

year 1994, that rate shall remain in effect, with no additional update, throughout fiscal years 1996 and 1997; and

(B) For any RTC whose 1995 rate was below the 30th percentile level determined under paragraph (f)(5)(ii)(A) of this section, the rate shall be adjusted by the lesser of: the CPI-U for medical care, or the amount that brings the rate up to that 30th percentile level.

(iii) For subsequent Federal fiscal years after fiscal year 1997, RTC rates shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare prospective payment system.

(6) For care provided on or after July 1, 1995, CHAMPUS will not pay for days in which the patient is absent on leave from the RTC. The RTC must identify these days when claiming reimbursement.

Dated: March 1, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95-5375 Filed 3-6-95; 8:45 am]

BILLING CODE 5000-04-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX-17-1-5600a; FRL-5163-3]

Approval and Promulgation of Implementation Plans; Texas State Implementation Plan Revision; Corrections for Reasonably Available Control Technology (RACT) Rules; Volatile Organic Compounds (VOC) RACT Catch-Ups

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Texas State Implementation Plan (SIP) submitted by the State of Texas on June 8, 1992, and additional revisions which were submitted on November 13, 1992. These SIP revisions contain regulations which require the implementation of RACT for various types of VOC sources. These revisions respond to the requirements of section 182(b)(2) of the Federal Clean Air Act, as amended in 1990 (CAA), for States to adopt RACT rules by November 15, 1992, for major VOC sources which are not covered by an existing EPA Control Techniques Guideline (CTG) and for all sources covered by an existing CTG. These revisions also include corrections to the

monitoring, recordkeeping, and reporting requirements for Victoria County, in order to make the VOC rules more enforceable in that County.

DATES: This final rule is effective on May 8, 1995, unless critical or adverse comments are received by April 6, 1995. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Comments should be mailed to Guy R. Donaldson, Acting Chief, Air Planning Section (6T-AP), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's submittals and other information relevant to this action are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Air and Radiation Docket and Information Center, U.S.

Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

Anyone wishing to review these documents at the U.S. EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Planning Section (6T-AP), Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 655-7219.

SUPPLEMENTARY INFORMATION:

Background

Section 182(b)(2) of the CAA, as amended in 1990, requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the CAA of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. This action does not address requirements to implement RACT at sources covered by post-enactment CTG's. Texas has identified sources in these post-enactment CTG source categories. RACT requirements will be addressed for these sources in future actions.

Section 182(b)(2) calls for nonattainment areas that previously were exempt from certain VOC RACT requirements to "catch up" to those nonattainment areas that became subject to those requirements under the preamended Act. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas. In addition, the major source threshold is lowered for certain nonattainment areas (50 tons/yr for serious areas and 25 tons/yr in severe areas). States are required to ensure that RACT is implemented based on these new major source definitions. In Texas, there are four ozone nonattainment areas: Dallas/Fort Worth (moderate), Beaumont/Port Arthur (serious), El Paso (serious) and Houston (severe). These VOC RACT revisions pending before EPA expand the applicability of control requirements to include the newly-designated perimeter counties (Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller). In addition, the applicability of control requirements has been expanded to include all previously-designated ozone nonattainment counties (Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, and Tarrant). The existing requirements for Gregg, Nueces, and Victoria Counties have been relocated to a separate (new) subsection in each applicable section. Non-CTG RACT rules for mirror backing coating facilities have been added. Finally, monitoring/recordkeeping requirements for VOC sources in Victoria County were revised to be made more enforceable.

Procedural Background

The Clean Air Act (the Act) requires states to observe certain procedural requirements in developing implementation plans for submission to the EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 Code of Federal Regulations (CFR) part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of

receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by the EPA six months after receipt of the submission.

The State of Texas held a public hearing on February 24, 1992, to entertain public comment on the June 8, 1992 SIP submittal. The State held a public hearing on July 27, 1992, to entertain public comment on the November 13, 1992 SIP revision. Subsequent to the public hearings and consideration of hearing comments, the June 8, 1992 SIP revision was adopted by the State on May 8, 1992. The November 13, 1992 SIP revision was adopted by the State on October 16, 1992.

These SIP revisions were reviewed by the EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. A letter dated July 20, 1992, was forwarded to the Governor finding the submittal complete and indicating the next steps to be taken in the review process. The November 16, 1992 submittal was ruled complete on January 15, 1993.

EPA Evaluation

In determining the approvability of a VOC rule, the EPA must evaluate the rule for consistency with the requirements of the CAA and the EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents.

To evaluate these rules, the EPA used the CTGs and "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations", dated May 25, 1988. The technical review of these rule revisions is included in the RACT "Catch-up" Technical Support Document (TSD). Please refer to this document for an explanation of the specific revisions. The following rules have been submitted. For a detailed description of the rule changes, see the TSD.

Revisions to the General Rules and Regulation V, Submitted June 8, 1992

Section 101.1 of the General Rules (Definitions), and the following sections of regulation V: 115.010 (Definitions), 115.112–115.119 (Storage of Volatile Organic Compounds), 115.121–115.129 (Vent Gas Control), 115.131–115.139 (Water Separation), 115.211–115.219 (Loading/Unloading of VOCs), 115.221–

115.229 (Stage I), 115.234–115.239 (VOC Leaks from Gasoline Tank Trucks), 115.242–115.249 (Gasoline Reid Vapor Pressure), 115.311–115.319 (Process Unit Turnaround), 115.322–115.329 (Petroleum Refinery Fugitives), 115.332–115.339 (Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether (MTBE) Manufacturing Fugitives), 115.342–115.349 (Natural Gas/Gasoline Processing Fugitives), 115.412–115.429 (Degreasing Operations), 115.421–115.429 (Surface Coating Processes), 115.432–115.439 (Graphic Arts), 115.512–115.519 (Cutback Asphalt), 115.531–115.539 (Pharmaceutical Manufacturing), and 115.612–115.619 (Consumer Solvent Products).

Revisions to the General Rules and Regulation V, Submitted November 13, 1992

Section 101.1 of the General Rules (Definitions), and the following sections of regulation V: 115.010 (Definitions), 115.116–115.119 (Storage of Volatile Organic Compounds), 115.126–115.219 (Vent Gas Control), 115.136–115.139 (Water Separation), 115.211–115.219 (Loading/Unloading of VOCs), 115.249 (Reid Vapor Pressure), 115.316–115.319 (Process Unit Turnaround), 115.421–115.429 (Surface Coating Processes), 115.436–115.439 (Graphic Arts), and 115.536–115.539 (Pharmaceutical Manufacturing).

These revisions accomplish the following requirements of section 182(b)(2):

1. Expand RACT requirements to the newly designated nonattainment counties;
2. Eliminate the distinction between "rural" and "urban" nonattainment areas, and;
3. Ensure that RACT is applied to all major sources in the ozone nonattainment areas.

The EPA has determined that the RACT revisions to the Texas General Rules and Regulation V meet the applicable Federal requirements.

Final Action

The EPA has evaluated the State's submittal for consistency with the CAA, EPA regulations, and EPA policy. The EPA has determined that the rules meet the CAA's requirements and today is approving under section 110(k)(3) the above mentioned VOC rules.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this FR publication, the EPA is proposing to approve these SIP

revisions should adverse or critical comments be received. Thus, this action will be effective on May 8, 1995, unless adverse or critical comments are received by April 6, 1995.

If such comments are received, this action will be withdrawn before the effective date by publishing two subsequent documents. One document will withdraw the final action, and another final action will be published addressing any adverse comments. If no such adverse comments are received, the public is advised that this action will be effective on May 8, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economical, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over population of less than 50,000.

SIP approvals under section 110 and subchapter I, part D, of the 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, I certify 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. EPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 8, 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)).

Executive Order

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Dated: February 22, 1995.

Jane N. Saginaw,

Regional Administrator (6A).

40 CFR part 52 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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c) (88) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(88) Revisions to the Texas State Implementation Plan, submitted to EPA on June 8 and November 13, 1992, respectively. These revisions adopt expansion of applicability for Reasonably Available Control Technology (RACT) rules for volatile organic compounds (VOCs) to ensure that all major VOC sources are covered by RACT, to revise the major source definition, and to revise certain monitoring, recordkeeping, and reporting requirements for Victoria County, Texas.

(i) Incorporation by reference.

(A) Texas Air Control Board Order No. 92–04, as adopted on May 8, 1992.

(B) Revisions to the General Rules, as adopted by the Board on May 8, 1992, section 101.1—New definitions for capture efficiency, capture system, carbon adsorber, carbon adsorption system, coating, coating line, control device, control system, pounds of volatile organic compounds (VOC) per gallon of coating (minus water and exempt solvents), pounds of volatile organic compounds (VOC) per gallon of

solids, printing line; revised definitions for component, exempt solvent, leak, vapor recovery system, volatile organic compound (VOC).

(C) Revisions to Regulation V, as adopted by the Board on May 8, 1992, sections 115.010 (Definitions)—Beaumont/Port Arthur area, Dallas/Fort Worth area, El Paso area, Houston/Galveston area; revised definition for delivery vessel/tank truck tank; 115.112(a), 115.112(a)(3), 115.112(b)(1), 115.112(b)(2), 115.112(b)(2)(A) through 115.112(b)(2)(F), 115.112(c), 115.112(c)(3)(A), 115.112(c)(3)(B), 115.113(a) through 115.113(c), 115.114(a), 115.114(b), 115.114(b)(1), 115.114(b)(2), 115.115(a), 115.115(b), 115.115(b)(1) through 115.115(b)(8), 115.116(a), 115.116(a)(4), 115.116(b), 115.116(b)(1) through 115.116(b)(4), 115.117(a), 115.117(b), 115.117(b)(1) through 115.117(b)(6), 115.117(b)(6)(A) through 115.117(b)(6)(C), 115.117(b)(7), 115.117(b)(7)(A) through 115.117(b)(7)(C), 115.117(c), 115.117(c)(1) through 115.117(c)(4), 115.119 introductory paragraph, 115.121(a), 115.121(a)(1), 115.121(a)(1)(C), 115.121(a)(2), 115.121(a)(3), 115.121(b), 115.121(b)(1) through 115.121(b)(3), 115.121(c), 115.121(c)(1), 115.121(c)(2) through 115.121(c)(4), 115.122(a), 115.122(b), 115.122(c), 115.122(c)(1) through 115.122(c)(4), 115.123(a) through 115.123(c), 115.125(a), 115.125(a)(2), 115.125(b), 115.125(b)(1) through 115.125(b)(7), 115.126 introductory paragraph, 115.127(a), 115.127(a)(2), 115.127(a)(3), 115.127(a)(3)(B), 115.127(a)(3)(C), 115.127(a)(4), 115.127(a)(4)(C), 115.127(b), 115.127(b)(1), 115.127(b)(2), 115.127(b)(2)(A) through 115.127(b)(2)(B), 115.127(c), 115.127(c)(1), 115.127(c)(2), 115.127(c)(2)(A) through 115.127(c)(2)(C), 115.129 introductory paragraph, 115.129(1) through 115.129(3), 115.131(a), 115.131(a)(2) through 115.131(a)(4), 115.131(b) through 115.131(c), 115.132(a), 115.132(b), 115.132(b)(1) through 115.132(b)(3), 115.132(c), 115.132(c)(3), 115.133(a) through 115.133(c), 115.135(a), 115.135(b), 115.135(b)(1) through 115.135(b)(6), 115.136(a), 115.136(a)(1), 115.136(a)(2), 115.136(a)(2)(A) through 115.136(a)(2)(D), 115.136(a)(3), 115.136(a)(4), 115.136(b), 115.137(a), 115.137(a)(1) through 115.137(a)(4), 115.137(b), 115.137(b)(1) through 115.137(b)(4), 115.137(c), 115.137(c)(1) through 115.137(c)(3), 115.139 introductory paragraph, 115.139(1),

