

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 4, 2018.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 2018-27607 Filed 12-20-18; 8:45 am]

**BILLING CODE** 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-RO5-OAR-2018-0302; EPA-RO5-OAR-2018-0303; EPA-RO5-OAR-2018-0589; FRL-9988-04-Region 5]

**Air Plan Approval; Illinois; NAAQS and VOC Updates**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revised rules submitted by the State of Illinois as State Implementation Plan (SIP) revisions. The submitted rules update Illinois definitions and requirements for handling monitoring data influenced by exceptional events, update implementation rules for the 2012 primary annual National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>), and update designated reference and equivalent methods for multiple NAAQS. In addition, the submitted rules amend the Illinois Administrative Code (IAC) by updating the definition of volatile organic compounds (VOC).

**DATES:** This direct final rule will be effective February 19, 2019, unless EPA receives adverse comments by January 22, 2019. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-RO5-OAR-2018-0302, EPA-RO5-OAR-2018-0303, or EPA-RO5-OAR-2018-0589 at <http://www.regulations.gov>, or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov).

For either manner of submission, 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. 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:** Samantha Panock, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8973, [panock.samantha@epa.gov](mailto:panock.samantha@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. What are the State rule revisions?
- III. Did the State hold public hearings for these submittals?
- IV. What is EPA’s analysis of the State’s submittals?
- V. What action is EPA taking?
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews

**I. Background**

Section 109 of the Clean Air Act (CAA) requires EPA to establish national primary (protective of human health) and secondary (protective of human welfare) air quality standards for pollutants for which air quality criteria have been issued under section 108 of the CAA (the criteria pollutants<sup>1</sup>). Individually and collectively these

<sup>1</sup> The criteria pollutants are ozone (O<sub>3</sub>), nitrogen oxides (represented by nitrogen dioxide (NO<sub>2</sub>)), sulfur oxides (represented by sulfur dioxide (SO<sub>2</sub>)), carbon monoxide (CO), particulate matter (represented by total suspended particulates (TSP), particulates (PM<sub>10</sub>), and fine particulates (PM<sub>2.5</sub>)), and lead (Pb). Note that Illinois also has air quality standard and monitoring rules for “coarse particulate matter” (PM<sub>2.5-10</sub>), although this is not a criteria pollutant and is generally considered to be included in PM<sub>10</sub>.

standards are referred to as NAAQS. Section 109(d)(1) of the CAA requires EPA to review, and if necessary, based on accumulated health and welfare data, to revise each NAAQS every five years. If a NAAQS is revised, states whose rules include state air quality standards may revise their rules to address the revised NAAQS and associated monitoring requirements, and submit them to EPA as SIP revision requests. *See, e.g.*, 415 ILCS 5/10(H). Moreover, section 10(H) of the ILCS requires that Illinois adopt ambient air quality standards that are identical-in-substance to the Federal NAAQS using identical-in-substance rulemaking procedure (415 ILCS 5/10(H)(2016)).

The Illinois Environmental Protection Agency (IEPA) submitted revisions on ambient air quality standards in the Illinois SIP to EPA for approval on April 2, 2018 and July 26, 2018. Specifically, these SIP revisions update: (1) Illinois ambient air quality definitions and requirements for handling monitoring data influenced by exceptional events, (2) implementation rules for the 2012 primary annual PM<sub>2.5</sub> NAAQS, and (3) designated reference and equivalent methods for multiple NAAQS. These updates correspond to EPA’s rulemakings related to NAAQS that occurred between July 1, 2016 and December 31, 2017.

IEPA also submitted a revision to the definitions for VOC in the Illinois SIP to EPA for approval on April 2, 2018. The change included the addition of 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane to the list of chemical species excluded from the Federal definition of VOC. This update corresponds to EPA’s rulemaking related to VOC regulations adopted August 1, 2016.

**II. What are the State rule revisions?****35 IAC 243.101 Definitions**

Illinois amended 35 IAC 243.101 to add and revise definitions regarding the exceptional events rule. These definitions were adopted by EPA in “Treatment of Data Influenced by Exceptional Events” (81 FR 68216, October 3, 2016).

