

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 Clean Air Act (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, the EPA 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

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 has exempted this regulatory action from E.O. 12866 review.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP revision, the state and any affected local governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being proposed for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this action. The EPA has also determined that this proposed

action does not include a mandate that may result in estimated costs of \$100 million or more to state or local governments in the aggregate or to the private sector. The EPA has determined that these rules result in no additional costs to tribal governments.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: July 17, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96-19843 Filed 8-2-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MI45-01-7240b; FRL-5545-3]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA proposes to approve the State's request to redesignate the Wayne County, Michigan, particulate matter nonattainment area to attainment. The State Implementation Plan (SIP) submittal is complete and satisfies the redesignation requirements specified in the Clean Air Act. In the final rules section of this Federal Register, EPA is approving the SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received by September 4, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air

Programs Branch (AR-18J), USEPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR-18J), USEPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this Federal Register. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353-8328 before visiting the Region 5 Office.)

Authority: 42 U.S.C. 7401-7671q.

Dated: July 16, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96-19786 Filed 8-2-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 281

[FRL-5546-8]

Delaware; Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on Delaware's application for approval of underground storage tank program, public hearing and public comment period.

SUMMARY: The State of Delaware has applied for approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Delaware's application and has made the tentative decision that the State of Delaware's underground storage tank program satisfies all of the requirements necessary to qualify for approval. The State of Delaware's application for approval is available for public review and comment. A public hearing will be held to solicit comments on the application unless insufficient public interest is expressed.

DATES: Unless insufficient public interest is expressed in holding a hearing, a public hearing will be held on September 17, 1996. However, EPA reserves the right to cancel the public hearing if sufficient public interest in a hearing is not communicated to EPA in writing by September 9, 1996. EPA will determine by September 13, 1996, whether there is significant interest to

hold the public hearing. The State of Delaware will participate in any public hearing held by EPA on this subject. All written comments on the State of Delaware's application for program approval must be received by 4:30 p.m. on September 9, 1996.

ADDRESSES: Copies of the State of Delaware's application for program approval are available between 8:30 a.m. to 4:30 p.m. at the following addresses for inspection and copying:

Delaware Department of Natural Resources and Environmental Control, Division of Air and Waste Management, 89 King Highway, Dover, Delaware 19903; Contact: Dave Small (302) 739-4506

Delaware Department of Natural Resources and Environmental Control, Underground Storage Tank Branch, 715 Grantham Avenue, New Castle, Delaware 19720; Contact: Kathleen Calloway (302) 323-4588

Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, 317 North Dupont Highway, Georgetown, Delaware 19947; Contact: Lisa Wood (302) 856-4561

United States Environmental Protection Agency, Docket Clerk, Office of Underground Storage Tanks, 1235 Jefferson Davis Highway, Arlington, VA 22202, (703) 603-9231

United States Environmental Protection Agency, Region III Library, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Contact: Diane McCreary, (215) 566-5353

Written comments should be sent to: Joanne T. Cassidy, Program Manager, State Programs Branch, (3HW60), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566-3381.

Anyone who wishes to learn whether or not the public hearing on the State's application has been cancelled should telephone after September 13, 1996, the EPA Program Manager listed above or telephone Kathleen Calloway, Chief, UST Branch, Department of Natural Resources and Environmental Control, 715 Grantham Avenue, New Castle, Delaware 19720, (302) 323-4588.

Unless insufficient public interest is expressed, EPA will hold a public hearing on the State's application for program approval on September 17, 1996, at 7:00 p.m. at the Ommelanden Hunter Safety Training Range Complex, 1205 River Road, New Castle, Delaware 19720.

FOR FURTHER INFORMATION CONTACT: Joanne T. Cassidy, State Programs Branch (3HW60), U.S. EPA Region III,

841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566-3381.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes EPA to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. EPA may approve a State program if the Agency finds pursuant to section 9004(b), 42 U.S.C. 6991c(b), that the State program: is "no less stringent" than the Federal program in all seven elements set forth at section 9004(a)(1) through (7), 42 U.S.C. 6991c(a)(1) through (7), includes the notification requirements of section 9004(a)(8), 42 U.S.C. 6991c(a)(8) and provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)).

B. State of Delaware

The Delaware Department of Natural Resources and Environmental Control (DNREC), is the implementing agency for UST activities in the State. The Underground Storage Tank Branch of DNREC is dedicating a substantial effort to remediate, prevent and control UST-related groundwater contamination. The Underground Storage Tank Branch maintains a strong field presence and works closely with the regulated community to ensure compliance with the regulatory requirements.

The scope of the Delaware UST Program extends beyond the scope of the Federal UST Program as follows:

(1) In addition to the approximately 7,427 USTs covered by both the Federal and Delaware programs, Delaware also regulates an estimated additional 1,360 USTs containing heating fuel. Heating fuel tanks greater than 1100 gallons were required to be registered with the State within 180 days of July 20, 1988.

(2) Delaware requires payment of an annual tank registration fee. Delaware also requires the display of a registration certification at all covered UST facilities at all times.

(3) Delaware's regulations forbid fuel distributors from depositing regulated substances into unregistered UST systems.

(4) Delaware requires that UST contractors be certified to install, retrofit, remove, or reline UST systems used to store regulated substances.

(5) Delaware requires submission and approval of a site plan before any new tank installation can take place. A site survey is required prior to installation, and every stage of the installation must

be documented with photographs. Delaware prohibits the installation of asphalt-coated tanks. If a new UST system is installed near an old tank field, the number of release detection options may be limited by the Department.

(6) Delaware requires a 10-day notice in advance of all UST retrofits/upgrades.

(7) The Delaware Underground Storage Tank Response Fund may be used by the Department for the investigation and remediation of petroleum underground storage tank releases. Delaware may recover expenditures from the Fund for corrective action.

(8) Delaware allows for limited reimbursement of expenses associated with the rehabilitation of certain contaminated sites.

(9) The Small Retail Gasoline Station Assistance Loan Fund offers low-interest loans to small retail gasoline station owners and operators to assist in financing upgrades to their UST systems.

Delaware's requirements which exceed the stringency of the Federal regulations include the following:

(1) Delaware allows for civil penalties up to \$25,000 for each day of violation.

(2) Delaware prohibits installation of an UST system unprotected from corrosion at any site.

(3) Delaware requires tanks installed after July 12, 1985, to meet the new tank performance standards.

(4) Delaware requires notification of the National Response Center in the event of a release of petroleum that causes a visible sheen on surface waters.

(5) Inventory control must be performed in combination with another approved leak detection method for UST systems, with the exception of heating oil tanks. A weekly water check must be performed with the result made part of the inventory record. The monthly throughput reconciliation standard is the same as the Federal standard; however, daily losses of five percent or more of the daily product dispensed must be investigated.

(6) If tank testing is selected as a method of leak detection, the tank must be tested yearly regardless of the age of the tank.

(7) With the exception of used oil tanks less than 2,000 gallons, Delaware does not allow manual tank gauging as an alternate leak detection method.

(8) Delaware requires secondary containment tank systems or continuous electronic leak detection in areas where the protection of specific water resources has been deemed necessary.

(9) Existing USTs were required to be retrofitted with a spill containment

device, an overfill protection method, fill line protection and to have leak detection performed depending on tank age over a four-year period ending December 31, 1990.

(10) Fill line protection is required on all USTs. Delaware requires all fill lines to be clearly identified by type of product stored and the size of the tank.

(11) Delaware requires the Corrective Action Work Plan to be signed by a professional geologist and/or engineer registered in the State.

(12) Delaware requires either site closure or active corrective action after two years of passive corrective action.

(13) Delaware requires existing hazardous substance USTs to meet secondary containment standards by January 1, 1998.

The Delaware Department of Natural Resources and Environmental Control submitted an official application for approval on November 20, 1995. Prior to its submission, the State of Delaware provided an opportunity for public notice and comment in the development of its underground storage tank program, as required by 40 CFR 281.50(b). EPA has reviewed Delaware's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final approval. However, EPA intends to review all timely public comments prior to making a final decision on whether to grant approval to the State of Delaware to operate its program in lieu of the Federal program.

In accordance with Section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR 281.50(e), the Agency will hold a public hearing on its tentative decision on September 17, 1996, at 7:00 p.m. at the Ommelanden Hunter Range Complex, 1205 River Road, New Castle, Delaware 19720, unless insufficient public interest is expressed. The public may also submit written comments on EPA's tentative determination until September 9, 1996. Copies of Delaware's application are available for inspection and copying at the locations indicated in the **ADDRESS** section of this notice.

EPA will consider all public comments on its tentative determination received at the public hearing, if a hearing is held, and during the public comment period. Issues raised by those comments may be the basis for a decision to deny approval to the State of Delaware. EPA will give notice of its final decision in the Federal Register; the notice will include a summary of the reasons for the final determination and a response to all significant comments.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this action 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), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" 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. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "federal intergovernmental mandate" affects an annual federal entitlement program of \$500 million or more that are not applicable here. Delaware's request for approval of an

underground storage tank program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its underground storage tank program approved, the State will gain the authority to implement a federally authorized program within its jurisdiction, in lieu of EPA thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of an underground storage tank program under RCRA Subtitle I, RCRA underground storage tank regulation is left to EPA.

In any event, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Delaware's underground storage tank program referenced in today's notice will result in annual costs of \$100 million or more. EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement for those regulations for which they have been authorized. Hence, owners and operators of underground storage tanks generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate underground storage tanks or that will become subject to the requirements of an approved State underground storage tank program. However, such small governments which own and/or operate underground storage tanks are already subject to the requirements in 40 CFR part 280 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own underground storage tank program and any revisions to that program, these same small governments will be able to own and operate their underground storage tanks under the approved State program, in lieu of the Federal program. 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. EPA recognizes that small entities may own and/or operate USTs that will become subject to the requirements of an approved state UST program. However, since such small entities which own and/or operate USTs are already subject to the requirements in 40 CFR Part 280, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether EPA or the state administers the UST program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own UST program and any revisions to that program, these same small entities will be able to own and operate their USTs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of USTs in that particular state.

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 the Delaware program to operate in lieu of the federal program, thereby eliminating duplicative requirements for owners and operators of USTs in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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 Resource Conservation and Recovery Act as amended 42 U.S.C. 6991c.

Dated: July 26, 1996.

W. Michael McCabe,
Regional Administrator.

[FR Doc. 96-19845 Filed 8-2-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-7188]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street S.W., Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to

meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: