

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Rulemaking Adoption

AGENDA REQUESTED: July 26, 2013

DATE OF REQUEST: July 3, 2013

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Charlotte Horn, (512) 239-0779

CAPTION: Docket No. 2012-2076-RUL. Consideration of the adoption of amendments to multiple sections of 30 TAC Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, Subchapter C, National Emission Standards for Hazardous Air Pollutants for Source Categories (FCAA, §112, 40 CFR Part 63); new Sections 113.1130, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, and 113.1555; and the repeal of Sections 113.150, 113.1190, and 113.1200.

The adoption updates existing maximum achievable control technology (MACT) and generally available control technology (GACT) standards. The rulemaking amends numerous existing sections of 30 TAC Chapter 113 containing federal MACT standards to incorporate changes made by the United States Environmental Protection Agency (EPA), and incorporates by reference 28 new MACT and GACT standards that have been recently promulgated by the EPA. (Michael Wilhoit, Terry Salem) (Rule Project No. 2013-004-113-AI)

Steve Hagle

Deputy Director

Michael Wilson

Division Director

Charlotte Horn

Agenda Coordinator

Copy to CCC Secretary? NO YES X

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: July 3, 2013

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2012-2076-RUL

Subject: Commission Approval for Rulemaking Adoption
Chapter 113, Standards of Performance for Hazardous Air Pollutants and for
Designated Facilities and Pollutants
Maximum Achievable Control Technology (MACT) and Generally Available
Control Technology (GACT) Standards Update
Rule Project No. 2013-004-113-AI

Background and reason(s) for the rulemaking:

The Texas Commission on Environmental Quality (TCEQ) administers federal regulations establishing National Emission Standards for Hazardous Air Pollutants by incorporating these regulations by reference into Chapter 113, Subchapter C. The United States Environmental Protection Agency (EPA) has adopted a number of new MACT and GACT standards and amended a number of existing MACT standards since Chapter 113 was last amended in 2007. The new and amended federal regulations need to be incorporated by reference into Chapter 113 in order to avoid inconsistency between federal and state requirements; to allow the commission to enforce MACT standards prior to receiving formal delegation of the new standards; to facilitate delegation of the new MACT standards from the EPA; and to maintain existing delegation. Similar updates and amendments to Chapter 113 were adopted in 2007, 2005, 2003, 2000, 1999, 1998, and 1997.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The rulemaking would incorporate by reference 25 new area source MACT and GACT standards into Chapter 113, Subchapter C. Three new major source MACT standards would also be incorporated by reference. Approximately 30 existing MACT standards already in Chapter 113, Subchapter C would be updated to maintain consistency with the corresponding federal regulations. Three existing MACT standards in Chapter 113 would be repealed as a result of court decisions that vacated those standards. Tables are attached which show the new standards to be added to Chapter 113 and the existing standards which are being updated.

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B.) Scope required by federal regulations or state statutes:

This rulemaking is not explicitly required by federal rules or state statutes; however, it is necessary in order for the TCEQ to receive formal delegation of the amended and new MACT and GACT standards from the EPA.

C.) Additional staff recommendations that are not required by federal rule or state statute: None.

Statutory authority:

The amended and new sections would be adopted under Texas Health and Safety Code (THSC), §382.002, Policy and Purpose; THSC, §382.011, General Powers and Duties; THSC, §382.012, State Air Control Plan; THSC, §382.016, Monitoring Requirements; Examination of Records; THSC, §382.017, Rules; and THSC, §382.051, Permitting Authority of Commission; Rules. The amended and new sections would also be adopted under the commission's general authority under Texas Water Code (TWC), §5.103, Rules; and TWC, §5.105, General Policy.

Effect on the:

A.) Regulated community:

Many industries are subject to MACT or GACT standards. However, the changes to Chapter 113 do not impose an additional burden on those industries because they are required to comply with the standards regardless of whether the TCEQ or the EPA is the implementing authority. Sources that are subject to the new sections of Chapter 113 and have a Title V operating permit will need to revise their permit to include the applicable rule citations.

B.) Public:

This rulemaking will allow Texas to enforce the MACT and GACT standards, resulting in greater compliance and continued protection of human health and the environment.

C.) Agency programs:

The Air Permits Division will need to incorporate some of the new MACT and GACT standards into new and revised Title V operating permits. Enforcement of the newly promulgated MACT and GACT standards may result in additional workload for agency staff in the Office of Compliance and Enforcement. However, these tasks can be accomplished with existing resources.

Stakeholder meetings:

No stakeholder meetings have been held. This rulemaking incorporates by reference federal regulations that already apply, and the rules impose no additional requirements.

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Public comment:

The public comment period ran from March 15, 2013, through April 15, 2013. A public hearing was held in Austin on April 11, 2013. No comments were received.

Significant changes from proposal:

In the proposed Chapter 113 rulemaking, the commission solicited comment on the possibility of incorporating amendments that EPA was expected to adopt in the near future, specifically, after the Chapter 113 proposal documents were developed. No adverse comments on this proposed approach were received.

In the time since the rule proposal was finalized, EPA issued amendments for the standards for Industrial, Commercial, and Institutional Boilers (both major and area sources); Coal- and Oil-fired Electric Utility Steam Generating Units; Portland Cement Manufacturing; and Reciprocating Internal Combustion Engines. The Chapter 113 rule language incorporating these standards has been revised to include these recent amendments, so that the rules incorporated into Chapter 113, Subchapter C are as current as possible.

Potential controversial concerns and legislative interest:

Staff does not expect controversy related to the revisions to Chapter 113. The commission received no oral or written public comments on the proposed rulemaking. However, this rule package does include a number of area source standards, which apply to facilities that are smaller than those previously regulated under Chapter 113. This may generate more interest from smaller businesses that may be affected by these regulations, such as metal fabrication shops, metal plating facilities, and small coating operations.

Will this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If this rulemaking does not go forward, TCEQ will not receive delegation of the new MACT and GACT standards from the EPA, and existing delegation would be at risk. Additionally, the existence of outdated MACT and GACT standards in Chapter 113 could create confusion as to which regulations apply. The alternative is to not revise Chapter 113 to incorporate the amended and new MACT standards. However, if this rulemaking is not completed, the EPA will become the implementing authority for these regulations. Furthermore, failure to incorporate the amended and new standards may create potential issues with approval of Texas' Title V Operating Permit Program.

Key points in the proposal rulemaking schedule:

***Texas Register* proposal publication date:** March 15, 2013

***Anticipated Texas Register* adoption publication date:** August 16, 2013

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Anticipated effective date: August 22, 2013

Six-month *Texas Register* filing deadline: September 15, 2013

Agency contacts:

Michael Wilhoit, Rule Project Manager, 239-1222, Air Permits Division

Terry Salem, Staff Attorney, 239-0469

Charlotte Horn, Texas Register Coordinator, 239-0779

Attachments

Table 1: Recent MACT/GACT Standards to be Incorporated into Chapter 113

Table 2: Amended MACT/GACT Standards to be Incorporated

cc: Chief Clerk, 2 copies
Executive Director's Office
Anne Idsal
Curtis Seaton
Tucker Royall
Office of General Counsel
Michael Wilhoit
Charlotte Horn

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Table 1: Recently Promulgated MACT/GACT Standards to be Incorporated

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
DDDDD (§113.1130)	Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources
UUUUU (§113.1300)	Coal- and Oil-fired Electric Utility Steam Generating Units
WWWWW (§113.1320)	Hospital Ethylene Oxide Sterilizers Area Sources
YYYYY (§113.1340)	Electric Arc Furnace Steelmaking Facilities Area Sources
ZZZZZ (§113.1350)	Iron and Steel Foundries Area Sources
BBBBBB (§113.1370)	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources
CCCCCC (§113.1380)	Gasoline Dispensing Facilities Area Sources
HHHHHH (§113.1425)	Paint Stripping and Miscellaneous Surface Coating at Area Sources
JJJJJJ (§113.1435)	Industrial, Commercial, and Institutional Boilers Area Sources
LLLLLL (§113.1445)	Acrylic and Modacrylic Fibers Area Sources
MMMMMM (§113.1450)	Carbon Black Production Area Sources
NNNNNN (§113.1455)	Chemical Manufacturing Area Sources: Chromium Compounds
OOOOOO (§113.1460)	Flexible Polyurethane Foam Production and Fabrication Area Sources
PPPPPP (§113.1465)	Lead Acid Battery Manufacturing Area Sources
QQQQQQ (§113.1470)	Wood Preserving Area Sources
RRRRRR (§113.1475)	Clay Ceramics Manufacturing Area Sources
SSSSSS (§113.1480)	Glass Manufacturing Area Sources
TTTTTT (§113.1485)	Secondary Nonferrous Metals Processing Area Sources
VVVVVV (§113.1495)	Chemical Manufacturing Area Sources
WWWWWW (§113.1500)	Plating and Polishing Area Sources
XXXXXX (§113.1505)	Metal Fabrication and Finishing Area Sources
YYYYYY (§113.1510)	Ferrous Alloys Production Area Sources
ZZZZZZ (§113.1515)	Aluminum, Copper, and other Nonferrous Foundries Area Sources
AAAAAA (§113.1520)	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources
BBBBBBB (§113.1525)	Chemical Preparations Industry Area Sources
CCCCCCC (§113.1530)	Paints and Allied Products Manufacturing Area Sources
DDDDDDD (§113.1535)	Prepared Feeds Manufacturing Area Sources
HHHHHHH (§113.1570)	Polyvinyl Chloride and Copolymers Production Major Sources

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Table 2: Amended MACT/GACT Standards to be Incorporated

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
A (§113.100)	General Provisions
G (§113.120)	Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
H (§113.130)	Organic Hazardous Air Pollutants for Equipment Leaks
M (§113.180)	Perchloroethylene Dry Cleaning Facilities
N (§113.190)	Chromium Emissions from Hard and Decorative Chromium Electroplating
R (§113.230)	Gasoline Distribution Facilities
S (§113.240)	Pulp and Paper Industry
U (§113.260)	Group I Polymers and Resins
X (§113.290)	Secondary Lead Smelting
Y (§113.300)	Marine Tank Vessel Loading Operations
CC (§113.340)	Petroleum Refineries
HH (§113.390)	Oil and Natural Gas Production Facilities
II (§113.400)	Shipbuilding and Ship Repair (Surface Coating)
JJ (§113.410)	Wood Furniture Manufacturing Operations
KK (§113.420)	Printing and Publishing
YY (§113.560)	Generic Maximum Achievable Control Technology Standards
CCC (§113.600)	Steel Pickling - HCl Process Facilities and HCl Acid Regeneration Plants
DDD (§113.610)	Mineral Wool Production
EEE (§113.620)	Hazardous Waste Combustors
GGG (§113.640)	Pharmaceuticals Production
HHH (§113.650)	Natural Gas Transmission and Storage Facilities
JJJ (§113.670)	Group IV Polymers and Resins
LLL (§113.690)	Portland Cement Manufacturing Industry
TTT (§113.770)	Primary Lead Processing
VVV (§113.790)	Publicly Owned Treatment Works
EEEE (§113.880)	Organic Liquids Distribution (Non-Gasoline)
FFFF (§113.890)	Miscellaneous Organic Chemical Manufacturing
UUUU (§113.1040)	Cellulose Products Manufacturing
ZZZZ (§113.1090)	Reciprocating Internal Combustion Engines
BBBBB (§113.1110)	Semiconductor Manufacturing
EEEEE (§113.1140)	Iron and Steel Foundries
GGGGG (§113.1160)	Site Remediation
HHHHH (§113.1170)	Miscellaneous Coating Manufacturing
DDDDDD (§113.1390)	Polyvinyl Chloride and Copolymers Production Area Sources
EEEEEE (§113.1400)	Primary Copper Smelting Area Sources
FFFFFF (§113.1410)	Secondary Copper Smelting Area Sources

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) adopts amendments to §§113.100, 113.120, 113.130, 113.180, 113.190, 113.230, 113.240, 113.260, 113.290, 113.300, 113.340, 113.390, 113.400, 113.410, 113.420, 113.560, 113.600, 113.610, 113.620, 113.640, 113.650, 113.670, 113.690, 113.770, 113.790, 113.880, 113.890, 113.1040, 113.1090, 113.1110, 113.1140, 113.1160, 113.1170, 113.1390, 113.1400, and 113.1410; adopts the repeal of §§113.150, 113.1190, and 113.1200; and adopts new §§113.1130, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, and 113.1555.

Sections 113.100, 113.240, 113.690, 113.1090, 113.1130, 113.1300, and 113.1435 are adopted *with changes* to the proposed text. All other sections are adopted *without changes* to the proposed text and, therefore, will not be republished. The rules adopted in this action were proposed in the March 15, 2013, issue of the *Texas Register* (38 TexReg 1801).

Background and Summary of the Factual Basis for the Adopted Rules

The adopted amendments revise Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, to incorporate by reference changes that the United States Environmental Protection Agency (EPA) has made to the

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, under 40 Code of Federal Regulations (CFR) Part 63. The EPA's changes to 40 CFR Part 63 include amendments to a number of existing NESHAPs and the promulgation of a number of new NESHAPs. In addition, three NESHAPs have been vacated by court actions since the last time Chapter 113 was revised.

The adopted amendments to Chapter 113 incorporate by reference amendments and additions that the EPA made to the NESHAP under 40 CFR Part 63 as published through April 30, 2013. These standards are required by the Federal Clean Air Act (FCAA) Amendments of 1990, §112, which requires the EPA to develop national technology-based standards for new and existing sources of hazardous air pollutants (HAPs) listed in FCAA, §112. These technology-based standards are commonly called maximum achievable control technology (MACT) and generally available control technology (GACT) standards. The MACT standards are generally required to be based on the maximum degree of emission control that is achievable, taking into consideration cost and any non-air quality health and environmental impacts and energy requirements. The GACT standards reflect a less stringent level of control (relative to MACT) and are intended to be applied to non-major sources of HAPs, known as area sources. The EPA has the option to apply either MACT or GACT to area sources, at their discretion.

The adopted new sections would incorporate 25 recently-promulgated MACT and GACT standards for a variety of area source categories by reference. The new sections would also incorporate three new MACT standards covering certain major source categories by reference.

The commission also adopts the repeal of three existing sections of Chapter 113, as those sections reference MACT standards that have been vacated by court decisions and are no longer in effect. The repealed sections are §113.150, Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J); §113.1190, Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ); and §113.1200, Clay Ceramics Manufacturing (40 Code of Federal Regulations Part 63, Subpart KKKKK).

Under federal law, affected industries are required to implement the MACT and GACT standards regardless of whether the commission or the EPA is the agency responsible for implementation. As MACT and GACT standards are promulgated or amended by the EPA, they are reviewed by commission staff for compatibility with current commission regulations and policies. The commission then incorporates them, as appropriate, into Chapter 113 through the formal rulemaking procedures. Unless otherwise noted, all incorporations by reference in this rulemaking are without change (meaning that the standards are incorporated as published, with no modifications to the text of the

regulation being incorporated). After each MACT or GACT standard or amendment is adopted, the commission will seek formal delegation from the EPA under 40 CFR Part 63, Subpart E, Approval of State Programs and Delegation of Federal Authorities, which implements FCAA, §112(l). Upon delegation, the commission will be responsible for administering and enforcing the MACT or GACT requirements.

The commission adopts the incorporation of the following amendments that the EPA has made to the 40 CFR Part 63, General Provisions, and the federal MACT and GACT standards previously incorporated into the commission rules, by updating the federal promulgation dates and *Federal Register* (FR) citations stated in the commission rules, as discussed more specifically in the Section by Section Discussion in this preamble.

The 36 amended standards, along with their corresponding Chapter 113 sections and original incorporation dates, are listed in the following table (Figure 1).

Figure 1: 30 TAC Chapter 113 - Preamble - 1

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title	Original Incorporation (Commission Adoption)
A (§113.100)	General Provisions	June 25, 1997
G (§113.120)	Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater	June 25, 1997
H (§113.130)	Organic Hazardous Air Pollutants for Equipment Leaks	June 25, 1997
M (§113.180)	Perchloroethylene Dry Cleaning Facilities	October 15, 1997

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Chapter 113 - Standards of Performance for Hazardous Air Pollutants and for
Designated Facilities and Pollutants
Rule Project Number 2013-004-113-AI

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title	Original Incorporation (Commission Adoption)
N (§113.190)	Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	October 15, 1997
R (§113.230)	Gasoline Distribution Facilities	June 25, 1997
S (§113.240)	Pulp and Paper Industry	July 14, 1999
U (§113.260)	Group I Polymers and Resins	October 7, 1998
X (§113.290)	Secondary Lead Smelting	June 25, 1997
Y (§113.300)	Marine Tank Vessel Loading Operations	June 25, 1997
CC (§113.340)	Petroleum Refineries	October 15, 1997
HH (§113.390)	Oil and Natural Gas Production Facilities	June 14, 2000
II (§113.400)	Shipbuilding and Ship Repair (Surface Coating)	October 7, 1998
JJ (§113.410)	Wood Furniture Manufacturing Operations	July 14, 1999
KK (§113.420)	Printing and Publishing	October 7, 1998
YY (§113.560)	Generic Maximum Achievable Control Technology Standards	June 14, 2000
CCC (§113.600)	Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants	June 14, 2000
DDD (§113.610)	Mineral Wool Production	June 14, 2000
EEE (§113.620)	Hazardous Waste Combustors	July 14, 1999
GGG (§113.640)	Pharmaceuticals Production	July 14, 1999
HHH (§113.650)	Natural Gas Transmission and Storage Facilities	June 14, 2000
JJJ (§113.670)	Group IV Polymers and Resins	October 7, 1998
LLL (§113.690)	Portland Cement Manufacturing Industry	June 14, 2000
TTT (§113.770)	Primary Lead Processing	June 14, 2000
VVV (§113.790)	Publicly Owned Treatment Works	June 14, 2000
EEEE (§113.880)	Organic Liquids Distribution (Non-Gasoline)	May 25, 2005
FFFF (§113.890)	Miscellaneous Organic Chemical Manufacturing	May 25, 2005
UUUU (§113.1040)	Cellulose Products Manufacturing	June 18, 2003
ZZZZ (§113.1090)	Reciprocating Internal Combustion Engines	May 25, 2005
BBBBB (§113.1110)	Semiconductor Manufacturing	May 25, 2005
EEEEE (§113.1140)	Iron and Steel Foundries	May 25, 2005
GGGGG (§113.1160)	Site Remediation	May 25, 2005
HHHHH (§113.1170)	Miscellaneous Coating Manufacturing	May 25, 2005
DDDDDD (§113.1390)	Polyvinyl Chloride and Copolymers Production Area Sources	December 5, 2007
EEEEEE (§113.1400)	Primary Copper Smelting Area Sources	December 5, 2007
FFFFFF (§113.1410)	Secondary Copper Smelting Area Sources	December 5, 2007

The commission also incorporates by reference, without change, 28 recently-promulgated federal MACT and GACT standards not currently included in Chapter 113, as summarized in the following table (Figure 2).

Figure 2: 30 TAC Chapter 113 - Preamble - 2

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
DDDDD (§113.1130)	Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources
UUUUU (§113.1300)	Coal- and Oil-fired Electric Utility Steam Generating Units
WWWWW (§113.1320)	Hospital Ethylene Oxide Sterilizers Area Sources
YYYYY (§113.1340)	Electric Arc Furnace Steelmaking Facilities Area Sources
ZZZZZ (§113.1350)	Iron and Steel Foundries Area Sources
BBBBB (§113.1370)	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources
CCCCCC (§113.1380)	Gasoline Dispensing Facilities Area Sources
HHHHH (§113.1425)	Paint Stripping and Miscellaneous Surface Coating at Area Sources
JJJJJ (§113.1435)	Industrial, Commercial, and Institutional Boilers Area Sources
LLLLL (§113.1445)	Acrylic and Modacrylic Fibers Area Sources
MMMMM (§113.1450)	Carbon Black Production Area Sources
NNNNN (§113.1455)	Chemical Manufacturing Area Sources: Chromium Compounds
OOOOO (§113.1460)	Flexible Polyurethane Foam Production and Fabrication Area Sources
PPPPP (§113.1465)	Lead Acid Battery Manufacturing Area Sources
QQQQQ (§113.1470)	Wood Preserving Area Sources
RRRRR (§113.1475)	Clay Ceramics Manufacturing Area Sources
SSSSS (§113.1480)	Glass Manufacturing Area Sources
TTTTT (§113.1485)	Secondary Nonferrous Metals Processing Area Sources
VVVVV (§113.1495)	Chemical Manufacturing Area Sources
WWWWW (§113.1500)	Plating and Polishing Area Sources
XXXXX (§113.1505)	Metal Fabrication and Finishing Area Sources
YYYYY (§113.1510)	Ferroalloys Production Facilities Area Sources

ZZZZZZ (§113.1515)	Aluminum, Copper, and other Nonferrous Foundries Area Sources
AAAAAAA (§113.1520)	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources
BBBBBBB (§113.1525)	Chemical Preparations Industry Area Sources
CCCCCCC (§113.1530)	Paints and Allied Products Manufacturing Area Sources
DDDDDDD (§113.1535)	Prepared Feeds Manufacturing Area Sources
HHHHHHH (§113.1555)	Polyvinyl Chloride and Copolymers Production Major Sources

At the time this rulemaking was proposed, certain major source and area source regulations were undergoing reconsideration by EPA. These regulations included the standards for Industrial, Commercial, and Institutional Boilers (both major and area sources); Coal- and Oil-fired Electric Utility Steam Generating Units; and Portland Cement Manufacturing. The commission provided information regarding these reconsideration actions in the Section by Section Discussion of the proposal preamble. The commission requested comments regarding the incorporation by reference of all final reconsideration actions by the EPA, regardless of whether or not the reconsideration action was specifically identified in the proposed rulemaking. No comments were received on the potential incorporation by reference of the standards under reconsideration, so the TCEQ is incorporating the final versions of these standards in this rulemaking. More details on the incorporation of the standards which were under reconsideration are provided in the Section by Section Discussion.

This rulemaking does not include the EPA's recently-promulgated standard for Gold Mine Ore Processing and Production Area Sources (40 CFR 63 Subpart EEEEEEE) as,

based on a review of agency records, it appears that Texas does not currently have a significant gold ore processing industry. The commission solicited comment on whether there are any facilities in Texas which would be subject to the NESHAP for Gold Mine Ore Processing and Production Area Sources, but no comments were received.

For implementation and enforcement of the area source standards, the commission generally intends to follow the approach outlined in the EPA's Area Source Rule Implementation Guidance dated June 4, 2010. This guidance can be found on EPA's Web site at <http://www.epa.gov/ttn/atw/area/areaguidance.pdf>. The guidance prioritizes the area source standards based on environmental impact and the potential for emission reductions. Group 1 standards have the highest potential for emission reductions and environmental impact, with Groups 2 and 3 having a lower potential for emission reductions and environmental impact. The EPA's guidance explains that for Group 1 standards, the EPA recommends an approach using direct compliance monitoring and enforcement. For the Group 2 and Group 3 standards, the EPA recommends the use of compliance assistance and outreach programs as the primary means of implementation and enforcement.

Section by Section Discussion

§113.100, General Provisions (40 Code of Federal Regulations Part 63, Subpart A)

The commission adopts the amendment to §113.100 by incorporating by reference all

amendments to 40 CFR Part 63, Subpart A since this section was last amended. During this period, the EPA amended Subpart A on May 6, 2008 (73 FR 24870), December 22, 2008 (73 FR 78199), September 13, 2010 (75 FR 55636), November 12, 2010 (75 FR 69348), and August 11, 2011 (76 FR 49669). The EPA also made numerous amendments to 40 CFR §63.14, Subpart A, which are addressed in a separate paragraph of this Section by Section Discussion. The May 6, 2008, amendments to Subpart A revised 40 CFR §63.13(a), Addresses of State air pollution control agencies and EPA Regional Offices, to update the mailing address used to submit reports and correspondence to EPA Region VIII. The December 22, 2008, amendments revised 40 CFR §63.11, Control device and work practice requirements, to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The September 13, 2010, amendments revised the General Provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from the EPA, and relocated all requirements pertaining to audit samples from the test methods themselves into the General Provisions. The November 12, 2010, amendments revised 40 CFR §63.13(a) to update the mailing address used to submit reports and correspondence to EPA Region IX. The August 11, 2011, amendments revised 40 CFR §63.13(a) to update the mailing address used to submit reports and correspondence to EPA Region I. Although the changes to EPA Regional mailing addresses described in this paragraph do not affect states in EPA Region VI such as

Texas, it is administratively more efficient to include these amendments than to specifically exclude them.

The amendments to 40 CFR Part 63, Subpart A incorporated by reference in this action also include all revisions to 40 CFR §63.14, Incorporations by reference, adopted by the EPA on or before April 30, 2013. During this period, 40 CFR §63.14 was amended by the EPA numerous times to update test methods and reference documents as needed to support the standards in 40 CFR Part 63. The individual changes to 40 CFR §63.14 can be found by consulting the List of CFR Sections Affected, published by the Office of the FR, National Archives and Records Administration. A table (Figure 3) showing the FR publication dates and page numbers associated with the amendments to 40 CFR §63.14 follows.

Figure 3: 30 TAC Chapter 113 - Preamble - 3

Date of change to §63.14	FR Citation
July 16, 2007	72 FR 38864
October 29, 2007	72 FR 61060
November 16, 2007	72 FR 64860
December 26, 2007	72 FR 73180
December 28, 2007	72 FR 74088
January 2, 2008	73 FR 226
January 9, 2008	73 FR 1738
January 10, 2008	73 FR 1915
January 18, 2008	73 FR 3568
February 7, 2008	73 FR 7210
March 7, 2008	73 FR 12275
July 23, 2008	73 FR 42978

Date of change to §63.14	FR Citation
June 25, 2009	74 FR 30366
October 28, 2009	74 FR 55670
November 23, 2009	74 FR 61037
June 18, 2010	75 FR 34647
September 9, 2010	75 FR 54970
January 24, 2011	76 FR 4156
February 17, 2011	76 FR 9450
March 21, 2011	76 FR 15554
March 21, 2011	76 FR 15608
May 18, 2011	76 FR 28662
May 26, 2011	76 FR 30545
January 5, 2012	77 FR 556
February 16, 2012	77 FR 9304
April 17, 2012	77 FR 22848
August 16, 2012	77 FR 49490
September 11, 2012	77 FR 55698
January 11, 2013	78 FR 2333
January 30, 2013	78 FR 6674
January 31, 2013	78 FR 7138
February 1, 2013	78 FR 7488

All of these revisions to 40 CFR §63.14 are incorporated by reference as part of the amendments to §113.100. The most recent revision date to §63.14 was February 1, 2013, which is the date cited in §113.100 for the incorporation of Subpart A.

The commission also amends §113.100 to replace the term "his/her" with more general terminology consistent with current rule writing practices.

§113.120, Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 Code of Federal Regulations Part 63, Subpart G)

The commission adopts the amendment to §113.120 by incorporating by reference all amendments to 40 CFR Part 63, Subpart G since this section was last amended. During this period, the EPA amended Subpart G on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart G to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.130, Organic Hazardous Air Pollutants for Equipment Leaks (40 Code of Federal Regulations Part 63, Subpart H)

The commission adopts the amendment to §113.130 by incorporating by reference all amendments to 40 CFR Part 63, Subpart H since this section was last amended. During this period, the EPA amended Subpart H on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart H to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.150, Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J)

The commission adopts the repeal of §113.150, as the corresponding MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Mossville Env. Action Now v. EPA*, 370 F. 3d 1232, on June 18, 2004, and is no longer in effect. The EPA has promulgated revised standards for

polyvinyl chloride (PVC) production in response to the vacatur of Subpart J, and the commission is also incorporating the revised standards as part of this rulemaking, in new §113.1555, Polyvinyl Chloride and Copolymers Production Major Sources (40 Code of Regulations Part 63, Subpart HHHHHHH), in addition to incorporating revised standards for PVC production at area sources in §113.1390, Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDD). These revised standards for PVC production are further addressed in the Section by Section Discussion for amended §113.1390 and new §113.1555.

