553(d)(3). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

III. Administrative Requirements

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this notice, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of April 13, 2000. 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 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). This rule will be effective April 13, 2000.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 12, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. This action 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, Carbon monoxide, Intergovernmental relations.

Dated: March 20, 2000.

Jane Moore,

Acting Regional Administrator, Region X.

[FR Doc. 00–7627 Filed 4–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL190–1a; FRL–6574–1]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Approval of a Site-Specific Sulfur Dioxide Plan Revision for CILCO Edwards Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 21, 1999, Illinois submitted a site-specific sulfur dioxide (SO_2) State Implementation Plan (SIP) revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois. The requested revision provides for a temporary relaxation in the fuel quality limit for one of the facility's three boilers, but adds an overall daily sulfur dioxide emission cap for the three boilers. The State's submittal included dispersion modeling results which indicated that the revision will not cause violations of the SO_2 standards. EPA is approving this request.

DATES: This rule is effective on June 12, 2000, unless EPA receives relevant adverse written comments by May 15, 2000. If EPA receives adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604.

Copies of the State submittal and other relevant documents used in support of this action are available at the following address for inspection during normal business hours: U.S. Environmental Protection Agency, Region 5, Air Programs Branch, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, USEPA Region 5, (312) 353–5954.

SUPPLEMENTARY INFORMATION: The supplemental information is organized in the following order:

I. What Action Is Being Taken in This Document?

EPA is approving a site-specific request to revise Illinois' SO_2 SIP for the Central Illinois Light Company's E. D. Edwards Generating Station (CILCO Edwards) in Bartonville, Peoria County, Illinois. The revision provides a new set of SO_2 emission limits for the plant's three boilers. These new limits were approved by the Illinois Pollution Control Board (IPCB) as a variance from State regulation 35 Illinois Administrative Code (IAC) 214.141 on April 15, 1999. CILCO signed a certification of acceptance and agreement to the variance on May 17, 1999, and Illinois submitted the variance to EPA as a SIP revision on May 21, 1999.

II. What Is the SIP?

The State Implementation Plan is a compilation of federally approved State air pollution regulations which are intended to ensure that the State attains and maintains the NAAQS. Revisions to the SIP must be submitted to EPA for approval. Once approved by EPA, the SIP regulations may be enforced by both the State and by EPA.

III. Does Approval of a Variance Create a Permanent SIP Revision?

Variances are temporary changes to a regulation. Variances to approved SIP limits must be submitted to EPA, approved, and incorporated into the SIP as SIP revisions in order to be federally enforceable. Without EPA approval, a variance to a SIP rule has no federal standing, and EPA could enforce against the facility for failing to comply with the original limits, even though the State had allowed the rule variance.

The April 15, 1999, CILCO variance expires on February 28, 2002, unless CILCO applies to Illinois for a permanent site-specific SIP revision by that date, in which case the variance will not terminate until July 31, 2003. It is important to note that because the variance is not a permanent rule change, EPA's approval of the variance as a SIP revision will only be in force until February 28, 2002. After that time, if CILCO does not apply to Illinois for a permanent SIP revision, the federally enforceable SO_2 emission limits for CILCO Edwards' Boiler 2 will revert to 35 IAC 214.141. If CILCO applies for a permanent SIP revision, and the IPCB allows CILCO Edwards' variance to continue unamended through July 31, 2003, then federal approval of the variance will continue until EPA approves alternate SO_2 limits for CILCO Edwards, or until July 31, 2003, whichever is earlier.

IV. What Has Changed in the Illinois SO_2 SIP?

CILCO Edwards operates three boilers, numbered 1, 2, and 3. Previously, the Illinois SO_2 SIP limited the emissions from Boilers 1 and 3 to 6.6 pounds sulfur dioxide per million British Thermal Units (lb/MMBTU), and limited Boiler 2's emissions to 1.8 lb/MMBTU. Illinois' May 21, 1999, submittal provides for the following rule changes:

1. The average SO_2 emissions from Boilers 1, 2, and 3, as a group, may not exceed 4.71 lb/MMBTU actual heat input.

2. The average SO_2 emissions from any one boiler may not exceed 6.6 lb/MMBTU actual heat input.

3. CILCO Edwards must determine compliance with these limits on a daily basis using the SO_2 methodology of the Phase II Acid Rain program set forth in 40 CFR part 75.

The plantwide SO_2 emissions limit for CILCO Edwards (35 IAC 214.561), which limits Boilers 1, 2, and 3, as a group, to 34,613 pounds SO_2 per hour (lb/hr) on a 24-hour average, is unchanged in the May 21, 1999, SIP revision request and remains in effect for CILCO Edwards. Compliance with the plantwide limit must also be determined on a daily basis using the Phase II Acid Rain methodology.

The variance also requires CILCO to make periodic reports to Illinois of the availability and cost of low-sulfur coal and Phase II Acid Rain allowances, and the feasibility of various strategies for complying with the Phase II Acid Rain program. CILCO must notify Illinois by January 31, 2002, if it intends to request a permanent change to its SO_2 emission limits.

V. Why Was This SIP Revision Requested?

A 1.8 lb/MMBTU emission limit on coal-fired boilers in the Peoria area (35 IAC 214.141) was adopted by the IPCB to help ensure that the Peoria major metropolitan area would attain and maintain the SO_2 NAAQS. This limit applies to Boiler 2 at CILCO Edwards, and Boiler 2 must use low-sulfur coal to comply with the limit. CILCO's coal supplier has notified CILCO that low-sulfur coal will not be available in 2000. No other Illinois coal can be used in Boiler 2 and still comply with the 1.8 lb/MMBTU emission limit. Therefore, CILCO must purchase low-sulfur coal from other States, at a much greater cost. An alternative to using low-sulfur coal in Boiler 2 would be to install a scrubber, which would remove SO_2 from the Boiler 2 stack emissions. However, this option is also very costly, and CILCO has stated that a scrubber could not be installed before 2000. Therefore, on December 17, 1998, CILCO filed a petition with the IPCB for a variance from 35 IAC 214.141. As a condition of the variance which the IPCB granted, CILCO must evaluate the feasibility of different strategies for complying with Phase II of the Acid Rain program, including the use of a scrubber, and provide a report of the evaluation to the Illinois Environmental Protection Agency.

VI. What Are the National Ambient Air Quality Standards?

The National Ambient Air Quality Standards (NAAQS) allow the American people to assess whether or not the air quality in their communities is healthful. The NAAQS also present state and local governments with the air quality levels they must meet to achieve clean air. Since the Clean Air Act's inception in 1970, EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. For these common air pollutants there are two types of pollution limits referred to as the primary and secondary standard. The primary standard is based on health effects; and the secondary standard is based on environmental effects such as damage to property, plants, and visibility. The Clean Air Act requires these standards be set at levels that protect public health and welfare with an adequate margin of safety.

VII. What Are the NAAQS for Sulfur Dioxide?

The NAAQS for sulfur dioxide are expressed in three forms which are referred to as the annual, 24-hour and 3-hour standards. The SO_2 NAAQS are 0.03 ppm, or 80 micrograms per cubic meter ($\mu g/m^3$), on an annual average, 0.14 ppm (365 $\mu g/m^3$) for a 24-hour averaging time, and 0.5 ppm (1300 $\mu g/m^3$) for a 3-hour averaging time.

VIII. What Are the Requirements for SIP Approval?

In order to approve a SIP revision, the EPA must determine that the revised rule meets the requirements of section 110 of the Clean Air Act and the provisions of 40 CFR part 51. EPA's criteria for SIP revision approval are contained in 40 CFR part 52, subpart A.

First, revised State rules must be properly adopted by the State, with adequate public notice and participation. The Illinois Environmental Protection Agency submitted documents in its May 21, 1999 submittal which verify that the April 15, 1999, rule variance for CILCO Edwards was properly adopted, with adequate public notice and participation.

In addition, States must provide dispersion modeling results that show that revised SO_2 rules will not cause or contribute to a violation of any of the three SO_2 NAAQS. EPA's guidance on air quality dispersion modeling is found in 40 CFR part 51, appendix W. CILCO provided air dispersion modeling data to demonstrate that facility operations under the new emission limits would not lead to a violation of the SO_2 NAAQS. The Illinois Environmental Protection Agency also provided supplemental modeling information.

The dispersion modeling information meets EPA's requirements.

Finally, the State must demonstrate that the emission limits contained in the revised rule are enforceable. CILCO Edwards uses a Continuous Emissions Monitoring system (CEM) to measure its SO_2 emissions. The rule variance requires CILCO Edwards to determine compliance with its SO_2 limits on a daily basis using the SO_2 methodology of the Phase II Acid Rain program set forth in 40 CFR part 75. These compliance methods are acceptable.