115.139(2), 115.211 introductory paragraph, 115.211(1)(A), 115.211(1)(B), 115.211(2), 115.212(a), 115.212(a)(4), 115.212(a)(5), 115.212(b), 115.212(b)(1), 115.212(b)(2), 115.212(b)(2)(A), 115.212(b)(2)(B), 115.212(b)(3), 115.212(b)(3)(A) through 115.212(b)(3)(C), 115.212(c), 115.212(c)(1), 115.213(a) through 115.213(c), 115.214(a), 115.214(a)(3), 115.214(a)(4), 115.214(b), 115.214(b)(1), 115.214(b)(2), 115.215(a), 115.215(b), 115.215(b)(1) through 115.215(b)(8), 115.216 introductory paragraph, 115.216(4), 115.217(a), 115.217(a)(2) through 115.217(a)(4), 115.217(b), 115.217(b)(1) through 115.217(b)(3), 115.217(c), 115.217(c)(3), 115.219 introductory paragraph, 115.219(1) through 115.219(6), 115.221 introductory paragraph, 115.222 introductory paragraph, 115.222(6), 115.223 introductory paragraph, 115.224 introductory paragraph, 115.224(2), 115.225 introductory paragraph, 115.226 introductory paragraph, 115.227 introductory paragraph, 115.229 introductory paragraph, 115.234 introductory paragraph, 115.235 introductory paragraph, 115.236 introductory paragraph, 115.239 introductory paragraph, 115.311(a), 115.311(a)(1), 115.311(a)(2), 115.311(b), 115.311(b)(1), 115.311(b)(2), 115.312(a), 115.312(a)(2), 115.312(b), 115.312(b)(1), 115.312(b)(1)(A), 115.312(b)(1)(B), 115.312(b)(2), 115.313(a) through 115.313(b), 115.315(a), 115.315(b), 115.315(b)(1) through 115.315(b)(7), 115.316 introductory paragraph, 115.316(1), 115.316(2), 115.316(3), 115.317 introductory paragraph, 115.319 introductory paragraph, 115.319(1), 115.319(2), 115.322(a), 115.322(b), 115.322(b)(1) through 115.322(b)(5), 115.323(a), 115.323(a)(2), 115.323(b), 115.323(b)(1), 115.323(b)(2), 115.324(a), 115.324(a)(4), 115.324(b), 115.324(b)(1), 115.324(b)(1)(A) through 115.324(b)(1)(D), 115.324(b)(2), 115.324(b)(2)(A) through 115.324(b)(2)(C), 115.324(b)(3) through 115.324(b)(8), 115.324(b)(8)(A), 115.324(b)(8)(A)(i), 115.324(b)(8)(A)(ii), 115.324(b)(8)(B), 115.325(a), 115.325(b), 115.325(b)(1) through 115.325(b)(3), 115.326(a), 115.326(a)(2), 115.326(b), 115.326(b)(1), 115.326(b)(2), 115.326(b)(2)(A) through 115.326(b)(2)(I), 115.326(b)(3), 115.326(b)(4), 115.327(a), 115.327(a)(2), 115.327(a)(4), 115.327(a)(5), 115.327(b), 115.327(b)(1), 115.327(b)(1)(A) through 115.327(b)(1)(C), 115.327(b)(2) through 115.327(b)(6), 115.329 introductory paragraph, 115.332 introductory paragraph, 115.333 introductory

