

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 action. This action which satisfies certain infrastructure requirements of section 110(a)(2) of the

CAA for the 2012 annual PM_{2.5} NAAQS for the District 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, Reporting and recordkeeping requirements.

Dated: August 4, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart J—District of Columbia

In § 52.470, the table in paragraph (e) is amended by adding an entry for Section 110(a)(2) Infrastructure Requirements for the 2012 PM_{2.5} NAAQS to read as follows:

§ 52.470 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA Approval date	Additional explanation
* * *	* * *	* * *	* * *	* * *
Section 110(a)(2) Infrastructure Requirements for the 2012 PM _{2.5} NAAQS.	District of Columbia	12/28/15	8/16/16, [Insert Federal Register citation].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(I), D(i)(II), (E), (F), (G), (H), (J), (K), (L), and (M). PSD related portions are addressed by FIP in 40 CFR 52.499.
* * *	* * *	* * *	* * *	* * *

[FR Doc. 2016–19390 Filed 8–15–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0210; FRL–9950–71–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Case-by-Case Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Virginia's state implementation plan (SIP). The SIP revision includes revised Virginia regulations which incorporate compliance dates necessary for implementing planning requirements for the 2008 8-hour ozone national ambient air quality standard (NAAQS). Specifically, the SIP revision includes revised Virginia regulations which added notification and compliance dates for sources seeking case-by-case

reasonably available control technology (RACT) determinations required under the 2008 8-hour ozone NAAQS. EPA is approving this revision to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on October 17, 2016 without further notice, unless EPA receives adverse written comment by September 15, 2016. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0210 at <http://www.regulations.gov>, or via email to fernandez.cristina@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include

discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Leslie Jones Doherty, (215) 814–3409, or by email at jones.leslie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 5, 2016, the Commonwealth of Virginia, through the Virginia Department of Environmental Quality (VADEQ), submitted a formal revision to the Virginia SIP. The SIP revision submittal includes revised provisions within 9VAC5 Chapter 40, Existing Stationary Sources, to include revised notification and compliance dates for sources subject to RACT for the 2008 8-hour ozone NAAQS to submit a case-by-case RACT demonstration to VADEQ.

On March 27, 2008, EPA revised the 8-hour ozone standard to a new 0.075

parts per million (ppm) level (73 FR 16436). On May 21, 2012, EPA finalized designations for the 2008 8-hour ozone NAAQS (77 FR 30087) in which the Washington, DC–MD–VA area was designated marginal nonattainment. *See* 40 CFR 81.347. The northern portion of Virginia is also part of the Metropolitan Statistical Area of the District Columbia which is in the ozone transport region (OTR) established under section 184(a) of the CAA. Pursuant to section 184(b) of the CAA, all areas in the OTR must comply with the CAA requirements for a moderate nonattainment area which includes RACT requirements. On March 6, 2015, EPA published a final implementation rule (80 FR 12264) which specifies the compliance date (January 1, 2017) by which RACT measures must be implemented for the 2008 8-hour ozone NAAQS. *See* 40 CFR 51.1112. Thus, the northern portion of Virginia which is within the OTR must implement RACT per CAA sections 172 and 182 for major stationary sources of

nitrogen oxides (NO_x) and volatile organic compounds (VOCs).¹

II. Summary of SIP Revision

This SIP revision includes revised 9VAC5–40–7400 and 9VAC5–40–7420 which incorporate EPA's compliance date for implementation of RACT requirements for the 2008 8-hour ozone NAAQS (*i.e.*, January 1, 2017) into VADEQ's regulations. The SIP revision consists of amended versions of 9VAC5–40–7400 and 9VAC5–40–7420, which were previously included in the Virginia SIP, to add notification and compliance dates for RACT case-by-case determinations to meet CAA deadlines for implementing RACT for major stationary sources of NO_x and VOC within Virginia for the 2008 8-hour ozone NAAQS. These provisions now include the RACT compliance date stated in EPA's implementation rule for the 2008 8-hour ozone NAAQS. The notification date included in the Virginia regulations is the date by which

facilities subject to RACT for the 2008 ozone NAAQS must notify the State Air Pollution Control Board of their applicability status, commit to making a RACT determination, and provide an acceptable schedule for implementing the proposed RACT determination so the source achieves compliance with the RACT emission standard as expeditiously as possible, but no later than the compliance date of January 1, 2017 as required by CAA.

Specifically, in section 9VAC5–40–7400, pertaining to stationary sources of VOCs, Table 4–51B was amended to add the 2008 8-hour ozone standard, emissions control area, source threshold limit in tpy which subjects sources to VOC RACT, date for submission of notification to VADEQ, and the compliance date to implement RACT. Table 1, in this rulemaking action, describes Table 4–51B, Notification and Compliance Dates for Facilities Located in VOC Emissions Control Areas.

TABLE 1—NOTIFICATION AND COMPLIANCE DATES FOR FACILITIES LOCATED IN VOC EMISSIONS CONTROL AREAS

Standard	Emissions control area	Source threshold	Notification date	Compliance date
1997 (0.08 ppm)	Northern Virginia	≥50 tpy	March 1, 2007	April 1, 2009.
2008 (0.075 ppm)	Northern Virginia	≥50 tpy	February 1, 2016	January 1, 2017.

