Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.831 is added to subpart I to read as follows:

§ 172.831 Sucralose.

The food additive sucralose may be safely used as a sweetening agent in foods in accordance with current good manufacturing practice in an amount not to exceed that reasonably required to accomplish the intended technical effect in foods for which standards of identity established under section 401 of the Federal Food, Drug, and Cosmetic Act do not preclude such use under the following conditions:

(a) Sucralose is the chemical 1,6-dichloro-1,6-dideoxy-β-D-fructofuranosyl-4-chloro-4-deoxy-α-D-galactopyranoside (CAS Reg. No. 56038–13–2).

(b) The additive meets the specifications of the ''Food Chemical Codex,'' 4th ed. (1996), pp. 398–400, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the the Division of Product Policy (HFS–206), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC 20204–0001, or the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) The additive may be used as a sweetener in the following foods:

(1) Baked goods and baking mixes;
(2) Beverages and beverage bases;
(3) Chewing gum;
(4) Coffee and tea;
(5) Dairy product analogs;
(6) Fats and oils (salad dressing);
(7) Frozen dairy desserts;
(8) Fruit and water ices;
(9) Gelatins, puddings, and fillings;
(10) Jams and jellies;
(11) Milk products;
(12) Processed fruits and fruit juices;
(13) Sugar substitutes (for table use);
(14) Sweet sauces, toppings, and syrups;
(15) Confections and frostings.

(d) If the food containing the additive purports to be or is represented to be for special dietary use, it shall be labeled in compliance with part 105 of this chapter.

Dated: March 30, 1998.

Michael A. Friedman,

Lead Deputy Commissioner for the Food and Drug Administration.

[FR Doc. 98–8750 Filed 4–1–98; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE–12–1–5886; FRL–5990–2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is conditionally approving a State Implementation Plan (SIP) revision submitted by the State of Delaware for the New Source Review (NSR) program. This revision establishes and requires the review and permitting of new major sources and major modifications of major sources in nonattainment areas. The changes primarily pertain to the ozone precursors, volatile organic compounds (VOCs) and nitrogen oxides (NO_X). EPA is conditionally approving the NSR SIP revisions submitted by Delaware because the revisions strengthen the SIP, but Delaware failed to revise the NSR regulations to adopt all of the provisions relating to modifications in serious and severe ozone nonattainment areas, required by the 1990 Clean Air Act Amendments. In addition Delaware must make additional revisions to satisfy conditions related to emission offsets and public participation as required by federal regulations. Delaware has submitted a written commitment to satisfy the conditions of this final rule and to revise the SIP within one year of this rulemaking.

EFFECTIVE DATE: This final rule is effective on May 4, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 566–2068.

SUPPLEMENTARY INFORMATION:

I. Background

On January 12, 1998 (63 F.R. 1804), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed conditional approval of Delaware New Source Review requirements, Delaware Regulation 25, Sections 1 and 2.

The formal SIP Revision was submitted on January 11, 1993. The State has committed by letter dated February 10, 1998 to amend the SIP to correct the following deficiencies within one year of publication of this rulemaking by adding the following:

1. The special rule for modifications of sources in serious and severe ozone nonattainment areas, consistent with Sections 182(c)(7) and (8) of the Clean Air Act.

2. Public participation procedures consistent with 40 CFR 51.161. Regulation No. 25 does not specify the public participation procedures to be used in issuing nonattainment NSR permits.

3. A requirement that where the emissions limit under the SIP allows greater emissions than the potential to emit of the source, emission offset credit will be allowed only for control below this potential as found in 40 CFR 51.165(a)(3)(ii)(A).

4. Provisions for granting emission offset credit for fuel switching, consistent with 40 CFR 51.165(a)(3)(ii)(B).

5. Requirements consistent with 40 CFR 51.165(a)(3)(ii)(C)(1) for the crediting of emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels (shutdown credits). These requirements must include a provision that such reductions may be credited if they are permanent, quantifiable and federally-enforceable, and if the area has an EPA-approved attainment plan.

6. A requirement that the shutdown or curtailment is creditable only if it occurred after the date of the most recent emissions inventory or attainment demonstration consistent with 40 CFR 51.165(a)(3)(ii)(C)(1).

7. A requirement that all emission reductions claimed as offset credit shall be federally enforceable consistent with 40 CFR 51.165(a)(3)(ii)(E).

8. Requirements for the permissible location of offsetting emissions consistent with 40 CFR 51.165(a)(3)(ii)(F) and section 173(c)(1) of the CAA.

9. A requirement that credit for an emission reduction can be claimed to the extent that the State has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51 (i.e., the SIP), or the State has not relied on it in a demonstration of attainment or reasonable further progress.