**35 IAC 243.105 Air Quality Monitoring Data Influenced by Exceptional Events**

Illinois amended 35 IAC 243.105 to update procedural requirements, requirements for air agency demonstrations, criteria for EPA’s approval of the exclusion of event influenced air quality data, and requirements for air agencies to take appropriate and reasonable actions to protect public health from exceedances or violations of the NAAQS.

Additionally, Illinois repealed Section 243.TABLE A “Schedule for Submission for Data Influenced by Exceptional Events for Use in Initial Area Designations.”

EPA revised the requirements for handling monitoring data influenced by exceptional events (81 FR 68216, October 3, 2016). EPA recognizes that basing regulatory determinations on data influenced by exceptional events may not be appropriate in some instances. The rules provide a procedure for exclusion of data influenced by exceptional events from regulatory decision-making. An exceptional event has a clear relationship with violation of NAAQS, is not reasonably controlled or preventable, unlikely to reoccur at a particular location, and has been declared such by EPA. The revisions require written mitigation plans for areas that have “historically documented” or “known seasonal” exceptional events. Several revisions relate to wildfires and controlled burns as exceptional events.

#### 35 IAC 243.108 Incorporations by Reference

Illinois revised this section to incorporate by reference EPA’s updated “List of Designated Reference and Equivalent Methods” from January 1, 2016, to December 31, 2017. EPA issued updated versions of the “List of Designated Reference and Equivalent Methods” that included new Federal Equivalent Methods (FEMs) and Federal Reference Methods (FRMs) for monitoring of Carbon Monoxide (CO), oxides of nitrogen (NO<sub>x</sub>), and PM<sub>2.5</sub>. See 82 FR 14325 (March 20, 2017), 82 FR 21995 (May 11, 2017) 82 FR 44612 (September 25, 2017), 82 FR 45842 (October 2, 2017). The list with all approved FEMs and FRMs is located at: <https://www3.epa.gov/ttn/amt/criteria.html>.

Illinois also added a statement to 35 IAC 243.108 that the incorporation by reference of EPA’s promulgated monitoring methods “includes the following USEPA methods designations that occurred after December 16, 2017.”

Additionally, Illinois updated 35 IAC 243.108 to incorporate by reference the 2017 versions of appendices A–1, A–2, B, C, D, F, G, H, I, J, K, L, N, O, P, Q, R, S, T and U of 40 CFR part 50. These appendices contain the reference monitoring methods for and the “interpretation” of (*i.e.*, data handling conventions and computations) the ambient standards for the criteria air pollutants.

EPA made one change in the 2017 versions of these appendices relative to

the 2016 versions. EPA revised the appendix N “Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter.” These revisions address a number of important attainment planning issues including the process for determining control strategies, including Reasonably Available Control Measures/Reasonably Available Control Technology (RACM/RACT) for Moderate areas; and Best Available Control Measures/Best Available Control Technology (BACM/BACT) and Most Stringent Measures (MSM) for Serious areas; guidelines for attainment demonstrations for areas that can attain by the statutory attainment date, and “impracticability” demonstrations for areas that cannot practicably attain by the statutory attainment date; contingency measures for areas that fail to meet RFP or fail to attain the NAAQS by the attainment date; and codification of the clean data policy for PM<sub>2.5</sub> NAAQS nonattainment areas. These implementation rules also clarify the specific attainment planning requirements that apply to PM<sub>2.5</sub> NAAQS nonattainment areas based on their classification (either Moderate or Serious), and the process for reclassifying Moderate areas to Serious. In addition, the updated implementation rules revoke older 1997 annual NAAQS for PM<sub>2.5</sub>, which will no longer apply in areas designated as attainment for that standard. For areas that EPA designated as nonattainment for the 1997 standard, the 1997 primary annual NAAQS for PM<sub>2.5</sub> will continue to apply until the effective date of an EPA designation of attainment for the area.

Illinois’ rule revisions incorporate by reference these amended CFR appendices.

