



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 [*insert date of publication in the Federal Register*].

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*.

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 Part 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 part 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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