added into the loan on the Loan to Value Ratio (LTV) does address the question of risk. However, in order to determine LTV an appraisal must be performed. One of the cornerstones of the IRRRL program is that an appraisal is not needed. If appraisals were required on IRRRLs the cost to veterans would increase, on average, by more than $300 per transaction (added into the loan) and the time needed to close the loan would be increased by up to three weeks. In light of the fact that we believe IRRRLs were intended to ''streamline'' refinances, we do not believe that the requirement of an appraisal is desirable or appropriate.

When the legislation which authorized the IRRRL program was considered by the Congress in 1980, interest rates had recently been as high as 14 percent. Prior to April 1979, interest rates on VA home loans had never reached 10 percent. The purpose of the IRRRL was, and is, to allow veterans to make better use of their home loan benefit by taking advantage of reduced market interest rates. The program was not designed to allow veterans to artificially buy down the interest rate by including increased points in the loan. Instead it was to assist veterans who obtained VA loans during periods of high interest rates to lower those rates, and consequently their monthly mortgage payments, when market rates returned to more reasonable levels. It has also been suggested that VA allow lenders who set points in a ''responsible and competitive manner'' to continue financing more than two points and stop doing business with lenders found to be charging excessive discount points. We do not believe it is feasible to attempt to administer such an imprecise standard, both for individual loans and for determining which lenders would be permitted to continue participating in the VA program.

Obviously, the fullest flexibility would allow for veterans to include any amount of points in the loan. However, the provisions of 38 U.S.C. 3710(e)(1)(C)(i) which allow VA to limit the points included in a loan indicate that other factors may be more important. We believe that a limit of two points in the loan amount provides the appropriate balance needed to provide flexibility with respect to amounts of points, to protect veterans against overcharging with excessive points, and to protect the Government against overinflated loans.

We understand and have considered the concerns of the commenters. However, we are not persuaded that any of the alternate approaches would be a satisfactory solution to the problem. None of the proposed alternatives offers a simpler alternative which affords the same degree of protection to veterans and the Government. The suggested alternative approaches would introduce new complications in the form of adjustable point ceilings, LTV ceilings, and new prohibitions on the size of the monthly payment. We prefer to retain the streamlined approach for these loans that made them so popular in the first place.

We would also like to clarify a point of possible confusion. A number of lenders contacted VA by telephone in response to this action to inquire whether the two-point limit included the origination fee as one of the two allowable points. The answer is no. Under 38 CFR 36.4312, a lender making a VA guaranteed loan is authorized to collect an ''origination fee'' of up to one percent of the loan amount as compensation for the miscellaneous cost of originating a loan. This fee is separate and apart from the charging of discount points, and can be included in the loan amount on an IRRRL as an allowable charge.

VA appreciates the interest of the commenters and thanks them for their thoughtful remarks.

Because no notice of proposed rulemaking was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

Based on the rationale set forth in the interim rule document amending 38 CFR part 36 which was published at 61 FR 7414 on February 28, 1996, we are adopting the provisions of the interim rule as a final rule without change.

Approved: October 9, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–1656 Filed 1–23–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–5677–5]

Alabama; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on the State of Alabama's application for final approval.

SUMMARY: The State of Alabama has applied for approval of its underground storage tank program for petroleum and hazardous substances under subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Alabama's application and has reached a final determination that Alabama's underground storage tank program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for approval. Thus, EPA is granting final approval to the State of Alabama to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATE: Final approval for the State of Alabama shall be effective at 1:00 pm Eastern Standard Time on March 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street S.W., Atlanta, Georgia 30303, phone number: (404) 562–9441.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to approve State underground storage tank programs to operate in the State in lieu of the federal underground storage tank (UST) program. To qualify for final authorization, a state's program must: (1) be ''no less stringent'' than the federal program for the seven elements set forth at RCRA Section 9004(a) (1) through (7); and (2) provide for adequate enforcement of compliance with UST standards of RCRA Section 9004(a).

On July 26, 1994, the State of Alabama submitted an official application to obtain final program approval to administer the underground storage tank program for petroleum and hazardous substances. On October 4, 1996, EPA published a tentative decision announcing its intent to grant Alabama final approval. Further background on the tentative decision to grant approval appears at 61 FR 51875, October 4, 1996.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel the public hearing for lack of public interest. Since there was no public request, the public hearing was

cancelled. No public comments were received regarding EPA's approval of Alabama's underground storage tank program.

The following statutory and regulatory provisions are broader in scope than the federal program and are not part of the approved program: (1) Code of Alabama, 1975, Title 22, Chapter 36, Section 5, insofar as it refers to tank regulation fees; and, Section 7, insofar as it refers to rules and regulations to establish and protect wellhead areas from contaminants; and (2) Alabama Department of Environmental Management Administrative Code Section 335–6–15-.05, only insofar as it requires notification of all underground storage tank systems including those taken out of operation on or before January 1, 1974; Section 335–16–15-.45, insofar as it requires underground storage tank regulation fees; and Section 335–6–15-.47, insofar as it refers to financial responsibility for hazardous substance underground storage tank systems.

The State of Alabama is not approved to operate the underground storage tank program on Indian lands within the state's borders.

B. Decision

I conclude that the State of Alabama's application for final program approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Alabama is granted final approval to operate its underground storage tank program for petroleum and hazardous substances. The State of Alabama now has the responsibility for managing all regulated underground storage tank facilities within its border and carrying out all aspects of the underground storage tank program except with regard to Indian lands where EPA will have regulatory authority. Alabama also has primacy enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget have exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with federal mandates, as defined by the UMRA, that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any state, local or tribal governments or the private sector because the requirements of the State of Alabama's program are already imposed by the State and subject to state law. Second, the Act also generally excludes from the definition of a ''federal mandate'' duties that arise from participation in a voluntary federal program. Alabama's participation in an authorized UST program is voluntary.

Even if today's rule did contain a federal mandate, this rule will not result in annual expenditures of $100 million or more for state, local, and/or tribal governments in the aggregate, or the private sector. Costs to state, local and/or tribal governments already exist under the State of Alabama's program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, they are already subject to the regulatory requirements under existing State law which are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the regulatory requirements under existing State law which are being authorized by EPA. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than result in a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively approves regulatory requirements under existing state law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority

This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6974(b), 6991c.

Dated: January 8, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–1762 Filed 1–23–97; 8:45 am]

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