§113.180, Perchloroethylene Dry Cleaning Facilities (40 Code of Federal Regulations Part 63, Subpart M)

The commission adopts the amendment to §113.180 by incorporating by reference all amendments to 40 CFR Part 63, Subpart M since this section was last amended. During this period, the EPA amended Subpart M on July 11, 2008 (73 FR 39871). The July 11, 2008, amendments corrected erroneous cross references, corrected typographical errors in the rule text, and clarified monitoring requirements.

§113.190, Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 Code of Federal Regulations Part 63, Subpart N)

The commission adopts the amendment to §113.190 by incorporating by reference all amendments to 40 CFR Part 63, Subpart N since this section was last amended. During

this period, the EPA amended Subpart N on September 19, 2012 (77 FR 58220). The September 19, 2012, amendments finalized the EPA's residual risk and technology review for this source category. The amendments included revisions to the emissions limits for total chromium; the addition of housekeeping requirements to minimize fugitive emissions; and a requirement to phase-out the use of perfluorooctane sulfonic acid based fume suppressants. In addition, the amendments revised testing, monitoring, recordkeeping, and reporting requirements; revised regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); and added provisions to provide for an affirmative defense against civil penalties.

§113.230, Gasoline Distribution Facilities (40 Code of Federal Regulations Part 63, Subpart R)

The commission adopts the amendment to §113.230 by incorporating by reference all amendments to 40 CFR Part 63, Subpart R since this section was last amended. During this period, the EPA amended Subpart R on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart R to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.240, Pulp and Paper Industry (40 Code of Federal Regulations Part 63, Subpart S)

The commission adopts the amendment to §113.240 by incorporating by reference all amendments to 40 CFR Part 63, Subpart S since this section was last amended. During this period, the EPA amended Subpart S on September 11, 2012 (77 FR 55698). The September 11, 2012, amendments finalized the EPA's residual risk and technology review for this source category. The amendments included a requirement for five-year repeat emissions testing for selected process equipment; revisions to provisions addressing periods of SSM; a requirement for electronic reporting of performance test results; additional test methods for measuring methanol emissions; and other technical and editorial changes. The proposed rule text for §113.240 inadvertently cited Volume 76 of the *Federal Register*; the commission has revised the adoption rule text to refer to Volume 77, which is the correct volume for the referenced September 11, 2012, amendments.

§113.260, Group I Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart U)

The commission adopts the amendment to §113.260 by incorporating by reference all amendments to 40 CFR Part 63, Subpart U since this section was last amended. During this period, the EPA amended Subpart U on December 22, 2008 (73 FR 78199) and April 21, 2011 (76 FR 22566). The December 22, 2008, amendments added references to Subpart U to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The April 21, 2011,

amendments finalized the EPA's residual risk and technology review for this source category (which consists of facilities producing butyl rubber, epichlorohydrin elastomers, ethylene propylene rubber, Hypalon™, neoprene, nitrile butadiene rubber, polybutadiene rubber, polysulfide rubber, and styrene butadiene rubber and latex). The April 21, 2011, amendments also included revisions related to emissions during periods of SSM; revisions addressing electronic submission of emission test results; and provisions to provide for an affirmative defense against civil penalties.

§113.290, Secondary Lead Smelting (40 Code of Federal Regulations Part 63, Subpart X)

The commission adopts the amendment to §113.290 by incorporating by reference all amendments to 40 CFR Part 63, Subpart X since this section was last amended. During this period, the EPA amended Subpart X on January 5, 2012 (77 FR 556). The January 5, 2012, amendments finalized the EPA's residual risk and technology review for this source category. These amendments included revisions to the emissions limits for lead compounds; revisions to the standards for fugitive emissions; the addition of total hydrocarbon and dioxin and furan emissions limits for reverberatory and electric furnaces; the addition of a work practice standard for mercury emissions; the modification and addition of testing and monitoring, recordkeeping, and reporting requirements and related notifications; revisions to provisions related to emissions during periods of SSM; and minor corrections for editorial purposes and plain language

corrections.

*§113.300, Marine Tank Vessel Loading Operations (40 Code of Federal Regulations
Part 63, Subpart Y)*

The commission adopts the amendment to §113.300 by incorporating by reference all amendments to 40 CFR Part 63, Subpart Y since this section was last amended. During this period, the EPA amended Subpart Y on April 21, 2011 (76 FR 22566). The April 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category. The amendments added standards for two subcategories of marine vessel loading facilities for which the current MACT standards did not include emission standards. For these source categories, the EPA added a requirement for the facilities to perform submerged filling. The amendments also eliminated the exemption for SSM emissions, and revised the SSM-associated monitoring, recordkeeping, and reporting requirements to require reporting and recordkeeping for periods of malfunction. The amendments also added provisions for an affirmative defense against civil penalties for exceedances of emission standards caused by malfunctions, as well as criteria for establishing the affirmative defense. Additionally, the amendments required the electronic submittal of performance test data to increase the ease and efficiency of data submittal and to improve data accessibility. In addition, the commission adopts an amendment to update the name of this source category and this section to Marine Tank Vessel Loading Operations.

§113.340, Petroleum Refineries (40 Code of Federal Regulations Part 63, Subpart CC)

The commission adopts the amendment to §113.340 by incorporating by reference all amendments to 40 CFR Part 63, Subpart CC since this section was last amended.

During this period, the EPA amended Subpart CC on October 28, 2009 (74 FR 55670) and June 30, 2010 (75 FR 37730). The October 28, 2009, amendments added leak detection requirements for heat exchange systems in organic HAP service. In addition, the October 28, 2009, amendments deleted methyl ethyl ketone from the list of HAPs in Tables 1 and 7 because this compound has been delisted as a HAP. The June 30, 2010, amendments made corrections for typographical errors and inadvertent errors to section references, and made additional clarifying amendments to Subpart CC.

§113.390, Oil and Natural Gas Production Facilities (40 Code of Federal Regulations Part 63, Subpart HH)

The commission adopts the amendment to §113.390 by incorporating by reference, without change, all amendments to 40 CFR Part 63, Subpart HH, made by the EPA since this section was last amended. During this period, the EPA amended Subpart HH on December 22, 2008 (73 FR 78199) and August 16, 2012 (77 FR 49490). The December 22, 2008, amendments added references to Subpart HH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The August 16, 2012, amendments finalized the

residual risk and technology review for this source category, and included new emission limits reflecting MACT for certain previously uncontrolled emission sources in this source category (such as small glycol dehydrators). The August 16, 2012, amendments also revised leak detection and repair requirements; testing and monitoring requirements; and notification, recordkeeping and reporting requirements. In addition, the August 16, 2012, amendments eliminated the exemption for SSM emissions, and added provisions for an affirmative defense for exceedances of emission standards caused by malfunctions.

The August 16, 2012, final rule is being challenged by multiple petitioners through reconsideration requests to EPA and petitions for review in the District of Columbia Court of Appeals; however, it remains effective and applicable to affected sources. The commission solicited comment on whether to incorporate the currently effective Subpart HH, or to postpone incorporation of Subpart HH until after any reconsideration actions or court actions were resolved, but received no comment. Since the August 16, 2012, final rule is effective and applicable to affected sources, the commission is adopting the incorporation by reference at this time.

§113.400, Shipbuilding and Ship Repair (Surface Coating) (40 Code of Federal Regulations Part 63, Subpart II)

The commission adopts the amendment to §113.400 to reflect the EPA's withdrawal of

the December 29, 2006, direct final amendments (71 FR 78369), and to incorporate by reference amendments promulgated by the EPA on November 21, 2011 (76 FR 72050). The December 29, 2006, direct final amendments were included in the last revision to §113.400. However, the EPA withdrew the December 29, 2006, direct final amendments on February 27, 2007 (72 FR 8630) due to adverse comments and the amendments are no longer in effect. The November 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and also revised the requirements relating to emissions during periods of SSM to eliminate the malfunction exemption. In addition, the November 21, 2011, amendments provided for an affirmative defense against potential violations of emission standards caused by malfunctions.

§113.410, Wood Furniture Manufacturing Operations (40 Code of Federal Regulations Part 63, Subpart JJ)

The commission adopts the amendment to §113.410 by incorporating by reference all amendments to 40 CFR Part 63, Subpart JJ since this section was last amended. During this period, the EPA amended Subpart JJ on November 21, 2011 (76 FR 72050). These amendments finalized the EPA's residual risk and technology review for this source category, added two alternate compliance options for emissions of formaldehyde, and finalized a prohibition on the use of conventional spray guns. The November 21, 2011, amendments also included clarifying language to better identify the types of operations

subject to Subpart JJ. These amendments also eliminated the SSM malfunction exemption, provided for other revisions related to emissions during SSM, provided for an affirmative defense against potential violations of emission standards caused by malfunctions, and added requirements for electronic reporting of performance test results.

§113.420, Printing and Publishing (40 Code of Federal Regulations Part 63, Subpart KK)

The commission adopts the amendment to §113.420 by incorporating by reference all amendments to 40 CFR Part 63, Subpart KK since this section was last amended. During this period, the EPA amended Subpart KK on April 21, 2011 (76 FR 22566). The April 21, 2011, amendments finalized the EPA's residual risk and technology review conducted for this source category. The amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The amendments also addressed electronic submission of performance test results.

§113.560, Generic Maximum Achievable Control Technology Standards (40 Code of Federal Regulations Part 63, Subpart YY)

The commission adopts the amendment to §113.560 by incorporating by reference all

amendments to 40 CFR Part 63, Subpart YY since this section was last amended.

