115.316(b)(2)(C), 115.316(b)(3), 115.316(b)(4), 115.319(a)(1), 115.319(a)(2), 115.319(b), 115.421(a), 115.421(a)(12), 115.421(a)(12)(A), 115.421(a)(12)(A)(i), 115.421(a)(12)(A)(ii), 115.421(a)(12)(B), 115.425(a)(4)(C)(ii), 115.426 title (Monitoring and Recordkeeping Requirements), 115.426(a)(2), 115.426(a)(2)(A)(i), 115.426(b)(2), 115.426(b)(2)(i), 115.427(a)(5)(C), 115.427(a)(6), 115.427(a)(6)(A) through 115.427(a)(6)(C), 115.427(a)(7), 115.429(d), 115.436 title (Monitoring and Recordkeeping Requirements), 115.436(a)(3), 115.436(a)(3)(C), 115.436(b), 115.436(b)(3), 115.436(b)(3)(B) through 115.436(b)(3)(D), 115.439(d), 115.536 title (Monitoring and Recordkeeping Requirements), 115.536(a)(1), 115.536(a)(2), 115.536(a)(2)(A), 115.536(a)(2)(A)(ii), 115.536(a)(5), 115.536(b)(1), 115.536(b)(2), 115.536(b)(2)(A), 115.536(b)(2)(A)(ii) through 115.536(b)(2)(A)(iv), 115.539(c).

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40 CFR Part 52

[TX-21-1-6634; FRL-5134-6]

Clean Air Act Approval and Promulgation of Title I, Section 182(d)(1)(B), Employee Commute Options/Employer Trip Reduction Program for Texas

AGENCY: Environmental Protection

Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the EPA is approving the State Implementation Plan (SIP) revision submitted by the State of Texas for the purpose of establishing an Employee Commute Options (ECO) program (also known as the Employer Trip Reduction (ETR) program). Pursuant to Section 182(d)(1)(B) of the Clean Air Act (CAA), as amended in 1990, the SIP was submitted by Texas to satisfy the statutory mandate that an ETR Program be established for employers with 100 or more employees, such that compliance plans developed by such employers are designed to convincingly demonstrate an increase in the average passenger occupancy (APO) of their employees who commute to work during the peak period, by no less than 25 percent above the average vehicle occupancy (AVO) of the nonattainment area.

EFFECTIVE DATE: This action will be effective on April 6, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T– A), 1445 Ross Avenue, Dallas, Texas 75202–2733.

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

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Hal D. Brown, Planning Section (6T–AP), Air Programs Branch, USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7248.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA will require employers with 100 or more employees in the Houston-Galveston ozone nonattainment area to participate in a trip reduction program. Section 182(d)(1)(B) requires that employers submit ETR compliance plans to the State two years after the SIP is submitted to the EPA. These compliance plans must "convincingly demonstrate" that within four years after the SIP is submitted, the employer will achieve an increase in the APO of its employees who commute to work during the peak period by not less than 25 percent above the AVO of the nonattainment area. Where there are important differences in terms of commute patterns, land use, or AVO, the States may establish different zones within the nonattainment area for purposes of calculation of the AVO.

For an approvable ETR SIP, the State submittal must contain each of the following program elements: (1) The AVO for each nonattainment area or for each zone if the area is divided into zones; (2) the target APO which is no less than 25 percent above the AVO(s); (3) an ETR program that includes a process for compliance demonstration; and, (4) enforcement procedures to ensure submission and implementation of compliance plans by subject employers. The EPA issued guidance on December 17, 1992, interpreting various aspects of the statutory requirements

[Employee Commute Options Guidance, December 1992].

On November 13, 1992, the EPA received from the Governor of Texas a SIP revision to incorporate the ETR regulation which was adopted by the State on October 16, 1992. On October 18, 1993, the EPA proposed approval of the Texas ETR SIP in the Federal Register (FR) because it meets the requirements of section 182(d)(1)(B) of the CAA and the criteria listed above (see 58 FR 53693). The proposed rulemaking action provides a detailed discussion of the EPA's rationale for proposing approval of the State's ETR SIP, and should be referred to. The EPA requested public comments on all aspects of the proposal. A summary of the comments received and the EPA's response to them are provided below. A more detailed response to comments is available from the EPA Region 6 office.

II. Response to Comments

The EPA received three comment letters, one from the State of Texas which supported the EPA's action, one from a local citizen which raised concerns with the Texas program, and one from a local environmental group which objected to EPA's proposed approval.

Comment 1—The Texas Natural Resource Conservation Commission (TNRCC) supported the EPA's proposed approval of the Texas ETR SIP. In addition, the State pointed out a correction to our notice. On page 53695, part D under "Enforcement Procedures," the EPA states that violators may be subject to up to \$10,000 in administrative penalties and up to \$25,000 in civil penalties. The State commented that this provision should instead read, "may subject the violator up to \$10,000 in administrative penalties or up to \$25,000 in civil penalties per violation."

EPA Response—The EPA agrees with the State's comment. Violators may be subject to either administrative or civil penalties for a given violation. The penalty provisions of the Texas program

are approvable.

Comment 2—A local citizen and the environmental group commented that the emphasis of the ETR program should be on reducing work-related trips. In addition, the environmental group commented that it would be illegal to also emphasize reductions in vehicle miles travelled (VMT)

vehicle miles travelled (VMT).

EPA Response—The EPA agrees that the intent of the section 182(d)(1)(B) of the CAA is to reduce work-related commute trips. We feel that Texas' program will accomplish this goal. The ETR regulation subjects employers to a