In section 9VAC5–40–7420, pertaining to stationary sources of NO_x, Table 4–51E and Table 4–51F were amended to include the 2008 8-hour ozone standard, emissions control area, source threshold limit in tpy which subjects sources to NO_x RACT, date for

submission of notification to VADEQ, and compliance date to implement RACT. Table 2, of this rulemaking action, describes Table 4–51E for facilities in an emission control area where there is no applicable presumptive RACT. Table 3, of this

rulemaking action describes Table 4–51F which pertains to facilities in an emission control area where presumptive RACT is defined or applicable.

TABLE 2—NOTIFICATION AND COMPLIANCE DATES FOR FACILITIES LOCATED IN NO_x EMISSIONS CONTROL AREAS FOR WHICH THERE IS NO PRESUMPTIVE RACT

Standard	Emissions control area	Source threshold	Notification date	Compliance date
1997 (0.08 ppm)	Northern Virginia	≥100 tpy	March 1, 2007	April 1, 2009
2008 (0.075 ppm)	Northern Virginia	≥100 tpy	February 1, 2016	January 1, 2017

TABLE 3—NOTIFICATION AND COMPLIANCE DATES FOR FACILITIES LOCATED IN NO_x EMISSIONS CONTROL AREAS FOR WHICH PRESUMPTIVE RACT IS DEFINED

Standard	Emissions control area	Source threshold	Notification date	Compliance date
1997 (0.08 ppm)	Northern Virginia	≥100 tpy	March 1, 2007	April 1, 2009
2008 (0.075 ppm)	Northern Virginia	≥100 tpy	February 1, 2016	January 1, 2017

The amendments to 9VAC5–40–7400 and 9VAC5–40–7420 are consistent with the federal requirements for RACT implementation for the 2008 8-hour ozone NAAQS contained within EPA's

final implementation rule for this NAAQS and with CAA requirements for RACT in CAA sections 172, 182, and 184. *See* 80 FR 12264.

III. Final Action

EPA is approving the February 5, 2016 SIP submission from Virginia which includes amended Virginia regulations to include notification and

¹ Any stationary source which emits or has the potential to emit at least 50 tons per year (tpy) of VOCs or 100 tpy of NO_x shall be considered a major

stationary source subject to attainment planning requirements, including RACT, as if the area were

a moderate nonattainment area. *See* CAA sections 182(b) and (f), 184(b), and 302.

compliance dates for the submission and implementation of case-by-case RACT to address requirements for the 2008 8-hour NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on *October 17, 2016* without further notice unless EPA receives adverse comment by *September 15, 2016*. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) “privilege” for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia’s legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia’s Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2)

are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code § 10.1–1198, precludes granting a privilege to documents and information “required by law,” including documents and information “required by federal law to maintain program delegation, authorization or approval,” since Virginia must “enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. . . .” The opinion concludes that “[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.” Virginia’s Immunity law, Va. Code Sec. 10.1–1199, provides that “[t]o the extent consistent with requirements imposed by federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Incorporation by Reference

In this rulemaking action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of VADEQ regulations described in the amendments to 40 CFR 52 set forth below which added notification and compliance dates for sources seeking case-by-case RACT. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or may be viewed at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. EPA will submit a report containing this action 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. 804(2).

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 October 17, 2016. 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 action. This action

pertaining to submission and compliance dates for case-by-case RACT determinations in Virginia for the 2008 8-hour ozone NAAQS 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 2, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Sections 5–40–7400 and 5–40–7420 under 9VAC5, Chapter 40, Part 2, Article 51 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
9 VAC 5, Chapter 40 Existing Stationary Sources (Part IV)				
*	*	*	*	*
Part 2 Emissions Standards				
*	*	*	*	*
Article 51 Stationary Sources Subject to Case-by-Case Control Technology Determinations (Rule 4–51)				
5–40–7400	Standard for volatile organic compounds (eight-hour ozone standard).	12/02/2015	8/16/2016 [<i>Insert Federal Register Citation</i>].	Notification and compliance dates added
5–40–7420	Standard for nitrogen oxides (eight-hour ozone standard).	12/02/2015	8/16/2016 [<i>Insert Federal Register Citation</i>].	Notification and compliance dates added
*	*	*	*	*

* * * * *

[FR Doc. 2016-19388 Filed 8-15-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[EPA-HQ-OPP-2015-0652; FRL-9949-21]

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

SUMMARY: This regulation establishes tolerances for residues of flumioxazin in or on soybean forage and hay. Valent U.S.A. Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 16, 2016. Objections and requests for hearings must be received on or before October 17, 2016, 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-2015-0652, 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: 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.

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. To access the OCSPP test guidelines referenced in this document electronically, please go to <http://www.epa.gov/ocspp> and select "Test Methods and Guidelines."

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-2015-0652 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 17, 2016. 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-2015-0652, 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 April 25, 2016 (81 FR 24046) (FRL-9944-86), 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 5F8353) by Valent USA Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596 U.S.A. The petition requested that 40 CFR 180.180.568 be amended by establishing tolerances for residues of the herbicide flumioxazin, in or on soybean forage at 0.05 parts per million (ppm) and hay at 0.02 ppm. That document referenced a summary of the petition prepared by Valent USA Corporation, the registrant, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has determined that the tolerance for soybean forage should be lowered from the proposed level of 0.05 ppm to 0.03 ppm. The reason for these changes are explained in Unit IV.D.

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