

### Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

### Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

### Executive Order 13132 Federalism

This action also does not have Federalism implications because it does not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

### Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

### National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

### Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Dated: May 19, 2006.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

### Subpart KK—Ohio

■ 2. Section 52.1887 is amended by adding paragraph (e) to read as follows:

#### § 52.1887 Control strategy: Carbon monoxide.

\* \* \* \* \*

(e) Approval—On October 20, 2005, Ohio submitted a State Implementation Plan (SIP) revision of the Cuyahoga County carbon monoxide (CO) maintenance plan. The CO maintenance plan revision is an update to the current approved maintenance plan and continues to demonstrate maintenance of the CO National Ambient Air Quality Standard (NAAQS) for an additional 10 years. The maintenance plan revision is submitted as a limited maintenance plan for the Cuyahoga County, Ohio carbon monoxide area and provides an unlimited motor vehicle emissions budget as long as the ambient CO levels remain below the 7.65 parts per million design value specified as the criterion for the limited maintenance plan.

[FR Doc. 06-5013 Filed 5-31-06; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 60

[A-91-07; FRL-8176-8]

RIN 2060-AG22

#### Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements

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

**ACTION:** Final rule; correction.

**SUMMARY:** The EPA issued a final rule on August 10, 2000, that revised the monitoring requirements in Performance Specification 1 (PS-1). The revisions updated requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. The revisions also updated design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in PS-1. In addition to changes to PS-1, the final rule established differences between gaseous continuous emissions monitoring systems (CEMS) and COMS. The final rule contained a minor error in wording. This action is intended to correct this error. All other preamble and regulatory text printed in the August 10, 2000, final rule is correct.

**DATES:** This correction is effective June 1, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Rima Howell, Measurement Technology Group, Air Quality Assessment Division (E-143-02), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, NC 27711; telephone number (919) 541-0443; fax number (919) 541-0516; electronic mail (e-mail) address [howell.rima@epa.gov](mailto:howell.rima@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

The EPA promulgated revisions to the Specifications and Test Procedures for Opacity Continuous Emission Monitoring Systems in Stationary Sources, PS-1 (40 CFR part 60, Appendix B) and revised § 60.13(d)(1) in the **Federal Register** (65 FR 48914) on August 10, 2000. Following the promulgation of these sections, Phelps Dodge Miami, Inc., requested that we issue a correction to § 60.13(d)(1). Their request pointed out that the Agency had inadvertently modified a requirement for CEMS, thus adding a requirement to obtain calibration data automatically. The Agency agrees that the automatic data gathering requirement was only intended to address COMS systems, not CEMS, and has agreed to address this issue.

**II. Summary of Amendment**

The EPA issued a final rule on August 10, 2000, (65 FR 48914) that revised the monitoring requirements in Performance Specification 1 (PS-1) of Appendix B of part 60. The revisions updated requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. The revisions also updated design and performance validation requirements for COMS equipment in PS-1. In addition to changes to PS-1, the final rule revised § 60.13(d)(1) to distinguish between CEMS and COMS. The final rule contained a minor error in the revised § 60.13(d)(1). This action is intended to correct this error.

The incorrect wording is found in the first sentence of § 60.13(d)(1), which erroneously requires that owners and operators of CEMS must “automatically” check the zero and span calibration drifts at least once daily in accordance with a written procedure. The word “automatically” was not intended to be a requirement for CEMS, while it is a requirement for COMS. The word “automatically” was used in reference to CEMS by mistake, and is being removed.

**III. Statutory and Executive Order Reviews**

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is, therefore, not subject to review by the Office of Management and Budget (“OMB”). This action is not a “major rule” as defined by 5 U.S.C. 804(2). The correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*].

Because EPA has made a “good cause” finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 [Pub. L. 104-4]. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The correction does not have substantial direct effects on the States, or 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, Federalism (64 FR 43255, August 10, 1999).

Today’s action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). The technical correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.

The correction is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment. We

have determined that there is good cause for making today’s action final without prior proposal and opportunity for comment because the change to the rule corrects an error, is noncontroversial, and is consistent with the technical basis of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to rulemaking under section 307(d) of the CAA).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today’s changes relieve an unintended requirement, we find good cause to make these technical corrections effective immediately.

The correction action does not involve changes to the technical standards related to test methods or monitoring methods; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by SBREFA of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the U.S. The EPA will submit a report containing this final action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of today’s action in the **Federal Register**. Today’s action is not a “major rule” as defined by 5 U.S.C. 804(2). The final rule will be effective on June 1, 2006.

**List of Subjects in 40 CFR Part 60**

Environmental protection, Air pollution control, Carbon monoxide, Reporting and recordkeeping requirements.

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]

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#### **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