#### 35 IAC 243.120 PM<sub>10</sub> and PM<sub>2.5</sub>

Illinois amended 35 IAC 243.120 to include the revocation language for 1997 PM<sub>2.5</sub> NAAQS. As stated above, the 1997 PM<sub>2.5</sub> NAAQS standard no longer applies to any area that is in attainment of the 1997 PM<sub>2.5</sub> standard 82 FR 14325 (August 24, 2016). In Illinois all areas are designated attainment or attainment/unclassifiable for the 1997 PM<sub>2.5</sub> NAAQS except the Metro East St. Louis nonattainment area. These area are Madison, Monroe, and St. Clair Counties and the Baldwin Village area of Randolph County (40 CFR 81.214, 2016).

#### 35 IAC 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

Illinois amended 35 IAC 211.7150 to incorporate a change to the list of chemical species excluded from the Federal definition of VOC (81 FR 50330, August 1, 2016). The change included the addition of 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane to the list of chemical species excluded from the Federal definition of VOC.

In 2007, EPA received a petition requesting that 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane be exempted from VOC control based on its lower reactivity than ethane and that it is not expected to contribute to the depletion of the stratospheric O<sub>3</sub> layer. On August 1, 2016 (81 FR 50330), EPA responded to the petition by amending 40 CFR 51.100(s) to exclude this chemical compound from the definition of VOC for purposes of preparing SIPs to attain the ozone NAAQS under title I of the CAA (78 FR 9823). Based on the mass maximum incremental reactivity value for the compound being equal to or less than that of ethane, EPA concluded that this compound makes negligible contributions to tropospheric ozone formation (81 FR 50330). EPA’s action became effective August 1, 2016. IEPA’s SIP revision to the Illinois definition of VOM is consistent with EPA’s action amending the definition of VOC at 40 CFR 51.100(s).

#### III. Did the State hold public hearings for these submittals?

Illinois held public hearings for the NAAQS updates on September 21, 2017 and April 12, 2018. The public hearing held on September 21, 2017 addressed NAAQS updates regarding updated definitions and requirements for handling monitoring data influenced by exceptional events, implementation rules for the 2012 primary annual NAAQS for PM<sub>2.5</sub>, maintenance of primary and secondary NAAQS for lead without revision, addition of EPA-promulgated monitoring methods for multiple NAAQS, and an adoption of a correction to an equation used for calculating PM<sub>2.5</sub> compliance. One comment addressed concern of error in placement of language in the implementation rule for the 2012 PM<sub>2.5</sub> as stated in EPA regulations. EPA indicated that the placement of language in the Federal regulations was not in error and no further action was taken.

The public hearing held on April 12, 2018 addressed the NAAQS updates regarding the addition of EPA-promulgated monitoring methods for multiple NAAQS and updated List of

Designated Reference and Equivalent Methods. No adverse comments were received.

Illinois held a public hearing for the VOM updates regarding the request of 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane being exempted from VOC regulations on September 21, 2017. No adverse comments were received.

#### IV. What is EPA's analysis of the State's submittals?

EPA finds the state's requested SIP revisions to be approvable, because the state's rule revisions make the state's air quality standards and associated monitoring requirements identical-in-substance to EPA's promulgated NAAQS and VOC updates.

#### V. What action is EPA taking?

EPA is approving NAAQS updates into the Illinois SIP to 35 IAC 243.101, 35 IAC 234.105, 35 IAC 243.108, 35 IAC 243.120 35, and removal of IAC 243.TABLE A contained in the April 2, 2018 submittal and the July 26, 2018 submittal. EPA is approving VOC updates into the Illinois SIP to 35 IAC 211.7150 contained in the April 2, 2018 submittal. EPA is also removing an incorrect reference in 40 CFR 52.720(b)(3) on how copies of materials incorporated by reference may be inspected.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective February 19, 2019 without further notice unless we receive relevant adverse written comments by January 22, 2019. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should 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. If we do not receive any

comments, this action will be effective February 19, 2019.

#### VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup>

#### VII. Statutory and Executive Order Reviews

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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).

In addition, the SIP is not approved to apply on any Indian reservation land 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).

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).

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 February 19, 2019. 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

<sup>2</sup>62 FR 27968 (May 22, 1997).

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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon Monoxide, Incorporation by reference,

Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 3, 2018.

**Cathy Stepp,**  
Regional Administrator, Region 5.

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.*

■ 2. Section 52.720 is amended by:

- a. Revising paragraph (b)(3);
- b. Revising the table entries in paragraph (c) for 211.7150, 243.101, 243.105, 243.108, and 243.120; and

■ c. Removing the table entry in paragraph (c) for 243.TABLE A.  
The revisions read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(b) \* \* \*

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 5, Air Programs Branch, 77 West Jackson Boulevard, Chicago, IL 60604, or the National Archives and Records Administration. For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) \* \* \*

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

| Illinois citation                                   | Title/subject   | State effective date | EPA approval date                                      | Comments |
|---|---|----------------------|--|----------|
| *   | *   | *                    | *  | *        |
| <b>Part 211: Definitions and General Provisions</b> |   |                      |  |          |
| *   | *   | *                    | *  | *        |
| <b>Subpart B: Definitions</b>                       |   |                      |  |          |
| 211.7150  | Volatile Organic Material (VOM) or Volatile Organic Compound (VOC). | 10/23/2017           | 12/21/2018, [Insert <b>Federal Register</b> citation]. | *        |
| *   | *   | *                    | *  | *        |
| <b>Part 243: Air Quality Standards</b>              |   |                      |  |          |
| <b>Subpart A: General Provisions</b>                |   |                      |  |          |
| 243.101   | Definitions   | 10/23/2017           | 12/21/2018, [Insert <b>Federal Register</b> citation]. | *        |
| 243.105   | Air Quality Monitoring Data Influenced by Exceptional Events.       | 10/23/2017           | 12/21/2018, [Insert <b>Federal Register</b> citation]. | *        |
| 243.108   | Incorporation by Reference  | 05/29/2018           | 12/21/2018, [Insert <b>Federal Register</b> citation]. | *        |
| <b>Subpart B: Standards and Measurement Methods</b> |   |                      |  |          |
| 243.120   | PM <sub>10</sub> and PM <sub>2.5</sub>                              | 10/23/2017           | 12/21/2018, [Insert <b>Federal Register</b> citation]. | *        |
| *   | *   | *                    | *  | *        |

\* \* \* \* \*

[FR Doc. 2018-27610 Filed 12-20-18; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2017-0562; FRL-9985-52]

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

**SUMMARY:** This regulation establishes tolerances for residues of mefenoxam in or on cacao bean; the fruit, small, vine climbing, except grape, subgroup 13-07E; and wasabi. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 21, 2018. Objections and requests for hearings must be received on or before February 19, 2019, 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-2017-0562, 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:** Michael Goodis, 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: [RDFFRNotices@epa.gov](mailto:RDFFRNotices@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](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*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-2017-0562 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 February 19, 2019. 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-2017-0562, 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 January 26, 2018 (83 FR 3658) (FRL-9971-46), 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 7E8610) by IR-4, IR-4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the fungicide mefenoxam, including its metabolites and degradates in or on the raw agricultural commodities cacao bean, bean at 0.2 parts per million (ppm); wasabi, tops at 6.0 ppm; wasabi, stem at 3.0 ppm; and fruit, small, vine climbing, except grape, crop subgroup 13-07E at 0.10 ppm. Additionally, the petition requested to amend 40 CFR 180.546 by removing the tolerance in or on kiwifruit at 0.10 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, the registrant, which is available in the docket, <http://www.regulations.gov>. One comment was received in the docket for the notice of filing, but as it raised concerns about the Obama Administration's application of the National Environmental Protection Agency and Endangered Species Act, it is not relevant to this tolerance action.

Based upon review of the data supporting the petition, EPA has modified the commodity definition for cacao and the tolerance level to be consistent with the Agency's policy on significant figures.

**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