- paragraph, 115.334 introductory paragraph, 115.334(3), 115.334(3)(A), 115.335 introductory paragraph, 115.336 introductory paragraph, 115.337 introductory paragraph, 115.337(2) through 115.337(4), 115.337(4)(E), 115.339 introductory paragraph, 115.342 introductory paragraph, 115.343 introductory paragraph, 115.344 introductory paragraph, 115.345 introductory paragraph, 115.346 introductory paragraph, 115.347 introductory paragraph, 115.347(3), 115.349 introductory paragraph, 115.412(a), 115.412(a)(1)(F)(iv), 115.412(a)(3)(I), 115.412(a)(3)(I)(viii), 115.412(b), 115.412(b)(1), 115.412(b)(1)(A), 115.412(b)(1)(A)(i) through 115.412(b)(1)(A)(iii), 115.412(b)(1)(B) through 115.412(b)(1)(F), 115.412(b)(1)(F)(i) through 115.412(b)(1)(F)(iv), 115.412(b)(2), 115.412(b)(2)(A), 115.412(b)(2)(B), 115.412(b)(2)(B)(i) through 115.412(b)(2)(B)(iii), 115.412(b)(2)(C), 115.412(b)(2)(D), 115.412(b)(2)(D)(i) through 115.412(b)(2)(D)(iv), 115.412(b)(2)(E), 115.412(b)(2)(F), 115.412(b)(2)(F)(i) through 115.412(b)(2)(F)(xiii), 115.412(b)(3), 115.412(b)(3)(A), 115.412(b)(3)(A)(i), 115.412(b)(3)(A)(ii), 115.412(b)(3)(B) through 115.412(b)(3)(I), 115.412(b)(3)(I)(i) through 115.412(b)(3)(I)(viii), 115.413(a), 115.413(a)(1), 115.413(a)(2), 115.413(b), 115.413(b)(1), 115.413(b)(2), 115.415(a), 115.415(a)(1), 115.415(a)(2), 115.415(b), 115.415(b)(1), 115.415(b)(1)(A), 115.415(b)(1)(B), 115.415(b)(2), 115.415(b)(2)(A) through 115.415(b)(2)(E), 115.416(a), 115.416(b), 115.416(b)(1), 115.416(b)(2), 115.417(a), 115.417(a)(1) through 115.417(a)(6), 115.417(b), 115.417(b)(1) through 115.417(b)(6), 115.419(a) through 115.419(b), 115.421(a), 115.421(a)(8), 115.421(a)(8)(A), 115.421(a)(8)(B), 115.421(a)(8)(C), 115.421(a)(9), 115.421(a)(9)(v), 115.421(a)(11), 115.421(b), 115.421(b)(1) through 115.421(b)(9), 115.421(b)(9)(A), 115.421(b)(9)(A)(i) through 115.421(b)(9)(A)(iv), 115.421(b)(9)(B), 115.421(b)(9)(C), 115.421(b)(10), 115.422(a), 115.422(a)(1), 115.422(a)(2), 115.423(a), 115.423(a)(3), 115.423(a)(4), 115.423(b), 115.423(b)(1) through 115.423(b)(4), 115.424(a), 115.424(a)(1) through 115.424(a)(3), 115.424(a)(2), 115.424(b), 115.424(b)(1), 115.424(b)(2), 115.425(a), 115.425(a)(1), 115.425(a)(2), 115.425(a)(3), 115.425(a)(3)(B), 115.425(a)(4)(C)(ii), 115.425(b), 115.424(b)(1), 115.424(b)(1)(A) through 115.425(b)(1)(E), 115.425(b)(2), 115.424(b)(2)(A) through 115.425(b)(2)(E), 115.426(a), 115.426(a)(1), 115.426(a)(1)(C), 115.426(a)(2), 115.426(a)(2)(B), 115.426(a)(3), 115.426(a)(4), 115.426(b), 115.426(b)(1), 115.426(b)(1)(A) through 115.426(b)(1)(D), 115.426(b)(2), 115.426(b)(2)(A), 115.426(b)(2)(A)(i) through 115.426(b)(2)(A)(iv), 115.426(b)(2)(B), 115.426(b)(2)(C), 115.426(b)(3), 115.427(a), 115.427(a)(1), 115.427(a)(2), 115.427(a)(2)(A), 115.427(a)(2)(B), 115.427(a)(3), 115.427(a)(4), 115.427(a)(5), 115.427(a)(5)(A), 115.427(a)(5)(B), 115.426(a)(6), 115.427(b), 115.427(b)(1), 115.427(b)(2), 115.427(b)(2)(A) through 115.427(b)(2)(E), 115.427(b)(3), 115.427(b)(3)(A) through 115.427(b)(3)(C), 115.429(a) through 115.429(c), 115.432(a), 115.432(a)(2), 115.432(a)(3), 115.432(b), 115.432(b)(1) through 115.432(b)(3), 115.432(b)(3)(A) through 115.432(b)(3)(C), 115.433(a), 115.433(b), 115.435(a), 115.435(a)(6), 115.435(a)(7), 115.435(a)(7)(C)(ii), 115.435(a)(8), 115.435(b), 115.435(b)(1) through 115.435(b)(7), 115.436(a), 115.436(a)(1), 115.436(a)(2), 114.436(a)(4) through 115.436(a)(6), 115.436(b), 115.436(b)(1) through 115.436(b)(3), 115.436(b)(3)(A) through 115.436(b)(3)(C), 115.436(b)(4), 115.436(b)(5), 115.437(a), 115.437(a)(1) through 115.437(a)(4), 115.437(b), 115.439(a) through 115.439(c), 115.512 introductory paragraph, 115.512 (1) through 115.512(3), 115.513 introductory paragraph, 115.515 introductory paragraph, 115.516 introductory paragraph, 115.517 introductory paragraph, 115.519(a) through 115.519(b), 115.531(a), 115.531(a)(2), 115.531(a)(3), 115.531(b), 115.531(b)(1) through 115.531(b)(3), 115.532(a), 115.532(a)(4), 115.532(a)(5), 115.532(b), 115.532(b)(1)(A), 115.532(b)(1)(B), 115.532(b)(2), 115.532(b)(3), 115.532(b)(3)(A), 115.532(b)(3)(B), 115.532(b)(4), 115.533(a), 115.533(b), 115.534(a), 115.534(b), 115.534(b)(1), 115.534(b)(2), 115.535(a), 115.535(b), 115.535(b)(1) through 115.535(b)(6), 115.536(a), 115.536(a)(1), 115.536(a)(2), 115.536(a)(3), 115.536(a)(4), 115.536(b), 115.536(b)(1), 115.536(b)(2), 115.536(b)(2)(A), 115.536(b)(2)(A)(i) through 115.536(b)(2)(A)(iii), 115.536(b)(2)(B), 115.536(b)(3), 115.536(b)(3)(A), 115.536(b)(3)(B), 115.536(b)(4), 115.536(b)(5), 115.537(a), 115.537(a)(1) through 115.537(a)(7), 115.537(b), 115.537(b)(1) through 115.537(b)(5), 115.539(a), 115.539(b), 115.612 introductory paragraph, 115.613 introductory paragraph, 115.614 introductory paragraph, 115.615 introductory paragraph, 115.615(1), 115.617 introductory paragraph, 115.617(1), 115.619 introductory paragraph.
- (D) Texas Air Control Board Order No. 92-16, as adopted on October 16, 1992.
- (E) Revisions to the General Rules, as adopted by the Board on October 16, section 101.1: Introductory paragraph, new definition for extreme performance coating; revised definitions for gasoline bulk plant, paragraph vii of miscellaneous metal parts and products coating, mirror backing coating, volatile organic compound.
- (F) Revisions to Regulation V, as adopted by the Board on October 16, 1992, sections 115.010—new definition for extreme performance coating; revised definitions for gasoline bulk plant, paragraph vii of miscellaneous metal parts and products coating, mirror backing coating, and volatile organic compound; 115.116 title (Monitoring and Recordkeeping Requirements), 115.116(a)(2), 115.116(a)(3), 115.116(a)(3)(A) through 115.116(a)(3)(C), 115.116(a)(5), 115.116(b)(2), 115.116(b)(3), 115.116(b)(3)(A) through 115.116(b)(3)(D), 115.116(b)(4), 115.116(b)(5), 115.119(a), 115.119(b), 115.126 title (Monitoring and Recordkeeping Requirements), 115.126(a), 115.126(a)(1)(A), 115.126(a)(1)(C), 115.126(a)(1)(E), 115.126(b), 115.126(b)(1), 115.126(b)(1)(A) through 115.126(b)(1)(E), 115.126(b)(2), 115.126(b)(2)(A) through 115.126(b)(2)(D), 115.126(b)(3), 115.126(b)(3)(A), 115.126(b)(3)(B), 115.127(a)(4)(A) through 115.127(a)(4)(C), 115.129(a), 115.129(a)(1), 115.129(b), 115.136 title (Monitoring and Recordkeeping Requirements), 115.136(a)(4), 115.136(b), 115.136(b)(1), 115.136(b)(2), 115.136(b)(2)(A) through 115.136(b)(2)(D), 115.136(b)(3), 115.136(b)(3)(A), 115.136(b)(3)(B), 115.136(b)(4), 115.139(a), 115.139(b), 115.211(a), 115.211(b), 115.215(a), 115.215(b), 115.216 title (Monitoring and Recordkeeping Requirements), 115.216(a), 115.216(a)(2)(A) through 115.216(a)(2)(C), 115.216(a)(5), 115.216(b), 115.216(b)(1), 115.216(b)(2), 115.216(b)(2)(A) through 115.216(b)(2)(D), 115.216(b)(3), 115.216(b)(3)(A), 115.216(b)(3)(B), 115.216(b)(4), 115.217(a)(6), 115.219(a)(1) through 115.219(a)(4), 115.219(b), 115.316 title (Monitoring and Recordkeeping Requirements), 115.316(a), 115.316(a)(1)(A), 115.316(a)(1)(C), 115.316(a)(4), 115.316(b), 115.316(b)(1), 115.316(b)(1)(A) through 115.316(b)(1)(D), 115.316(b)(2), 115.316(b)(2)(A) through

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).

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