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

to approve the SO_2 SIP revisions for the Minneapolis-St. Paul area.

The revision to the Administrative Order submitted on November 26, 1996, consists of a new equation to calculate the amount of residual fuel oil Federal Hoffman, Inc., can use on a daily basis. The old Order limited the sulfur content of the residual fuel oil to two percent by weight and residual fuel usage to less than 2500 gallons per day. The revised Order retains the sulfur content limit of the residual fuel oil at two percent by weight and includes the following equation for the amount of residual fuel oil which can be used by the Company on a daily basis:

5000 gallons of fuel oil ÷ % of sulfur in the fuel oil = amount of fuel allowed in gallons on a daily basis

This new fuel consumption calculation allows Federal Hoffman, Inc., the flexibility to use lower sulfur fuel in larger quantities without increasing sulfur emissions. The revised Administrative Order contains changes as to how daily residual fuel oil consumption is calculated. These changes will not result in an increase of SO_2 emissions in the area and do not jeopardize the attainment demonstration submitted by the State on May 29, 1992, and approved by EPA on April 14, 1994.

J. L. Shiely Company

Upon enactment of the Clean Air Act (Act) Amendments of 1990, certain areas were designated nonattainment for particulate matter (PM) and classified as moderate under sections 107(d) (4) (B) and 188 (a) of the amended Act. See 56 FR 56694 (November 6, 1991) and 57 FR 13498, 13537 (April 16, 1992). A portion of the St. Paul area was designated nonattainment, thus requiring the State to submit SIP revisions which satisfy the attainment demonstration requirements of the Act. The State submitted SIP revisions to meet these requirements in 1991 and 1992. The enforceable elements of the State's submittal were Administrative Orders for facilities in the St. Paul area (J. L. Shiely Company is one of these facilities). On February 15, 1994 at 59 FR 7218, EPA took final action to approve Minnesota's submittals as satisfying the requirements for the St. Paul PM nonattainment area. MPCA issued J. L. Shiely amended Findings and Orders which were subsequently submitted to, and approved by EPA as part of Minnesota's SIP on February 15, 1994 (59 FR 7218), December 8, 1994 40 CFR 52.1220 (c)(37) and June 13, 1995 (60 FR 31088).

On November 26, 1996, Minnesota submitted additional minor amendments (Amendment Three) to the original Order by replacing emission points No. 1 and No. 10 (barge unloading) and No. 2 and No. 11 (surge bin) with emission points Nos. 20–22 (hopper, directional conveyor, and diesel backhoe). Amendment Three was adopted and effective at the State on November 26, 1996. The new emission points (Nos. 20–22) are not expected to cause any further environmental degradation because they have more restrictive opacity limits than the emission points they replaced. The hopper, directional conveyor, and diesel backhoe unloading system are not to exceed any opacity limit of 20 percent; whereas, the previous barge unloading and surge bin system was permitted to have a maximum of 40 percent opacity for four minutes in any 60 minute period, while not exceeding a 20 percent opacity limit for the remainder of the time. The new emission points are also required to adhere to the same opacity compliance determination methods, minimum frequencies, and testing procedures as the other emission points. The new emission points at J. L. Shiely are not expected to cause any further environmental degradation; therefore, Amendment Three to original Order as requested by the State of Minnesota is deemed approvable.

Action

EPA is approving the Administrative Order Amendments for Federal Hoffman, Inc., and J. L. Shiely, Company. These Orders are included as part of Minnesota's SIP to attain and maintain the NAAQS for PM, and S02. EPA has evaluated these SIP revisions and adopted the provisions set forth at 40 CFR part 51, Appendix V. Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on June 2, 1998. However, if we receive adverse comments by May 4, 1998, EPA will publish a notice that withdraws this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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.

SIP approvals under section 110 and subchapter I, part D of the 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 impose any new requirements, the Administrator certifies 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The 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).

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 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 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 preexisting 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.

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 rules of particular applicability.

Under section 307(b)(1) of the 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)).

List of Subjects in 40 CFR Part 52

Environmental Protection, Air Pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 17, 1998.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 98–8790 Filed 4–2–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300633; FRL–5781–7]

RIN 2070–AB78

Propiconazole; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide propiconazole and its metabolites in or on almond nutmeats at 0.1 part per million (ppm), and in or on almond hulls at 2.5 ppm, for an additional 1–year period, to July 31, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on almonds. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective April 3, 1998. Objections and requests for hearings must be received by EPA, on or before June 2, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300633], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300633], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300633]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 280, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–9358; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of April 11, 1997; 62 FR 17710) (FRL–5600–5) , which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of propiconazole and its metabolites in or on almond nutmeats at 0.1 ppm, and in or on almond hulls at 2.5 ppm, with an expiration date of July 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of propiconazole on almonds for this year's growing season due to the lack of available effective alternative fungicides, and wetter-than-normal conditions. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of propiconazole on almonds for control of anthracnose in almonds.

EPA assessed the potential risks presented by residues of propiconazole in or on almonds. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of April 11, 1998. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1–year period. Although this tolerance will expire and is revoked on July 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on almond nutmeats and almond hulls after that date will not