

5-B; caneberry subgroup 13-A at 0.35 ppm; grape at 0.20 ppm; grape, raisin at 0.30 ppm; hop, dried cone at 0.10 ppm; and vegetable, leafy except brassica, group 4 at 4.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This 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.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR

67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final 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: June 6, 2007.

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 180.565 is amended as follows:

- i. In paragraph (a) by alphabetically adding commodities to the table;
- ii. In paragraph (a) by revising the entries for Barley, grain; Barley, hay and Barley, straw in the table;
- iii. In paragraph (b) by removing the entries for Artichoke, globe; Bean, dry , seed; Bean, succulent; and Hops in the table.

The amendment read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

(a) * * *

Commodity	Parts per million
Artichoke, globe	0.45
Barley, grain	0.30
Barley, hay	0.40
Barley, straw	0.40
* * * * *	*
Brassica, head and stem, subgroup 5-A	4.5
Brassica, leafy greens, subgroup 5-B	3.0
* * * * *	*
Caneberry subgroup 13-A	0.35
* * * * *	*
Grape	0.20
Grape, raisin	0.30
* * * * *	*
Hop, dried cones	0.10
* * * * *	*
Vegetable, leafy, except brassica, group 4	4.0

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2007-27662]

Federal Motor Vehicle Safety Standards; Electronic Stability Control Systems; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Correcting amendments.

SUMMARY: In April 2007, the agency published a final rule establishing a new Federal motor vehicle safety standard on electronic stability control (ESC) systems for light vehicles. As part of that rulemaking, the final rule notice stated that NHTSA had decided to defer the standard's requirements related to the ESC telltales and controls until the end of the phase-in period (*i.e.*, until September 1, 2011). Accordingly, most of the paragraphs containing ESC telltale and control requirements were prefaced with the phrase "as of September 1, 2011." However, that phrase was inadvertently omitted from two of the paragraphs setting forth ESC telltale and control requirements. These amendments correct this administrative error by adding the phrase "as of September 1, 2011" to those paragraphs.
DATES: This rule is effective June 22, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Crash Avoidance

Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-6346. Fax: (202) 366-7002.

SUPPLEMENTARY INFORMATION: Crash data studies of existing vehicles with electronic stability control demonstrate that such systems reduce single-vehicle crashes of passenger cars by 34 percent and single-vehicle crashes of sport utility vehicles (SUVs) by 59 percent, with a much greater percentage reduction of rollover crashes. NHTSA estimates that ESC has the potential to prevent 71 percent of the passenger car rollovers and 84 percent of the SUV rollovers that would otherwise occur in single-vehicle crashes.

On April 6, 2007, NHTSA published a final rule establishing a new Federal motor vehicle safety standard (FMVSS) No. 126, *Electronic Stability Control Systems*, that set forth requirements for ESC systems for new light vehicles (72 FR 17236).¹ FMVSS No. 126 contains performance requirements that include both definitional and dynamic testing elements, in order to ensure that ESC systems can provide the level of yaw (directional) stability (with interventions to limit oversteer and understeer) associated with the high level of safety benefits observed in crash data studies of ESC-equipped vehicles, and it also contains requirements for a standardized set of ESC telltales and controls. Most of the ESC-equipped vehicles currently being manufactured can satisfy the new standard's requirements for yaw stability performance (*i.e.*, the requirements which have the potential to prevent crashes), but none use the exact set of telltales and controls that the standard requires.

In order to provide the U.S. fleet with the substantial safety benefits of ESC as soon as possible, NHTSA decided to defer the standard's requirements related to the ESC telltales and controls until the end of the phase-in period. In addition, we note that the final rule also accelerated the phase-in schedule beyond the schedule proposed in the September 2006 notice of proposed rulemaking (NPRM).² Specifically, the final rule for FMVSS No. 126 requires the following phase-in schedule for ESC: 55 percent of a vehicle manufacturer's light vehicles manufactured during the period from September 1, 2008 to August 31, 2009 would be required to comply with the standard; 75 percent of those

manufactured during the period from September 1, 2009 to August 31, 2010; 95 percent of those manufactured during the period from September 1, 2010 to August 31, 2011, and all light vehicles thereafter. (This compares to the NPRM's proposal for a 30/60/90/all phase-in schedule over the same time periods.) The final rule also noted that some manufacturers will have to depend upon carry-forward credits for vehicles with complying ESC systems manufactured after June 5, 2007 (the effective date of the final rule) in order to meet the accelerated phase-in schedule.

Thus, given the agency's intention to encourage rapid installation of this life-saving technology, we chose to defer the requirements of the standard regarding telltales and displays. Although the agency perceived certain advantages with standardizing the presentation of ESC controls and displays, it was not practicable to implement those changes in keeping with the accelerated phase-in schedule, which we expected to produce tangible safety benefits. Accordingly, we decided to preface paragraphs S5.3.1, S5.3.2, S5.3.4, S5.4.2, S5.5.2, S5.5.3, and S5.5.6 of Standard No. 126 with the phrase "as of September 1, 2011." However, that phrase was inadvertently omitted from paragraphs S5.3.3 and S5.4.3, two other provisions (discussed below) containing ESC control and display requirements.

Paragraph S5.3.3 has the effect of requiring separate telltales for ESC malfunction warning and for the warning that ESC has been turned off. The standard also established separate symbols for the two conditions. However, this is not how most current vehicles equipped with ESC are manufactured. Typically, such vehicles today utilize the same telltale to present messages for both ESC malfunction and ESC Off. The inadvertent omission of "as of September 1, 2011" from this paragraph imperils the chances of most manufacturers to comply with the phase-in schedule and, concomitantly, with the agency's safety objectives manifest in the ESC standard.

Paragraph S5.4.3 deals with controls such as that which puts a four-wheel-drive vehicle into the off-road mode by locking the differentials and transfer case. When the differentials are locked, ESC cannot function, and the differential locking control automatically disables ESC to avoid damaging the vehicle. Paragraph S5.4.3 requires the "ESC-Off" telltale to be illuminated in this circumstance. However, vehicles in current production do not have this function, and the carry-forward and phase-in credits for four-

wheel-drive vehicles with off-road modes are imperiled by the inadvertent omission of the phrase "as of September 1, 2011" at the end of the section.

Accordingly, this notice corrects the inadvertent omissions of the phrase "as of September 1, 2011" in paragraphs S5.3.3 and S5.4.3 resulting from administrative error.

This amendment is a technical one, and it does not impose or relax any substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that any notice and opportunity for comment on these correcting amendments are not necessary.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ Accordingly, 49 CFR part 571 is corrected by making the following correcting amendments:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Paragraphs S5.3.3 and S5.4.3 of § 571.126 are revised to read as follows:

§ 571.126 Standard No. 126; Electronic stability control systems.

* * * * *

S5.3 ESC Malfunction * * *

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S5.3.3 As of September 1, 2011, except as provided in paragraph S5.3.4, the ESC malfunction telltale must illuminate only when a malfunction(s) exists and must remain continuously illuminated under the conditions specified in S5.3 for as long as the malfunction(s) exists, whenever the ignition locking system is in the "On" ("Run") position; and

* * * * *

S5.4 ESC Off and Other System Controls * * *

* * * * *

S5.4.3 A control for another system that has the ancillary effect of placing the ESC system in a mode in which it no longer satisfies the performance requirements of S5.2.1, S5.2.2, and S5.2.3 need not be identified by the "ESC Off" identifiers in Table 1 of Standard No. 101 (49 CFR 571.101), but the ESC status must be identified by the "ESC Off" telltale in accordance with S5.5, as of September 1, 2011.

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¹ Docket No. NHTSA-2007-27662-1.

² 71 FR 54712 (Sept. 18, 2006) (Docket No. NHTSA-2006-25801-1).

Issued: June 15, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040112010-4114-02]

RIN 0648-XA92

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Closure of the Eastern U.S./Canada Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces a temporary closure of the Eastern U.S./Canada Area to limited access NE multispecies days-at-sea (DAS) vessels. Based upon Vessel Monitoring System (VMS) reports and other available information, the Administrator, Northeast Region, NMFS (Regional Administrator) has projected that 100 percent of the total allowable catch (TAC) of Georges Bank (GB) cod allocated to be harvested from the Eastern U.S./Canada Area would be harvested by July 12, 2007, if current catch rates continue. This action is being taken to prevent the 2007 TAC for GB cod in the Eastern U.S./Canada Area from being exceeded during the 2007 fishing year, and to minimize the impacts of discards of undersized haddock, in accordance with the regulations implemented under Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act. This area will be reopened at a later date during the 2007 fishing year to provide access to the shared U.S./Canada Stocks of cod, haddock, and yellowtail flounder, if NMFS determines that the area can be reopened without exceeding the GB cod TAC for the 2007 fishing year.