During this period, the EPA published a CFR correction to Subpart YY, on June 29, 2007 (72 FR 35663). A CFR correction is a correction of a minor error in the CFR which is not subject to public comment. The June 29, 2007, CFR correction added a definition of organic HAP to 40 CFR §63.1103, Source Category-Specific Applicability, Definitions, and Requirements.

§113.600, Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 Code of Federal Regulations Part 63, Subpart CCC)

The commission adopts the amendment to §113.600 by incorporating by reference all amendments to 40 CFR Part 63, Subpart CCC since this section was last amended.

During this period, the EPA amended Subpart CCC on September 19, 2012 (77 FR 58220). The September 19, 2012, amendments finalized the EPA's residual risk and technology review for this source category. The amendments deleted an alternative compliance option provided in the original rule because it allowed a source to establish a source specific limit, which could be less stringent than MACT. The September 19, 2012, amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. In addition, the amendments addressed electronic submission of performance test results.

§113.610, Mineral Wool Production (40 Code of Federal Regulations Part 63, Subpart DDD)

The commission adopts the amendment to §113.610 by incorporating by reference all amendments to 40 CFR Part 63, Subpart DDD since this section was last amended. During this period, the EPA amended Subpart DDD on December 1, 2011 (76 FR 74708). The December 1, 2011, amendments reinstated 40 CFR §63.1196, What definitions should I be aware of?.

§113.620, Hazardous Waste Combustors (40 Code of Federal Regulations Part 63, Subpart EEE)

The commission adopts the amendment to §113.620 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEE since this section was last amended. During this period, the EPA amended Subpart EEE on April 8, 2008 (73 FR 18970) and October 28, 2008 (73 FR 64068). The April 8, 2008, amendments clarified several compliance and monitoring provisions and also corrected several omissions and typographical errors in 40 CFR Part 63, Subpart EEE. The October 28, 2008, amendments addressed eight issues raised in petitions for reconsideration. The October 28, 2008, amendments also addressed comments relating to a post-promulgation decision of the United States Court of Appeals for the District of Columbia Circuit, in *Sierra Club v. EPA*, 479 F. 3d 875, (the Brick MACT litigation). The October 28, 2008, amendments also revised the new source standard for particulate matter (PM) for

cement kilns and for incinerators that burn hazardous waste, amended the PM matter detection system provisions, revised the health-based compliance alternative for total chlorine, and made several corrections and clarifications.

§113.640, Pharmaceuticals Production (40 Code of Federal Regulations Part 63, Subpart GGG)

The commission adopts the amendment to §113.640 by incorporating by reference all amendments to 40 CFR Part 63, Subpart GGG since this section was last amended.

During this period, the EPA amended Subpart GGG on December 22, 2008 (73 FR 78199) and April 21, 2011 (76 FR 22566). The December 22, 2008, amendments added references to Subpart GGG to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The April 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and corrected an editorial error. The April 21, 2011, amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The April 21, 2011, amendments also addressed electronic submission of performance test results.

§113.650, Natural Gas Transmission and Storage Facilities (40 Code of Federal Regulations Part 63, Subpart HHH)

The commission adopts the amendment to §113.650 by incorporating by reference, without change, all amendments to 40 CFR Part 63, Subpart HHH, made by the EPA since this section was last amended. During this period, the EPA amended Subpart HHH on December 22, 2008 (73 FR 78199) and August 16, 2012 (77 FR 49490). The December 22, 2008, amendments added references to Subpart HHH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The August 16, 2012, amendments finalized the residual risk and technology review for this source category, and included new emission limits reflecting MACT for certain previously uncontrolled emission sources in this source category (such as small glycol dehydrators). The August 16, 2012, amendments also revised testing and monitoring requirements and notification, recordkeeping, and reporting requirements. The August 16, 2012, amendments also eliminated the exemption for SSM emissions, provided for other revisions related to emissions during SSM, and added provisions for an affirmative defense for exceedances of emission standards caused by malfunctions.

Multiple petitioners are challenging the August 16, 2012, final rule through reconsideration requests to EPA and petitions for review in the District of Columbia Court of Appeals. The August 16, 2012, final rule remains effective and applicable to affected sources. The commission solicited comment on whether to incorporate the currently effective Subpart HHH, or to postpone incorporation of Subpart HHH until

after any reconsideration actions or court actions are resolved, but received no comments. Since the August 16, 2012, final rule remains effective and applicable to affected sources, the commission is adopting the incorporation by reference at this time.

§113.670, Group IV Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart JJJ)

The commission adopts the amendment to §113.670 by incorporating by reference all amendments to 40 CFR Part 63, Subpart JJJ since this section was last amended.

During this period, the EPA amended Subpart JJJ on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart JJJ to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.690, Portland Cement Manufacturing Industry (40 Code of Federal Regulations Part 63, Subpart LLL)

The commission adopts the amendment to §113.690 by incorporating by reference all amendments to 40 CFR Part 63, Subpart LLL since this section was last amended.

During this period, the EPA amended Subpart LLL on September 9, 2010 (75 FR 54970), January 18, 2011 (76 FR 2832), and February 12, 2013 (78 FR 10006). The September 9, 2010, amendments added or revised emission limits for mercury, total hydrocarbons (THC), and PM from new and existing kilns located at major and area

sources, and for hydrochloric acid (HCl) from new and existing kilns located at major sources. The September 9, 2010, amendments also eliminated the SSM exemption and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The January 18, 2011, amendments revised regulatory language to clarify compliance dates and clarify that the previously issued emission limits that were changed in the September 9, 2010, action remain in effect until sources are required to comply with the revised limits.

The EPA proposed a limited reconsideration of the September 9, 2010, rule on July 18, 2012 (77 FR 42368) and adopted a final rule reconsidering the Portland Cement Manufacturing MACT on February 12, 2013 (78 FR 10006). The February 12, 2013, final rule amendments retained the stack emission standards for mercury, HCl, and THC under the NESHAP and amended the stack emission standard for PM under the NESHAP. The amendments also included provisions to account for commingled HAP emissions from coal mills that are an integral part of the kiln, established a continuous monitoring regime for parametric monitoring of PM, set work practice standards for startup and shutdown, and revised the compliance date for the PM, mercury, HCl, THC, and clinker storage pile existing source standards. EPA retained the affirmative defense for civil penalties for violations of emission limits occurring as a result of a malfunction.

The commission solicited comment on whether the January 18, 2011, rule amendments

should be incorporated by reference as reflected in the proposed rule text, or if the commission should incorporate the final rule amendments adopted by the EPA, if promulgation occurred prior to adoption of this rule. As noted above, EPA finalized its reconsideration and adopted rule amendments as published on February 12, 2013, in the *Federal Register*. As stated in the proposal preamble, it was the commission's intention to incorporate EPA's final rule changes, unless adverse comments were received. No comments were received, so the commission has revised the rule text to reflect the incorporation by reference of Subpart LLL as amended through February 12, 2013.

§113.770, Primary Lead Processing (40 Code of Federal Regulations Part 63, Subpart TTT)

The commission adopts the amendment to §113.770 by incorporating by reference all amendments to 40 CFR Part 63, Subpart TTT since this section was last amended. During this period, the EPA amended Subpart TTT on November 15, 2011 (76 FR 70834). The November 15, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and revised the title and applicability provisions of this source category. The amendments also revised the stack emission limits for lead, revised work practice standards to minimize fugitive dust emissions, and revised testing, monitoring, and related notification, recordkeeping, and reporting requirements. In addition, the November 15, 2011, amendments eliminated the SSM

exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions.

§113.790, Publicly Owned Treatment Works (40 Code of Federal Regulations Part 63, Subpart VVV)

The commission adopts the amendment to §113.790 by incorporating by reference all amendments to 40 CFR Part 63, Subpart VVV since this section was last amended.

During this period, the EPA amended Subpart VVV on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart VVV to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.880, Organic Liquids Distribution (Non-Gasoline) (40 Code of Federal Regulations Part 63, Subpart EEEE)

The commission adopts the amendment to §113.880 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEEE since this section was last amended.

During this period, the EPA published amendments to Subpart EEEE on April 23, 2008 (73 FR 21825), July 17, 2008 (73 FR 40977), and December 22, 2008 (73 FR 78199).

The April 23, 2008, amendments clarified combustion control device compliance requirements, storage tank control compliance dates, and vapor balance system

monitoring requirements. In addition, the April 23, 2008, amendments corrected various typographical errors in 40 CFR Part 63, Subpart EEEE. However, the EPA received adverse comments on some portions of the April 23, 2008, direct final amendments, and subsequently withdrew those portions of the amendments. The adverse comments related to the storage tank compliance date and the monitoring of storage tank pressure relief devices. The July 17, 2008, amendments responded to the adverse comments and implemented the April 23, 2008, direct final amendments that had been withdrawn. The July 17, 2008, amendments also corrected typographical errors that the EPA identified in other sections of the rule text that were not addressed in the April 23, 2008, notices. The December 22, 2008, amendments added references to Subpart EEEE to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.890, Miscellaneous Organic Chemical Manufacturing (40 Code of Federal Regulations Part 63, Subpart FFFF)

The commission adopts the amendment to §113.890 by incorporating by reference all amendments to 40 CFR Part 63, Subpart FFFF since this section was last amended. During this period, the EPA amended Subpart FFFF on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart FFFF to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1040, Cellulose Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart UUUU)

The commission adopts the amendment to §113.1040 by incorporating by reference all amendments to 40 CFR Part 63, Subpart UUUU since this section was last amended. During this period, the EPA amended Subpart UUUU on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart UUUU to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1090, Reciprocating Internal Combustion Engines (40 Code of Federal Regulations Part 63, Subpart ZZZZ)

The commission adopts the amendment to §113.1090 by incorporating by reference all amendments to 40 CFR Part 63, Subpart ZZZZ since this section was last amended. During this period, the EPA amended Subpart ZZZZ on January 18, 2008 (73 FR 3568), March 3, 2010 (75 FR 9648), June 30, 2010 (75 FR 37732), August 20, 2010 (75 FR 51570), March 9, 2011 (76 FR 12863), and January 30, 2013 (78 FR 6674). The January 18, 2008, amendments to Subpart ZZZZ established national emission standards for new and reconstructed stationary reciprocating internal combustion engines (RICE) that are: 1) located at area sources of HAP emissions; or 2) have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions.

The March 3, 2010, amendments established national emissions standards for existing stationary compression ignition RICE that are: 1) located at area sources of HAP emissions; or that 2) have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions. In addition, the March 3, 2010, amendments promulgated NESHAP for existing non-emergency stationary compression ignition engines greater than 500 brake horsepower located at major sources of HAP emissions. The March 3, 2010, amendments also revised provisions related to SSM for engines. The June 30, 2010, amendments restored two paragraphs that were inadvertently removed from Subpart ZZZZ during the promulgation of the March 3, 2010, amendments. The August 20, 2010, amendments promulgated NESHAP for existing stationary spark ignition RICE that are located at area sources of HAP emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions. The March 9, 2011, amendments revised regulatory text to clarify compliance requirements related to continuous parameter monitoring systems, and corrected minor typographical errors in the regulatory text of the August 20, 2010, action. The commission also adopts an amendment to remove the word "stationary" from the title of this section, as the EPA no longer uses that term in the title of this NESHAP.

The January 30, 2013, amendments addressed certain issues that were raised by stakeholders through lawsuits, petitions for reconsideration of the 2010 RICE NESHAP

amendments, and other communications. These amendments also clarified and corrected minor technical or editing errors in the RICE NESHAP. The January 30, 2013, amendments included alternative testing options for large spark ignition reciprocating engines; management practices for existing spark ignition engines in sparsely populated areas; and alternative monitoring and compliance options for the same engines in populated areas. The amendments also established management practices for existing compression ignition engines on offshore vessels; finalized limits on the hours that stationary emergency engines may be used for emergency demand response; and established fuel and reporting requirements for certain engines used for emergency demand response.

The January 30, 2013, amendments to the RICE NESHAP were not yet promulgated by EPA at the time the proposed changes to Chapter 113 were drafted, and therefore were not specifically referenced in the proposed Chapter 113 rulemaking. However, in the Chapter 113 proposal preamble, the commission requested comments regarding the incorporation by reference of all final reconsideration actions by the EPA, whether or not specifically noted in the proposal notice, to facilitate state delegation and implementation of the NESHAP. No comments were received. In addition, the inclusion of the January 30, 2013 amendments in §113.1090 would ensure that the version of Subpart ZZZZ incorporated by reference into Chapter 113 is the most current version possible. This will maintain consistency between the requirements of TCEQ's

Chapter 113 and current federal regulations. Therefore, the commission is including the January 30, 2013, amendments in the changes to §113.1090, and has made corresponding changes to the rule text.

§113.1110, Semiconductor Manufacturing (40 Code of Federal Regulations Part 63, Subpart BBBBBB)

The commission adopts the amendment to §113.1110 by incorporating by reference all amendments to 40 CFR Part 63, Subpart BBBBBB since this section was last amended. During this period, the EPA amended Subpart BBBBBB on July 22, 2008 (73 FR 42529). The July 22, 2008, amendments established a new MACT floor level of control for existing and new combined HAP process vent streams, and clarified the applicability of this NESHAP by adding definitions for organic, inorganic, and combined HAP process vent streams.

§113.1130, Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDD)

The commission adopts new §113.1130 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart DDDDDD, adopted by the EPA on September 13, 2004 (69 FR 55218), with amendments published on December 28, 2005 (70 FR 76918), April 20, 2006 (71 FR 20446), December 6, 2006 (71 FR 70651), March 21, 2011 (76 FR 15608), and January 31, 2013 (78 FR 7138). This MACT standard

regulates HAP emissions from boilers and process heaters located at major sources of HAP. HAPs emitted from these facilities include hydrogen chloride, formaldehyde, polycyclic organic matter, acetaldehyde, benzene, and metal compounds such as arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium. The December 28, 2005, amendments clarified the process for demonstrating eligibility for the health-based compliance alternatives contained in the rule. The April 20, 2006, amendments revised the general and compliance requirements as they related to SSM. The December 6, 2006, amendments clarified the procedures for implementing the emissions averaging provision and for conducting compliance testing when boilers are vented to a common stack. In addition, the December 6, 2006, amendments clarified certain definitions.

The District of Columbia Court of Appeals, in *Natural Resources Defense Council v. EPA*, 489 F.3d 1250, June 8, 2007, vacated and remanded the provisions of the Boiler MACT, 40 CFR Part 63, Subpart DDDDD, published September 13, 2004 (69 FR 55218). This is because the court had also vacated the Commercial and Industrial Solid Waste Incineration (CISWI) Definitions Rule, September 22, 2005 (70 FR 55568). The vacatur of the CISWI definitions rule resulted in a need for the Boiler MACT to also be revised because the applicability of the Boiler MACT would be affected once the EPA revised the CISWI definitions rule to be consistent with the opinion of the court. In response to the vacatur of the Boiler MACT, the EPA adopted revisions to the Boiler

MACT on March 21, 2011, (76 FR 15608). However, on March 21, 2011, the EPA also issued a notice that it intended to reconsider the final rule (76 FR 15266) and a notice delaying the effective date of the final Boiler MACT rules (76 FR 28662), until such time as judicial review was completed, or the EPA finalized reconsideration of the rules, whichever was earlier. This notice of delay was challenged, and was vacated by the District of Columbia Court of Appeals in *Sierra Club v. Jackson*, 833 F. Supp.2d 11, January 9, 2012. The March 21, 2011, revisions to the Boiler MACT are also being challenged by multiple petitioners, and have been consolidated into one proceeding, *U.S. Sugar Corp. v. EPA*, No. 11-1108, in the District of Columbia Court of Appeals.

The EPA proposed reconsideration amendments to Subpart DDDDD on December 23, 2011 (76 FR 80598). The EPA adopted a final rule reconsidering the Boiler major source MACT on January 31, 2013, which included numerous changes. The EPA's review of existing and new data resulted in changes to emission limits for various pollutants. Overall, for both new and existing affected units, about 30% of the emission limits are more stringent, half are less stringent, and 20% unchanged as compared to the March 2011 final rule. The EPA also established an alternative emission standard for carbon monoxide (CO), based on continuous emission monitoring system (CEMS) data for several subcategories. The January 31, 2013, amendments also added periodic tune-up work practices to address dioxin and furan emissions. In addition, the EPA updated the compliance dates for new and existing sources. The amendments revised

the list of exemptions to include residential boilers that may be located at an industrial, commercial, or institutional major source. The exemption for boilers or process heaters used specifically for research and development was revised to include boilers used for certain testing purposes. The amendments clarified that the exemption for boilers and process heaters used for research and development includes boilers used for testing the propulsion systems on military vessels. The amendments also revised work practice standards for periods of startup and shutdown to better reflect MACT during those periods. In addition, the amendments added definitions of startup and shutdown and revised the definition of the limited use subcategory. The amendments additionally made numerous technical corrections to the final rule to clarify definitions, references, applicability and compliance issues raised by petitioners and other stakeholders.

The commission solicited comment on whether the March 21, 2011, rule should be incorporated by reference as reflected in the proposed rule text, or if the commission should incorporate the final rule adopted by the EPA on January 31, 2013. As stated in the proposal preamble, it was the commission's intention to incorporate the final rule, unless adverse comments were received. No comments were received, so the commission has revised the rule text to reflect the incorporation by reference of Subpart DDDDD as amended through January 31, 2013.

§113.1140, Iron and Steel Foundries (40 Code of Federal Regulations Part 63, Subpart

EEEEEE)

The commission adopts the amendment to §113.1140 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEEEE since this section was last amended. During this period, the EPA amended Subpart EEEEE, on February 7, 2008 (73 FR 7210). The February 7, 2008, amendments added alternative compliance options for cupolas at existing foundries and clarified several provisions to increase operational flexibility and improve readability of the rule requirements.

§113.1160, Site Remediation (40 Code of Federal Regulations Part 63, Subpart GGGGG)

The commission adopts the amendment to §113.1160 by incorporating by reference all amendments to 40 CFR Part 63, Subpart GGGGG since this section was last amended. During this period, the EPA amended Subpart GGGGG on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments revised Subpart GGGGG to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1170, Miscellaneous Coating Manufacturing (40 Code of Federal Regulations Part 63, Subpart HHHHH)

The commission adopts the amendment to §113.1170 by incorporating by reference all amendments to 40 CFR Part 63, Subpart HHHHH since this section was last amended.

During this period, the EPA amended Subpart HHHHH on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments revised Subpart HHHHH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1190, Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ)

The commission adopts the repeal of §113.1190, as this MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Sierra Club v. EPA*, 479 F.3d 875, on March 13, 2007, and is no longer in effect. The EPA has not adopted revised standards for this source category.

§113.1200, Clay Ceramics Manufacturing (40 Code of Federal Regulations Part 63, Subpart KKKKK)

The commission adopts the repeal of §113.1200, as this MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Sierra Club v. EPA*, 479 F.3d 875, on March 13, 2007, and is no longer in effect. The EPA has not adopted revised standards for this source category.

§113.1300, Coal- and Oil-Fired Electric Utility Steam Generating Units (40 Code of Federal Regulations Part 63, Subpart UUUUU)

The commission adopts new §113.1300 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart UUUUU, adopted by the EPA on February 16, 2012 (77 FR 9304), with amendments published on April 19, 2012 (77 FR 23399) and April 24, 2013 (78 FR 24073). This rule is commonly referred to as the Mercury Air Toxics Standard. This MACT standard regulates HAP emissions from coal- and oil-fired electric utility steam generating units located at major or area sources of HAP. HAPs emitted from these facilities include hydrogen chloride, hydrogen fluoride, and metal compounds such as selenium, arsenic, chromium, and nickel. The April 19, 2012, amendments corrected typographical errors, such as invalid cross-references and preamble text that was not consistent with the final regulatory text.

On November 30, 2012 (77 FR 71323) the EPA published a limited reconsideration of the February 16, 2012, final rule. On April 24, 2013, the EPA adopted reconsideration amendments which revised emission limits for HCl, filterable PM (fPM), sulfur dioxide (SO₂), lead, and selenium, for all new coal-fired EGUs; and revised the mercury emission limit for certain units. The amendments also revised fPM and SO₂ emission limits for new solid oil-derived fuel-fired EGUs; fPM emission limits for new continental liquid oil-fired EGUs; and revised most of the emission limits for new integrated gasification combined cycle units.

The April 24, 2013, amendments also removed quarterly stack testing as an option to

demonstrate compliance with the new source fPM emission limits; revised the way in which an owner or operator of a new EGU who chooses to use PM continuous parameter monitoring systems (CPMS) establishes an operating limit; and required inspections and retesting within 45 days of an exceedance of the operating limit for those new EGU owners or operators who choose to use PM CPMS as a compliance option.

At the time this rulemaking was proposed, Subpart UUUUU was under reconsideration by the EPA. The commission solicited comment on whether the April 19, 2012, rule should be incorporated by reference as reflected in the proposed rule text, or if the commission should postpone incorporation until after EPA's reconsideration was complete. No comments were received. Since the April 24, 2013, reconsideration amendments are now in effect, the commission has revised the rule text to reflect the incorporation by reference of Subpart UUUUU as amended through April 24, 2013.

§113.1320, Hospital Ethylene Oxide Sterilizers Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWW)

The commission adopts new §113.1320 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart WWWW, adopted by the EPA on December 28, 2007 (72 FR 73611). This GACT standard regulates HAP emissions from hospital ethylene oxide sterilizers located at area sources of HAP. The HAP emitted

from these facilities is ethylene oxide.

§113.1340, Electric Arc Furnace Steelmaking Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYYYY)

The commission adopts new §113.1340 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart YYYYYY, adopted by the EPA on December 28, 2007 (72 FR 74088). This MACT and GACT standard regulates HAP emissions from electric arc furnace steelmaking facilities that are area sources of HAP. HAPs emitted from these facilities include mercury, chromium, lead, manganese, nickel, and other metals.

§113.1350, Iron and Steel Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZZ)

The commission adopts new §113.1350 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart ZZZZZ, adopted by the EPA on January 2, 2008 (73 FR 226). This GACT standard regulates HAP emissions from iron and steel foundries that are area sources of HAP. HAPs emitted from these facilities include compounds of mercury, chromium, lead, manganese, and nickel.

§113.1370, Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB)

The commission adopts new §113.1370 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart BBBBBB, adopted by the EPA on January 10, 2008 (73 FR 1916), with amendments published by the EPA on March 7, 2008 (73 FR 12275) and January 24, 2011 (76 FR 4156). This GACT standard regulates HAP emissions from gasoline distribution bulk terminals, bulk plants, and pipeline facilities that are area sources of HAP. HAPs emitted from these facilities include benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether. The March 7, 2008, amendments corrected errors in citations for test methods, corrected cross references within 40 CFR Part 63, Subpart BBBBBB, and corrected references to the regulation's promulgation date that were intended to refer to the compliance date. The January 24, 2011, amendments clarified certain definitions, applicability-related provisions, and compliance-related provisions in response to issues raised in the petitions for reconsideration.

§113.1380, Gasoline Dispensing Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC)

The commission adopts new §113.1380 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart CCCCCC, adopted by the EPA on January 10, 2008 (73 FR 1916), with amendments published on March 7, 2008 (73 FR 12275), June 25, 2008 (73 FR 35939), and January 24, 2011 (76 FR 4156). This GACT standard regulates HAP emissions from gasoline dispensing facilities that are area sources of

HAP. HAPs emitted from these facilities include benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether. The March 7, 2008, amendments corrected a number of errors in rule citations and cross references. The June 25, 2008, amendments revised the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions. The January 24, 2011, amendments clarified certain definitions, applicability-related provisions, and compliance-related provisions in response to issues raised in the petitions for reconsideration.

§113.1390, Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDD)

The commission adopts the amendment to §113.1390 by incorporating by reference all amendments to 40 CFR Part 63, Subpart DDDDDD since this section was adopted. During this period, the EPA published amendments to Subpart DDDDDD on April 17, 2012 (77 FR 22848). The April 17, 2012, amendments clarified the applicability of Subpart DDDDDD to existing and new area sources, and revised GACT requirements for this source category.

§113.1400, Primary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart EEEEE)

The commission adopts the amendment to §113.1400 by incorporating by reference all

amendments to 40 CFR Part 63, Subpart EEEEEEE since this section was adopted.

During this period, the EPA published amendments to Subpart EEEEEEE on July 3, 2007 (72 FR 36363). The July 3, 2007, amendments clarified when exhaust gases must be controlled, and what control devices may be used. The amendments also corrected rule numbering errors. In addition, the commission adopts an amendment to §113.1400 to replace the phrase "Maximum Achievable Control Technology" with "Generally Available Control Technology," as this NESHAP is a GACT standard and not a MACT standard.

§113.1410, Secondary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart FFFFFFFF)

The commission adopts the amendment to §113.1410 by incorporating by reference all amendments to 40 CFR Part 63, Subpart FFFFFFFF since this section was first adopted. During this period, the EPA published direct final amendments to Subpart FFFFFFFF on July 3, 2007 (72 FR 36363). The July 3, 2007, amendments clarified the date that defines a new copper smelter, and corrected a cross-referencing error. In addition, the commission adopts an amendment to §113.1410 to replace the term "Maximum Achievable Control Technology" with "Generally Available Control Technology," as this NESHAP is a GACT standard and not a MACT standard.

§113.1425, Paint Stripping and Miscellaneous Surface Coating at Area Sources (40

Code of Federal Regulations Part 63, Subpart HHHHHH

The commission adopts new §113.1425 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart HHHHHH, adopted by the EPA on January 9, 2008 (73 FR 1738), with amendments published on February 13, 2008 (73 FR 8408). This GACT standard regulates HAP emissions from paint stripping and miscellaneous surface coating facilities that are area sources of HAPs. HAPs emitted from these facilities include methylene chloride and compounds of chromium, lead, manganese, nickel, and cadmium. The February 13, 2008, amendments corrected minor errors in the rule text.

§113.1435, Industrial, Commercial, and Institutional Boilers Area Sources (40 Code of Federal Regulations Part 63, Subpart JJJJJJ)

The commission adopts new §113.1435 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart JJJJJJ, adopted by the EPA on March 21, 2011 (76 FR 15554), with amendments published on February 1, 2013 (78 FR 7488). This MACT and GACT standard regulates HAP emissions from industrial, commercial, and institutional boilers that are area sources of HAP. HAPs emitted from these facilities include mercury, arsenic, beryllium, cadmium, lead, chromium, manganese, nickel, and polycyclic organic compounds.

On December 23, 2011 (76 FR 80532) the EPA proposed reconsideration amendments

to Subpart JJJJJJ. The EPA adopted reconsideration amendments for the Boiler area source NESHAP on February 1, 2013 (78 FR 7488). The February 1, 2013, amendments included numerous changes. The EPA's review of existing and new data resulted in a number of changes to emission limits for various pollutants. The EPA also established an alternative emission standard for CO, based on CEMS data for several subcategories. The amendments added periodic tune-up work practices to address CO and mercury emissions from new and existing small coal-fired units, in lieu of numeric emission limits. In addition, the amendments updated the compliance dates for new and existing sources. Further, the amendments revised the list of boilers that are not part of the source categories subject to subpart JJJJJJ, clarified certain boiler types, and included certain additional boilers located at an industrial, commercial, or institutional area source facility. The amendments also revised work practice standards for periods of startup and shutdown to better reflect MACT and GACT during those periods. In addition, the amendments added definitions of startup and shutdown and revised the definition of the limited use subcategory. The amendments additionally made numerous technical corrections to the final rule to clarify definitions, references, applicability, and compliance issues raised by petitioners and other stakeholders.

The commission solicited comment on whether the March 21, 2011, rule should be incorporated by reference as reflected in the proposed rule text, or if the commission should incorporate the final rule adopted by the EPA on February 1, 2013. As stated in

the proposal preamble, it was the commission's intention to incorporate the final rule, unless adverse comments were received. No comments were received, so the commission has revised the rule text to reflect the incorporation by reference of Subpart JJJJJJ as amended through February 1, 2013.

