

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R03-OAR-2010-0574; FRL-9223-1]

#### Approval of One-Year Extension for Attaining the 1997 8-Hour Ozone Standard for the Delaware, Maryland, and Pennsylvania Portions of the Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to extend the attainment date from June 15, 2010 to June 15, 2011 for the Delaware, Maryland, and Pennsylvania portions of the Philadelphia-Wilmington-Atlantic City nonattainment area (Philadelphia Area), which is classified as moderate for the 1997 8-hour ozone national ambient air quality standard (NAAQS). This extension is based in part on air quality data recorded during the 2009 ozone season. Specifically, the Philadelphia Area's 4th highest daily 8-hour monitored ozone value during the 2009 ozone season is 0.084 parts per million (ppm) or less. Accordingly, EPA is revising the tables concerning the 8-hour ozone attainment dates for the Philadelphia Area in the States of Delaware and Maryland, and the Commonwealth of Pennsylvania. EPA is proposing to approve the extension of the attainment date for the Delaware, Maryland, and Pennsylvania portions of the Philadelphia Area in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve the extension of the attainment date for the New Jersey portion of the Philadelphia Area in a separate rulemaking in this **Federal Register**.

**DATES:** Written comments must be received on or before December 9, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0574 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

C. Mail: EPA-R03-OAR-2010-0574, Brian K. Rehn, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the

Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R03-OAR2010-0574. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the States' submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903; the Maryland Department of the Environment, 1800

Washington Boulevard, Suite 705, Baltimore, Maryland 21230; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Maria Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Requests for Attainment Date Extension for the Philadelphia Area

The Commonwealth of Pennsylvania and the States of Maryland and Delaware (the States) requested a one-year attainment date extension for the Philadelphia Area on January 8, 2010, March 12, 2010, and May 18, 2010, respectively. The Philadelphia Area, which is classified as moderate for the 1997 8-hour ozone NAAQS, consists of: Cecil County in Maryland; Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in Pennsylvania; the entire State of Delaware; and Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem Counties in New Jersey. Since this area was classified as a moderate ozone nonattainment area, the statutory ozone attainment date, as prescribed by section 181(a) of the CAA, is June 15, 2010. The States' requested that the attainment date be extended to June 15, 2011. As stated above, EPA is approving the extension of the attainment date for the New Jersey portion of the Philadelphia Area in a separate rulemaking notice in today's **Federal Register**.

##### II. CAA Requirements and EPA Actions Regarding One-Year Extensions

Section 172(a)(2)(C) of subpart 1 of the CAA provides for EPA to extend the attainment date for an area by one year if the State has complied with all the requirements and commitments pertaining to the area in the applicable implementation plan and no more than a minimal number of exceedances of the NAAQS has occurred in the attainment year. Up to two one-year extensions may be issued for a single nonattainment area. Section 181(a)(5) of subpart 2 contains a similar provision for the ozone NAAQS, but instead of providing for an extension where there has been a "minimal" number of exceedances, it allows an extension only if there is no more than one exceedance of the NAAQS in the year preceding the extension year. However, the language in section 181(a)(5) reflects the form of the 1-hour ozone NAAQS and not the 1997 8-hour ozone NAAQS. 40 CFR

51.907 sets forth how sections 172(a)(2)(C) and 181(a)(5) apply to an area subject to the 1997 8-hour ozone NAAQS. Under 40 CFR 51.907, an area will meet the requirement of section 172(a)(2)(C)(ii) or 181(a)(5)(B) of the CAA pertaining to one-year extensions of the attainment date if:

(a) For the first 1-year extension, the area's 4th highest daily 8-hour average in the attainment year is 0.084 ppm or less;

(b) For the second 1-year extension, the area's 4th highest daily 8-hour value, averaged over both the original attainment year and the first extension year, is 0.084 ppm or less; and

(c) For purposes of paragraphs (a) and (b) of this section, the area's 4th highest daily 8-hour average shall be from the monitor with the highest 4th highest daily 8-hour average of all the monitors that represent that area.

EPA's review of the actual ozone air quality data in the Air Quality System

shows that the 4th highest daily average 8-hour ozone concentrations for the 2009 attainment year ozone season, for all monitors in the Philadelphia Area are measured at 0.084 ppm or less (Table 1), as required by 40 CFR 51.907(a). The monitoring data has been quality controlled and quality assured. In the Technical Support Document (TSD) for this action, EPA evaluates the air quality monitoring data for the Philadelphia Area. For details, please refer to EPA's TSD.

TABLE 1—MONITORING DATA FOR 8-HOUR OZONE IN THE PHILADELPHIA AREA

Site ID	County/state	Year	4th Max 8-hr (ppm)
10-001-0002	Kent/Delaware	2009	.066
10-003-1007	New Castle/Delaware	2009	.068
10-003-1010	New Castle/Delaware	2009	.068
10-003-1013	New Castle/Delaware	2009	.069
10-005-1002	Sussex/Delaware	2009	.067
10-005-1003	Sussex/Delaware	2009	.069
24-015-0003	Cecil/Maryland	2009	.072
42-017-0012	Bucks/Pennsylvania	2009	.074
42-029-0100	Chester/Pennsylvania	2009	.067
42-045-0002	Delaware/Pennsylvania	2009	.065
42-091-0013	Montgomery/Pennsylvania	2009	.070
42-101-0004	Philadelphia/Pennsylvania	2009	.059
42-101-0024	Philadelphia/Pennsylvania	2009	.072
34-001-0006	Atlantic/New Jersey	2009	.071
34-007-1001	Camden/New Jersey	2009	.071
34-011-0007	Cumberland/New Jersey	2009	.072
34-015-0002	Gloucester/New Jersey	2009	.071
34-021-0005	Mercer/New Jersey	2009	.071
34-029-0006	Ocean/New Jersey	2009	.071

EPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) The States have complied with all requirements and commitments pertaining to the area in the applicable ozone implementation plan. The applicable ozone implementation plans can be found at 40 CFR 52.420, 40 CFR 52.1070, 40 CFR 52.2020, for the States of Delaware, Maryland, and Pennsylvania, respectively; and

(2) The Philadelphia Area's 4th highest daily 8-hour monitored value during the 2009 ozone season is 0.084 ppm or less.

Therefore, EPA approves the States' attainment date extension requests for the Delaware, Maryland, and Pennsylvania portions of the Philadelphia Area. As a result, the charts in 40 CFR 81.308, 40 CFR 81.321, and 40 CFR 81.339 are being modified to reflect EPA's approval of the States' attainment date extension request. Those charts are entitled "Delaware-Ozone (8-Hour Standard)", "Maryland-Ozone (8-Hour Standard)", and

"Pennsylvania-Ozone (8-Hour Standard)", respectively.

### III. Proposed Action

EPA is proposing to approve the attainment date extension from June 15, 2010 to June 15, 2011 for the Delaware, Maryland, and Pennsylvania portions of the Philadelphia Area, which is classified as moderate for the 1997 8-hour ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements

beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed extension of the attainment deadline for the 1997 8-hour ozone NAAQS for the Delaware, Maryland, and Pennsylvania portions of the Philadelphia Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: October 28, 2010.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2010-28256 Filed 11-8-10; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-B-1153]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities

listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before February 7, 2011.

**ADDRESSES:** The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA-B-1153, to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3461, or (e-mail) [roy.e.wright@dhs.gov](mailto:roy.e.wright@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3461, or (e-mail) [roy.e.wright@dhs.gov](mailto:roy.e.wright@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs 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 BFEs and modified BFEs, 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 also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Executive Order 12866, Regulatory Planning and Review.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

*Executive Order 13132, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This proposed rule meets the applicable standards of Executive Order 12988.

#### 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: