(a) Water Resources Development Act, 1986, Public Law 99–662, 100 Stat. 4082, 33 U.S.C. 2201 et seq.

(b) Water Resources Development Act 1992, Public Law 102–580, 106 Stat. 4797, 33 U.S.C. 2201 et seq.

(c) U.S. Water Resources Council, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, March 10, 1983.

(d) Office of Personnel Management, FPM Bulletin 591–30.

(e) Office of Personnel Management, FPM 591–32.

(f) U.S. Army Corps of Engineers, Engineer Regulation 1165–2–29.

(g) U.S. Army Corps of Engineers, Engineer Regulation 1165–2–121.

(h) U.S. Army Corps of Engineers, Engineer Regulation 1165–2–131.

(i) U.S. Army Corps of Engineers, Engineer Regulation 405–1–12.

3. Section 241.5 is amended by adding paragraph (d):

§ 241.5 Procedures for estimating the Alternative Cost Share.

* * * * *

(d) Additional consideration for high cost projects. For any project where the normal non-Federal share exceeds 35 percent, and the per capita non-Federal cost (i.e., normal non-Federal share of total construction costs divided by the population in the sponsor's geographic jurisdiction) exceeds $300, the non-Federal share under the ability to pay provision will be either LERRD's (i.e., no cash requirement) or 35 percent, whichever is greater. If LERRD's exceed 50 percent, the non-Federal share remains at 50 percent. Projects which qualify under the benefits and income tests will receive the reduction under the high cost criteria only if the high cost criteria results in a greater reduction in the non-Federal cost share.

§ 241.6 [Amended]

4. In § 241.6(a), the abbreviation ''LCA'' is revised to read ''PCA''.

5. In § 241.7, the terms ''Local Cooperation Agreement'' and ''LCA'' are revised to read ''Project Cooperation Agreement and ''PCA'' respectively. In addition, this section is amended by revising paragraph (c)(2), and the first sentence of paragraph (e)(2) as follows:

§ 241.7 Application of test.

* * * * *

(c) * * *

(2) An exhibit attached to the Project Cooperation Agreement (PCA) will include the Benefits Based Floor (BBF) determined in § 241.5(a): the Eligibility Factor (EF) determined in § 241.5(b): If the Eligibility Factor is greater than zero but less than one, the estimated standard non-Federal share; the formula used in determining the ability to pay share as described in § 241.5(c)(1) through (c)(4); and a display of the non-Federal cost share under the high cost criteria described in § 241.5(d).

* * * * *

(e) * * *

(2) The non-Federal sponsor will be required to provide a cash payment equal to the minimum of five percent of estimated project costs, regardless of the outcome of the ability to pay test, unless any or all of the five percent cash requirement is waived by application of the high cost criteria described in § 241.5(d). * * *

* * * * *

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–1733 Filed 1–25–95; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC 11–1–6741; FRL–5137–2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia. This revision establishes and requires the implementation of an oxygenated gasoline program in the District of Columbia. The intended effect of this action is to approve, in a limited fashion, those subsections of the District of Columbia Municipal Regulations (DCMR) which pertain to oxygenated gasoline. It is also the effect of this action to disapprove, in a limited fashion, those subsections of the DCMR which pertain to oxygenated gasoline. This action is being taken under section 110 of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule will become effective on February 27, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics 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 District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Ave, SE., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly L. Bunker, (215) 597–4554.

SUPPLEMENTARY INFORMATION: On July 5, 1994 (59 FR 34401), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia. The NPR proposed limited approval/limited disapproval of the District of Columbia's oxygenated gasoline regulation. The formal SIP revision was submitted by the District of Columbia's Department of Consumer and Regulatory Affairs on October 27, 1993.

The District of Columbia had submitted an oxygenated gasoline SIP on January 7, 1993. However, on July 6, 1993 EPA deemed the SIP incomplete due to the fact that the regulations were emergency and had an expiration of April 6, 1993 and because the SIP was submitted to EPA by an unauthorized authority. This incompleteness determination started the 18 month sanctions clock and the 24 month Federal implementation plan (FIP) clock. The October 27, 1993 oxygenated gasoline SIP submittal, which is the subject of this rulemaking action, stopped the 18 month sanctions clock but did not stop the 24 month FIP clock.

Other specific requirements of the District of Columbia's oxygenated gasoline regulation and 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.

Final Action

EPA is approving those subsections of 20 DCMR which pertain to oxygenated gasoline as a revision to the District of Columbia SIP. Those subsections of 20 DCMR include chapter 1, section 199 definitions for the terms blending plant, distributor, non-oxygenated gasoline, oxygenate, oxygenated gasoline, oxygenated gasoline control period, oxygenated gasoline control area, refiner, refinery, retailer, retail outlet, terminal, wholesale purchaser-consumer; chapter 5, section 500, subsections 500.4 and 500.5; shapter 5, section 502, subsection 502.18; chapter 9, section 904, subsections 904.1 and 904.2. EPA is also disapproving those subsections of 20 DCMR which pertain to oxygenated gasoline for the limited purpose of allowing the District of Columbia the opportunity to correct the deficiencies previously identified by EPA in the NPR. The deficiencies

identified in the NPR are the lack of: (1) A definition for the term ''carriers''; (2) a sampling procedure; and (3) procedures for the calculation of oxygen content in the gasoline sampled; the absence of which compromise the enforceability of the regulation and are deficiencies under section 110(a)(2) of the Clean Air Act. This final limited disapproval begins a new 18 month sanctions clock. The 24 month FIP clock continues to run.

Because of the previously identified deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval, due to the fact that the rule does not meet the section 110(a)(2) requirement because of the noted enforcement deficiencies. Thus, EPA is approving the oxygenated gasoline regulations found in 20 DCMR chapter 1, section 199 definitions for the terms blending plant, distributor, non-oxygenated gasoline, oxygenate, oxygenated gasoline, oxygenated gasoline control period, oxygenated gasoline control area, refiner, refinery, retailer, retail outlet, terminal, wholesale purchaser-consumer; chapter 5, section 500, subsections 500.4 and 500.5; chapter 5, section 502, subsection 502.18; chapter 9, section 904, subsections 904.1 and 904.2, which were submitted by the District of Columbia under sections 110(k)(3) and 301(a) of the CAA, for the limited purpose of strengthening the District of Columbia SIP.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 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).

At the same time, EPA is also disapproving the District of Columbia oxygenated gasoline rule because it contains deficiencies that have not been corrected as required by section 110(a)(2) of the CAA, and, as such, the rule does not fully meet the requirements of part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. The 18 month sanctions clock for the District of Columbia oxygenated gasoline regulation begins on January 26, 1995. Moreover, the 24 month clock for the FIP requirement under section 110(c) continues to run.

EPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. 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 and impose any new Federal requirements.

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.

This action makes final the action proposed at 59 FR 34401. As noted elsewhere in this document, EPA received no public comment on the proposed action. As a direct result, the Regional Administrator has reclassified this action from a Table 2 to a Table 3 under the processing procedures established at 54 FR 2214, January 19, 1989, as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the District of Columbia's oxygenated gasoline regulation, must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 1995. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 29, 1994.

Peter H. Kostmayer,

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. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.470 is amended by adding paragraphs (c)(28) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(28) Revisions to 20 District of Columbia Municipal Regulations (DCMR) pertaining to oxygenated gasoline submitted on October 22, 1993 by the District of Columbia's Department of Consumer and Regulatory Affairs.

(i) Incorporation by reference.

(A) Letter of October 22, 1993 from the District of Columbia's Department of Consumer and Regulatory Affairs transmitting the oxygenated gasoline regulations.

(B) District of Columbia Register dated July 30, 1993 containing 20 DCMR chapter 1, Section 199 definitions for the terms blending plant, distributor, non-oxygenated gasoline, oxygenate, oxygenated gasoline, oxygenated gasoline control period, oxygenated gasoline control area, refiner, refinery, retailer, retail outlet, terminal, wholesale purchaser-consumer; Chapter 5, Section 500, subsections 500.4 and 500.5; chapter 5, section 502, subsection 502.18; Chapter 9, section 904, subsections 904.1 and 904.2, effective September 30, 1993.

(ii) Additional material.

(A) Remainder of October 22, 1993 District of Columbia submittal.

3. Section 52.472 is amended by adding paragraph (e) to read as follows:

§ 52.472 Approval status.

* * * * *

(e) Limited approval/limited disapproval of revisions to 20 District of Columbia Municipal Regulations Chapter 1, Section 199 definitions for the terms blending plant, distributor, non-oxygenated gasoline, oxygenate, oxygenated gasoline, oxygenated gasoline control period, oxygenated gasoline control area, refiner, refinery, retailer, retail outlet, terminal, wholesale purchaser-consumer; Chapter 5, Section 500, Subsections 500.4 and 500.5; Chapter 5, Section 502, Subsection 502.18; Chapter 9, Section 904, Subsections 904.1 and 904.2 submitted on October 22, 1993 by the District of Columbia's Department of Consumer and Regulatory Affairs. The District of Columbia oxygenated gasoline regulation is deficient in that it lacks the following: A definition for the term ''carriers''; a sampling procedure; and procedures for the calculation of oxygen content in the gasoline sampled; the absence of which compromise the enforceability of the regulation and are deficiencies under section 110(a)(2) of the Clean Air Act.

[FR Doc. 95–1933 Filed 1–25–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[NC–064–2–6642a; FRL–5138–6]

Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 7, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions extend the Reasonably Available Control Technology (RACT) regulations for emissions of Volatile Organic Compounds (VOC) to new and expanded nonattainment areas for ozone (O_3); amend several definitions; add compliance schedules for sources located in O_3 nonattainment areas; amend the alternative compliance and exemption from compliance schedule regulations; amend the graphic arts regulation; add new regulations for several types of VOC sources; and add an interim regulation for categories of sources for which RACT guidelines are being developed.

DATES: This final rule is effective March 27, 1995 unless notice is received by February 27, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Thetelephone number is 404/347–3555 ext. 4212.

SUPPLEMENTARY INFORMATION: On January 7, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina SIP. These revisions extend the RACT for emissions of VOCs.

Pre-enactment Nonattainment Areas With Extended Boundaries

Under the pre-amended Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I—those issued before January 1978 (15 CTGs); (2) Group II—those issued in 1978 (9 CTGs); and (3) Group III—those issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's attainment date determined which RACT rules the area needed to adopt and implement. Under section 172, ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date to as late as December 31, 1987, under section 172 were required to adopt RACT for all CTG sources and for all major non-CTG sources.

Under the pre-amended Act, EPA designated the Charlotte area (Mecklenburg County) as nonattainment. The State established a pre-enactment attainment date of December 31, 1982, for the Charlotte nonattainment area and, therefore, RACT was required for the Group I and II CTG's.

However, the Charlotte area did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of North Carolina that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. The Charlotte area retained its designation of nonattainment and was classified as moderate. (See 56 FR 56694 (Nov. 6, 1991)). The State submitted