

costs on tribal governments or preempt tribal law.

### B. Submission to Congress and the Comptroller General

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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action to remove the 1980 Consent Order for the Maryland Slag Company 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, Incorporation by reference, Particulate matter.

Dated: April 12, 2012.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (d) is amended by removing the entry for Maryland Slag Co.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2010-1079; FRL-9344-9]

### Thiamethoxam; Pesticide Tolerances; Technical Correction

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of March 2, 2012, concerning the establishment of tolerances for the insecticide thiamethoxam on multiple commodities. This document is being issued to correct various typographical omissions, specifically, the omission of previously established tolerances for caneberry subgroup 13-07A; mustard, seed; onion, dry bulb; papaya; safflower, seed; and nut, tree, group 14.

**DATES:** This final rule is effective May 2, 2012.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2010-1079. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Julie Chao, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 308-8735; email address: [chao.julie@epa.gov](mailto:chao.julie@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Does this action apply to me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### II. What does this technical correction do?

This technical correction reinstates previously established tolerances for the insecticide thiamethoxam in or on: Caneberry subgroup 13-07A at 0.35 parts per million (ppm); mustard, seed at 0.02 ppm; nut, tree, group 14 at 0.02 ppm; onion, dry bulb at 0.03 ppm; papaya at 0.40 ppm; and safflower, seed at 0.02 ppm. These tolerances were inadvertently deleted from the table in paragraph (a) under 40 CFR Part 180.565 in the final rule establishing new tolerances for thiamethoxam on several commodities that published in the **Federal Register** of March 2, 2012 (77 FR 12731) (FRL-9331-8).

#### III. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(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 final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because the tolerances being reinstated in the table in paragraph (a) of 40 CFR 180.565 are permanent tolerances that were inadvertently omitted from that table in the course of a rulemaking that amended the table to establish several new tolerances. As part of that rulemaking, EPA prepared a revised table listing the current and new tolerances. In preparing the revised table, that contains tolerances on over 80 commodities, EPA inadvertently overlooked the tolerances identified in Unit II. It is clear on the face of the rulemaking document that the omission of the tolerances identified in Unit II

was a typographical error because the document in no place mentions, or suggests, an intention of removing those tolerances. Public comment is unnecessary on an action to correct such a clear inadvertent error. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

**IV. Do any of the statutory and executive order reviews apply to this action?**

This final rule corrects a technical error and does not otherwise change the requirements in the final rule. As a technical correction, this action is not subject to the statutory and Executive Order review requirements. For information about the statutory and Executive Order review requirements as they related to the final rule, see Unit IV. in the **Federal Register** of March 2, 2012.

**V. 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: April 18, 2012.

**Lois Rossi,**  
Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR 180.565 is corrected 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 corrected by alphabetically adding: Caneberry subgroup 13–07A; mustard, seed; onion, dry bulb; papaya; safflower, seed; and nut, tree, group 14 to the table in paragraph (a) to read as follows:

**§ 180.565 Thiamethoxam; tolerances for residues.**  
(a) \* \* \*

Commodity	Parts per million
* * * * *	*
Caneberry subgroup 13–07A .....	0.35
* * * * *	*
Mustard, seed .....	0.02
Nut, tree, group 14 .....	0.02
* * * * *	*
Onion, dry bulb .....	0.03
* * * * *	*
Papaya .....	0.40
* * * * *	*
Safflower, seed .....	0.02
* * * * *	*

\* \* \* \* \*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**  
**[EPA–HQ–OPP–2011–0449; FRL–9346–4]**

**Acequinocyl; Pesticide Tolerances**  
**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of acequinocyl in or on multiple commodities which are identified and discussed later in this document. This regulation additionally removes several established individual tolerances, as they will be superseded by inclusion in crop subgroup tolerances or by updated commodity terminology. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).  
**DATES:** This regulation is effective May 2, 2012. Objections and requests for hearings must be received on or before July 2, 2012, 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:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2011–0449. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; email address: [nollen.laura@epa.gov](mailto:nollen.laura@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 those engaged in the following activities:

- 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 to provide 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. 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 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