notice and public hearing.[1] Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. 40 CFR 51.102 defines adequate public notice and comment to include: (1) Public notification of the proposed SIP revision in a major newspaper in the affected area; (2) a comment period of at least 30 days; (3) public hearing; and (4) State analysis and response to the public comments. The TNRCC met these requirements. Public notice on the proposed ETR regulation was published in the Houston ozone nonattainment area on May 30, 1992, in the Houston Chronicle, and on May 31, 1992, in the Baytown Sun, in accordance with the State of Texas's public notice requirements. Public notice was also published in the Texas Register on June 5, 1992 (see 17 Texas Register (TexReg) 4067). The State held a public hearing on the proposed regulations on June 30, 1992, and the comment period closed on July 8, 1992. Following the public hearing, the ETR regulation was adopted by the State on October 16, 1992. The publication of the final ETR regulation in the Texas Register on November 27, 1992 (see 17 TexReg 8297), includes an extensive analysis by the State of the comments received during the public comment period and the State's recommended action. The EPA therefore disagrees with this comment.

Comment 11—This environmental group argued that the term ''approvable ETR Plans'' is not defined, and recommended that the phrase ''plans that meet all ETR plan requirements under the CAAA,'' be used instead. The group also stated that the term ''convincingly demonstrate'' must be defined.

EPA Response—The term ''approvable ETR plans'' is clarified on page 28 of the SIP narrative, which states that the TNRCC ''will review ETR plans based on completeness and accuracy of information requested.'' We do not believe that the phrase ''plans that meet all ETR plan requirements under the CAAA'' provides any additional clarification because the CAA only requires that plans ''convincingly demonstrate'' prospective compliance. As to a definition of ''convincingly demonstrate,'' as described in more detail in our proposed approval of the Texas ETR SIP (see 58 FR 53694), the EPA provided four options for States to meet the requirement that plans ''convincingly demonstrate'' prospective compliance. The TNRCC met this requirement by selecting our fourth option by imposing significant penalties for not meeting the target APO.

Comment 12—The environmental group challenged the adequacy of the tracking and auditing procedures, and the current implementation of the SIP.

EPA Response—The EPA disagrees that the tracking and auditing procedures contained in the SIP are inadequate. Even though the EPA's ECO guidance did not require specific tracking and auditing procedures, the State's ETR SIP narrative and regulation address these provisions. The SIP and the regulation specify numerous recordkeeping and reporting requirements for affected employers. For example, § 114.21(g) of the regulation requires employers to maintain complete and accurate records for at least two years, and details seven types of information which must be included as part of those records. Section 114.21(h) details the specific reports that employers must submit to the TNRCC. Section 8.c. of the SIP specifies the State's ETR quality assurance procedures, which include auditing of employee surveys, announced and unannounced site visits, and auditing of the required employer records. We believe the TNRCC's procedures included in the SIP are fully adequate to ensure proper implementation of the ETR program.

As to the commenter's concerns about current implementation of the SIP, we do not believe that the TNRCC has fallen short of its responsibility to implement the SIP. During 1994, the TNRCC has increased the ETR staff, both in its headquarters office in Austin, and in its Regional office in Houston. The TNRCC has implemented the registration of affected employers, initiated training programs, and developed the necessary forms and systems to implement the ETR employer plans. The EPA believes that Texas's implementation of the ETR program to date does not indicate that the EPA should hesitate to approve the program.

Comment 13—The environmental group argued that allowing employers to demonstrate compliance with the target APO up to two years after the date of their plan submission deadline gave the employers too much time.

EPA Response—The EPA disagrees since the TNRCC regulation is fully consistent with the time frames specified in section 182(d)(1)(B) of the CAA, which requires that employer plans convincingly demonstrate compliance within two years of plan submittal.

Comment 14—The environmental group argued that records should by kept by affected employers for five years, rather than only two years.

EPA Response—This comment was also provided to the TNRCC during the State's public comment period. In response, the TNRCC stated that they believed two years of information appears to be adequate to assess compliance with the ETR requirements. The EPA agrees with the State because the primary driving force behind compliance with the target APO in Texas's program is the fact that substantial financial penalties may be imposed on an employer for not meeting the target APO.

Comment 15—The environmental group commented that the SIP narrative should state that ''falsifying or failing to maintain appropriate records will be considered a violation of [TNRCC] Regulation IV,'' rather than ''may be.''

EPA Response—This comment was submitted to the State during its public comment period. The State responded that it is understood that falsifying and failing to maintain required records are considered to be violations of the regulation. The EPA agrees with the State since section 114.21(g) of the ETR regulation clearly establishes mandatory requirements for all employers to maintain complete and accurate records for at least two years. In considering whether to issue a notice of violation for falsifying or failing to maintain records, the State looks at all facts and evaluates any possible mitigating circumstances before committing State resources to take an enforcement action. Therefore, the language contained in the SIP narrative is consistent with the State's enforcement discretion over when it is appropriate for the State to commit resources to initiate an enforcement action.

Comment 16—This environmental group argued that the SIP should not be approved because it does not detail the specific quality assurance procedures that will be carried out by the State. The group also commented that the SIP should state that audits will be conducted and site visits will be conducted, rather than ''may be.''

EPA Response—Please see our response to comments 12 and 15 above with respect to quality assurance and enforcement discretion.

Comment 17—The environmental group argued that the certification of training programs procedures and the public information program must be specified in the SIP. Also, the group asked that ''comprehensive training course'' be defined and that the training should include a discussion of the

[1] Also Section 172(c)(7) of the CAA requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).