DATES: The temporary closure of the Eastern U.S./Canada Area to all limited access NE multispecies DAS vessels is effective 0001 hr June 20, 2007, through 2400 hr local time, April 30, 2008.

FOR FURTHER INFORMATION CONTACT:

Mark Grant, Fishery Management Specialist, (978) 281-9145, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the U.S./Canada Management Area are found at § 648.85. These regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the Eastern U.S./Canada Area under specific conditions. The final GB cod TAC allocation for the 2007 fishing year was specified at 494 mt (May 7, 2007; 72 FR 25709). The regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to close access to the Eastern U.S./Canada Area for all limited access NE multispecies DAS vessels to prevent over-harvesting the TAC allocations for the U.S./Canada Management Area.

Based upon VMS daily catch reports and other available information, to date, 52 percent of the 2007 GB cod TAC of 494 mt has been harvested. Assuming this catch rate continues, it is estimated that 100 percent of the 2007 GB cod TAC will be caught by July 12, 2007. Recent observer data show discards of GB cod have exceeded kept GB cod, with a discard-to-kept ratio for GB cod of approximately 2:1. Additionally, due to the recent slow growth rate observed for GB haddock, the catch of undersized GB haddock has increased discards of this species, as well. Data indicate that haddock should be fully recruited to legal size by late summer 2007. Therefore, based on the available information described above, to slow the catch rate of GB cod in the Eastern U.S./Canada Area and to ensure that the TAC for GB cod will not be exceeded, as well as to minimize discards of undersized GB haddock, the Eastern U.S./Canada Area, including the August through December Eastern U.S./Canada Haddock SAP Pilot Program, should the closure extend into the SAP season, is temporarily closed to all limited access NE multispecies DAS vessels, effective 0001 hr June 20, 2007, pursuant to § 648.85(a)(3)(iv)(D). This area will be reopened at a later date during the 2007 fishing year to provide access to the shared U.S./Canada cod, haddock, and yellowtail flounder stocks, pursuant to the regulations at § 648.85(a)(3)(iv)(D), if NMFS determines that the area can be reopened without exceeding the GB cod TAC for the 2007 fishing year.

Vessel owners that have made a correct VMS declaration indicating their intention to fish in the Eastern U.S./Canada Area, and crossed the demarcation line prior to 0001 hr June

20, 2007 may continue their trip and fish in the Eastern U.S./Canada Area. Vessels that are currently declared into the Eastern U.S./Canada Area and have already "flexed out" or "flexed west," may not reenter the Eastern U.S./Canada Area after 0001 hr June 20, 2007. Any vessel that leaves the Eastern U.S./Canada Area after 0001 hr June 20, 2007 is prohibited from reentering the Eastern U.S./Canada Area for the remainder of the fishing year, unless otherwise notified.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment, as well as the delayed effectiveness for this action, because prior notice and comment, and a delayed effectiveness, would be impracticable and contrary to the public interest. This action will temporarily close the Eastern U.S./Canada Area to NE multispecies DAS vessels. This action is necessary to slow the catch rate of GB cod in the Eastern U.S./Canada Area and prevent the Eastern U.S./Canada Area GB cod TAC from being exceeded during the 2007 fishing year. Because of the rapidly increasing GB cod harvest rate, the small GB cod TAC, and the substantial increase of fishing activity in the Eastern U.S./Canada Area beginning June 1, 2007, it is projected that 100 percent of the GB cod TAC will be harvested by July 12, 2007. This projection was not available until June 14, 2007.

This action is authorized by the regulations at § 648.85(a)(3)(iv)(D) to prevent over-harvesting, or to facilitate achieving, the U.S./Canada Management Area TACs. The time necessary to provide for prior notice, opportunity for public comment, and delayed effectiveness for this action would prevent the agency from taking immediate action to slow the catch rate of GB cod in the Eastern U.S./Canada Area and prevent the Eastern U.S./Canada Area GB cod TAC from being exceeded prior to the end of the 2007 fishing year. Such a delay would allow the observed high catch rate of GB cod to continue and would result in excessive discards of GB cod. Similarly, the recent high rates of GB haddock discard would likely also continue, resulting in a high level of GB haddock mortality with neither corresponding landings, nor value, accruing to participating vessels. To allow vessels to continue directed fishing effort on GB