A discussion of the deficiencies in the Delaware New Source regulations and other specific requirements of the New Source Review program as well as the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is conditionally approving the New Source Review program, Regulation 25, as a revision to the Delaware SIP. If the State does not submit revisions to the SIP address all the deficiencies which are conditions of this approval within one year of this rulemaking, the rulemaking will convert to a final disapproval. EPA would notify Delaware by letter that the conditions have not been met and that the conditional approval of the NSR SIP have converted to a disapproval. The approval is contingent on the State of Delaware revising its regulations to address the deficiencies noted above and explained in detail in the Technical Support Document, (TSD) that was prepared in support of the proposed conditional approval rulemaking for Delaware's NSR program. A copy of the TSD is available from the Regional Office listed in the **ADDRESSES** section of this document.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, 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).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. 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 costs to State, local, or tribal governments in the aggregate; or to 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 being promulgated does not include a Federal mandate that may result in estimated 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.

D. Submission to Congress and the General Accounting Office

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 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. 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 2, 1998. 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).)

The Regional Administrator's decision to conditionally approve this SIP revision regarding Delaware's NSR program is based on the requirements found in section 110(a)(2)(a)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, New Source Review, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 24, 1998.

Thomas Maslany,

Acting Regional Administrator, Region III.

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 *et seq.*

Subpart I—Delaware

2. Section 52.424 is amended by adding paragraph (c) to read as follows:

§ 52.424 Conditional approval.

* * * * *

(c) EPA is conditionally approving as a revision to the State Implementation Plan the New Source Review (NSR) program submitted by the Secretary of the Delaware Department of Natural Resources and Environmental Control on January 11, 1993. Delaware must provide a SIP revision which corrects the deficiencies in the NSR Regulation (Regulation No. 25) by April 5, 1999. Once Delaware satisfies the conditions of the NSR rulemaking, EPA will fully approve the NSR program. If a revised SIP meeting the conditions of the NSR rulemaking is not submitted by the date specified, the rulemaking will convert to a final disapproval. The approval is contingent on the State of Delaware revising its regulations to address the deficiencies noted in the Technical Support Document, (TSD) that was prepared in support of the proposed conditional approval rulemaking for Delaware's NSR program. Delaware must submit a SIP revision that includes the following:

(1) The special rule for modifications of sources in serious and severe ozone nonattainment areas, consistent with Sections 182(c)(7) and (8) of the Clean Air Act.

(2) Public participation procedures consistent with 40 CFR 51.161. Regulation No. 25 does not specify the public participation procedures to be used in issuing nonattainment NSR permits.

(3) A requirement that where the emissions limit under the SIP allows greater emissions than the potential to emit of the source, emission offset credit will be allowed only for control below this potential as found in 40 CFR 51.165(a)(3)(ii)(A).

(4) Provisions for granting emission offset credit for fuel switching, consistent with 40 CFR 51.165(a)(3)(ii)(B).

(5) Requirements consistent with 40 CFR 51.165(a)(3)(ii)(C)(1) for the crediting of emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels (shutdown credits). These requirements must include a provision that such reductions may be credited if they are permanent, quantifiable and federally-enforceable, and if the area has an EPA-approved attainment plan.

(6) A requirement that the shutdown or curtailment is creditable only if it occurred after the date of the most recent emissions inventory or attainment demonstration consistent with 40 CFR 51.165(a)(3)(ii)(C)(1).

(7) A requirement that all emission reductions claimed as offset credit shall be federally enforceable consistent with 40 CFR 51.165(a)(3)(ii)(E).

(8) Requirements for the permissible location of offsetting emissions consistent with 40 CFR 51.165(a)(3)(ii)(F) and section 173(c)(1) of the CAA.

(9) A requirement that credit for an emission reduction can be claimed to the extent that the State has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51 (i.e., the SIP), or the State has not relied on it in a demonstration of attainment or reasonable further progress.

[FR Doc. 98–8793 Filed 4–2–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN49–01–7274a; MN50–01–7275a; FRL–5990–6]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves two State Implementation Plan (SIP) revisions for the State of Minnesota which were submitted November 26, 1996. These SIP revisions modify Administrative Orders for Federal Hoffman Incorporated located in Anoka, Minnesota and J. L. Shiely Company located in St. Paul, Minnesota which are part of the Minnesota SIP to attain and maintain the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide and particulate matter, respectively.

In the proposed rules section of this **Federal Register**, Environmental Protection Agency (EPA) is proposing approval of, and soliciting comments on, these SIP revisions. If adverse comments are received on this action, EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This ''direct final'' rule will be effective on June 2, 1998, unless EPA receives adverse or critical comments by May 4, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Madeline Rucker at (312) 886–0661 before visiting the Region 5 Office.)

A Copy of these SIP revisions are available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Madeline Rucker, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886–0661.

SUPPLEMENTARY INFORMATION:

Federal Hoffman, Inc.

On May 29, 1992, the Minnesota Pollution Control Agency (MPCA) submitted a revision to the sulfur dioxide (SO_2) SIP for Minneapolis-St. Paul, which included a demonstration of attainment and maintenance of the NAAQS for SO_2. Included in this attainment demonstration was an Administrative Order for Federal Hoffman, Inc. The State submitted a supplemental SIP revision on July 12, 1993. A revised Administrative Order for Federal Hoffman, Inc., was included in this submittal, and on April 14, 1994, at 59 FR 17703, EPA took final action