IX. Does This SIP Revision Request Meet EPA's Requirements?

EPA has determined that this SIP revision request meets the requirements for SIP approval, because it is a properly adopted State rule variance which is enforceable and protective of the SO_2 NAAQS. For additional information, see the Technical Support Document for this SIP revision request.

X. What Is EPA's Final Rulemaking Action?

EPA is approving the May 21, 1999 site-specific SO_2 SIP revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois. Because the CILCO Edwards variance is not a permanent rule change, EPA's approval of the variance as a SIP revision will only be in force until the variance expires on February 28, 2002. After that time, if CILCO does not apply to Illinois for a permanent SIP revision, the federally enforceable SO_2 emission limits for CILCO Edwards' Boiler 2 will revert to 35 IAC 214.141. If CILCO applies for a permanent SIP revision, and the IPCB allows CILCO Edwards' variance to continue unamended through July 31, 2003, as stated in the variance, then federal approval of the variance will continue until EPA approves alternate SO_2 limits for CILCO Edwards, or until July 31, 2003, whichever is earlier. This action will be effective on June 12, 2000.

EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by May 15, 2000. Should the Agency receive such comments, it will publish a withdrawal informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on June 12, 2000.

XI. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and

responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 12, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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. This action 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, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: March 28, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(155) to read as follows.

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(155) On May 21, 1999, the Illinois Environmental Protection Agency submitted a temporary, site-specific revision to the State Implementation Plan (SIP) for sulfur dioxide (SO_2) for the Central Illinois Light Company's E.D. Edwards Generating Station in Peoria County, Illinois (CILCO Edwards). The SIP revision took the form of an April 15, 1999, Opinion and Order of the Illinois Pollution Control Board (PCB 99–80, Variance-Air). In this Opinion and Order, the IPCB granted CILCO Edwards a variance from 35 Illinois Administrative Code 214.141, and provided for a relaxation in the fuel quality limit for one of the facility's three boilers, but added an overall fuel quality limit and retained an overall SO_2 emissions cap for the three CILCO Edwards boilers. The variance will expire on February 28, 2002, unless CILCO applies to Illinois for a permanent SIP revision.

(I) Incorporation by Reference

An April 15, 1999, Opinion and Order of the Illinois Pollution Control Board in PCB 99–80 (Variance-Air), granting a variance from 35 IAC 214.141 for Boiler No. 2 at the Central Illinois Light Company's E.D. Edwards Generating Station near Peoria, Illinois. The variance expires on February 28, 2002, unless CILCO applies to Illinois for a permanent SIP revision. If CILCO applies for a permanent SIP revision,

and the IPCB allows CILCO Edwards' variance to continue unamended through July 31, 2003, as stated in the Opinion and Order, then federal approval of the variance will continue until EPA approves alternate SO_2 limits for CILCO Edwards, or until July 31, 2003, whichever is earlier.

[FR Doc. 00–8952 Filed 4–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300991; FRL–6553–7]

RIN 2070–AB78

Fenhexamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for fenhexamid (*N*-2,3-dichloro-4-hydroxyphenyl)-1-methyl cyclohexanecarboxamide) in or on almond, nutmeat at 0.02 parts per million (ppm), almond, hull at 2.0 ppm, stone fruit, except plum (fresh prune) at 6.0 ppm, plum (fresh prune) at 0.5 ppm, and prune, dried at 1.0 ppm. The TM-402 Fungicide Task Force which is comprised of Tomen Agro, Inc. and Bayer Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective April 13, 2000. Objections and requests for hearings, identified by docket control number OPP–300991, must be received by EPA on or before June 12, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300991 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary L. Waller, Product Manager 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–9354; and e-mail address: waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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 Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–300991. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of February 25, 2000 (65 FR 10078) (FRL–6494–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of an amendment to pesticide petition (PP 7F4890) for tolerances, by the TM-402 Fungicide Task Force (Tomen Agro, Inc, 100 First Street, Suite 1610, San Francisco, CA 94105 and Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120–0013). This notice included a summary of the petition prepared by the TM-402 Fungicide Task Force. The registrant is Tomen Agro, Inc. There were no comments received in response to the notice of filing.

The amended petition requested that 40 CFR 180.553 be amended by establishing tolerances for the fungicide, fenhexamid in or on almond, nutmeat at 0.02 ppm, almond, hull at 2.0 ppm, stone fruit, except plum (fresh prune) at 6.0 ppm, plum (fresh prune) at 0.5 ppm, and prune, dried at 1.0 ppm.

Section 408(b)(2)(A)(i) of the 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) 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) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory