lake Erie within a line connecting the following geographical positions: 41°31'45" N, 081°39'20" W; then extending northwest to 41°32'23" N, 081°39'46" W; then extending southwest to 41°31'02" N, 081°42'10" W; then extending southwest to the shoreline at 41°30'38" N, 081°41'53" W (NAD 83); then following the shoreline back to the point of origin.

(b) *Definitions.* (1) Designated representative means any Coast Guard commissioned, warrant, or petty officers designated by the Captain of the Port Buffalo to monitor a security zone, permit entry into a security zone, give legally enforceable orders to persons or vessels within a security zone, and take other actions authorized by the Captain of the Port Buffalo.

(2) Public vessel means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into, transiting, or

anchoring within this security zone is prohibited unless authorized by the Captain of the Port Buffalo or her designated on-scene representative.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Buffalo or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) All vessels must obtain permission from the Captain of the Port Buffalo or a designated representative to enter, move within, or exit the security zone established in this section when the security zone is enforced. Vessels and persons granted permission to enter the security zone shall obey all lawful orders or directions of the Captain of the Port Buffalo or a designated representative. While within the security zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(d) *Notice of Enforcement or Suspension of Enforcement.* The security zone established by this section will be enforced only upon notice of the Captain of the Port Buffalo. The Captain of the Port Buffalo will cause notice of enforcement of the security zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Buffalo will issue a Broadcast Notice to Mariners notifying the public when enforcement of the security zone established by this section is suspended.

(e) *Exemption.* Public vessels as defined in paragraph (b) of this section are exempt from the requirements in this section.

(f) *Waiver.* For any vessel, the Captain of the Port Buffalo or a designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

(g) *Authority.* In addition to 46 U.S.C. 70034 and 46 U.S.C. 70051, the authority for this section includes 46 U.S.C. 70116.

Dated: July 29, 2019.

**L.M. Littlejohn,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2019-16730 Filed 8-5-19; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2018-0140; FRL-9996-79]

#### Fluoxastrobin; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of fluoxastrobin in or on cotton, undelinted seed and cotton, gin byproducts. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 6, 2019. Objections and requests for hearings must be received on or before October 7, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2018-0140, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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-2018-0140 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 7, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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 (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2018-0140, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online

instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 14, 2018 (83 FR 27744) (FRL-9978-29), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F8649) by Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.609 be amended by establishing tolerances for residues of the fungicide fluoxastrobin, (1E)-[2-[[6-(2-chlorophenoxy)-5-fluoro-4-pyrimidinyl]oxy]phenyl][5,6-dihydro-1,4,2-dioxazin-3-yl)methanone O-methylxime, in or on cotton, undelinted seed and cotton, gin byproducts at 0.01 parts per million (ppm). There were no comments received in response to the notice of filing.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from