§113.1445, Acrylic and Modacrylic Fibers Area Sources (40 Code of Federal Regulations Part 63, Subpart LLLLLL)

The commission adopts new §113.1445 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart LLLLLL, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923).

This GACT standard regulates HAP emissions from acrylic and modacrylic fiber production facilities that are area sources of HAP. The HAP emitted from these facilities is primarily acrylonitrile. The March 26, 2008, amendments made a minor editorial correction to add a phrase that had been omitted from the published rule.

§113.1450, Carbon Black Production Area Sources (40 Code of Federal Regulations Part 63, Subpart MMMMMM)

The commission adopts new §113.1450 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart MMMMMM, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard regulates HAP emissions from carbon black production

facilities that are area sources of HAP. HAPs emitted from these facilities include polycyclic organic compounds. The March 26, 2008, amendments corrected minor rule citation errors and added a phrase that had been omitted from the published rule.

§113.1455, Chemical Manufacturing Area Sources: Chromium Compounds (40 Code of Federal Regulations Part 63, Subpart NNNNNN)

The commission adopts new §113.1455 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart NNNNNN, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to area sources that manufacture chromium compounds. HAPs emitted from these facilities include chromium compounds. The March 26, 2008, amendments corrected control device inspection requirements, and added a phrase that had been omitted from the published rule.

§113.1460, Flexible Polyurethane Foam Production and Fabrication Area Sources (40 Code of Federal Regulations Part 63, Subpart OOOOOO)

The commission adopts new §113.1460 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart OOOOOO, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to flexible foam production and flexible foam fabrication plants that are area sources. HAPs emitted from these facilities include

methylene chloride. The March 26, 2008, amendments corrected a paragraph formatting error, added language to clarify compliance certification requirements, and revised a table indicating applicable requirements of 40 CFR Part 63 Subpart A.

§113.1465, Lead Acid Battery Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart P P P P P P)

The commission adopts new §113.1465 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart P P P P P P, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923).

This GACT standard applies to lead acid battery manufacturing plants that are area sources. HAPs emitted from these facilities include lead and cadmium compounds. The March 26, 2008, amendments corrected citation errors relating to performance testing requirements, corrected an error in the deadline for submitting compliance status reports, deleted erroneous cross references, and revised a table indicating applicable requirements of 40 CFR Part 63, Subpart A.

§113.1470, Wood Preserving Area Sources (40 Code of Federal Regulations Part 63, Subpart Q Q Q Q Q Q)

The commission adopts new §113.1470 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart Q Q Q Q Q Q, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR

15923). This GACT standard applies to wood preserving facilities that are area sources. HAPs emitted from these facilities include arsenic, chromium, methylene chloride, and dioxin. The March 26, 2008, amendments corrected a rule citation, added a phrase that had been inadvertently omitted from the rule text, and corrected a table indicating applicable requirements of 40 CFR Part 63, Subpart A.

§113.1475, Clay Ceramics Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart RRRRRR)

The commission adopts new §113.1475 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart RRRRRR, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to clay ceramics manufacturing facilities that are area sources and use more than 50 tons per year of clay. HAPs emitted from these facilities include chromium, lead, manganese, and nickel compounds.

§113.1480, Glass Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart SSSSSS)

The commission adopts new §113.1480 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart SSSSSS, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to glass manufacturing facilities that are area sources and that produce 50 tons per year of glass that contains

one or more specified HAPs. HAPs emitted from these facilities include arsenic, cadmium, chromium, lead, manganese, and nickel compounds.

§113.1485, Secondary Nonferrous Metals Processing Area Sources (40 Code of Federal Regulations Part 63, Subpart TTTTTT)

The commission adopts new §113.1485 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart TTTTTT, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to nonferrous metal processing facilities that are area sources. HAPs emitted from these facilities include arsenic, chromium, lead, manganese, and nickel compounds.

§113.1495, Chemical Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart VVVVVV)

The commission adopts new §113.1495 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart VVVVVV, adopted by the EPA on October 29, 2009 (74 FR 56008), with amendments published on December 21, 2012 (77 FR 75740). This GACT standard applies to agricultural chemicals and pesticides manufacturing, cyclic crude and intermediate production, industrial inorganic chemical manufacturing, industrial organic chemical manufacturing, inorganic pigments manufacturing, miscellaneous organic chemical manufacturing, plastic materials and resins manufacturing, pharmaceutical production, and synthetic rubber manufacturing.

This standard is limited to area sources. HAPs emitted from these facilities include 1,3-butadiene; 1,3-dichloropropene; acetaldehyde; chloroform; ethylene dichloride; methylene chloride; hexachlorobenzene; hydrazine; quinoline; and compounds of arsenic, cadmium, chromium, lead, manganese, and nickel. The EPA extended the effective date of certain Title V permit requirements (40 CFR §63.11494(e)) on December 14, 2010 (75 FR 77762), until March 14, 2011. The EPA indefinitely extended the effective date of 40 CFR §63.11494(e) on March 14, 2011 (76 FR 13515).

The EPA published a limited reconsideration of the final rule on January 30, 2012, (77 FR 4522), and published a stay of the October 29, 2009, final rule on October 25, 2012 (77 FR 65136), staying Subpart VVVVVV in its entirety until December 24, 2012. The EPA adopted final reconsideration amendments on December 21, 2012. The December 21, 2012, amendments lifted the stay of the Title V permit requirement issued on March 14, 2011, and lifted the stay of the final rule issued on October 25, 2012. In addition, the December 21, 2012, amendments revised the approach for addressing malfunctions and standards applicable during startup and shutdown periods, and made amendments and technical corrections to the final rule to clarify applicability and compliance issues. The December 21, 2012, amendments also extended the compliance date for existing sources until March 21, 2013.

§113.1500, Plating and Polishing Area Sources (40 Code of Federal Regulations Part

63, Subpart WWWWWW)

The commission adopts new §113.1500 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart WWWWWW, adopted by the EPA on July 1, 2008 (73 FR 37728), with amendments published on September 19, 2011 (76 FR 57913). This GACT standard applies to metal plating and polishing facilities that are area sources. HAPs emitted from these facilities include cadmium, chromium, lead, manganese, and nickel compounds. The September 19, 2011, amendments clarified that the emission control requirements did not apply to bench-scale activities, and also included minor technical corrections.

§113.1505, Metal Fabrication and Finishing Area Sources (40 Code of Federal Regulations Part 63, Subpart XXXXXX)

The commission adopts new §113.1505 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart XXXXXX, adopted by the EPA on July 23, 2008 (73 FR 42978). This GACT standard applies to a wide range of metal fabrication and finishing operations that are area sources. HAPs emitted from these facilities include cadmium, chromium, lead, manganese, and nickel compounds.

§113.1510, Ferroalloys Production Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYYYY)

The commission adopts new §113.1510 by incorporating by reference the final

promulgated rules in 40 CFR Part 63, Subpart YYYYYY, adopted by the EPA on December 23, 2008 (73 FR 78637). This GACT standard applies to ferroalloy production facilities that are area sources. HAPs emitted from these facilities include chromium, manganese, and nickel compounds.

§113.1515, Aluminum, Copper, and Other Nonferrous Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZZZ)

The commission adopts new §113.1515 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart ZZZZZZ, adopted by the EPA on June 25, 2009 (74 FR 30366), with amendments published on September 10, 2009 (74 FR 46493). This GACT standard applies to area source facilities that pour molten aluminum, copper, or other nonferrous metals into molds to manufacture castings. HAPs emitted from these facilities include chromium, beryllium, cadmium, lead, manganese, and nickel compounds. The September 10, 2009, amendments clarified applicability requirements and terminology in 40 CFR §63.11544, Am I subject to this subpart?.

§113.1520, Asphalt Processing and Asphalt Roofing Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart AAAAAAA)

The commission adopts new §113.1520 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart AAAAAAA, adopted by the EPA on

December 2, 2009 (74 FR 63236), with amendments published on March 18, 2010 (75 FR 12988). This GACT standard applies to asphalt processing and asphalt roofing manufacturing operations that are area sources. HAPs emitted from these facilities include polycyclic aromatic hydrocarbons. The March 18, 2010, amendments corrected typographical errors in §40 CFR 63.11563, What are my monitoring requirements?, and corrected cross references in 40 CFR §63.11564, What are my notification, recordkeeping, and reporting requirements?.

§113.1525, Chemical Preparations Industry Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBBBBB)

The commission adopts new §113.1525 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart BBBBBBB, adopted by the EPA on December 30, 2009 (74 FR 69194). This GACT standard applies to area source facilities that manufacture chemical preparations containing compounds of chromium, lead, manganese, or nickel, except for manufacturers of certain types of ink. HAPs emitted from these facilities include chromium, lead, manganese, and nickel compounds.

§113.1530, Paints and Allied Products Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC)

The commission adopts new §113.1530 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart CCCCCC, adopted by the EPA on

December 3, 2009 (74 FR 63504), with amendments published on March 5, 2010 (75 FR 10184) and June 3, 2010 (75 FR 31317). This GACT standard applies to area source facilities that manufacture materials such as paint, ink, or adhesive that are intended to be applied to a substrate and consist of a mixture of resins, pigments, solvents, or other additives. HAPs emitted from these facilities include benzene, methylene chloride, and compounds of cadmium, chromium, lead, and nickel. The March 5, 2010, amendments corrected cross-references and other editorial errors. The June 3, 2010, amendments revised the definition of "material containing hazardous air pollutants" to restore language relating to a *de minimis* concentration of non-carcinogens.

§113.1535, Prepared Feeds Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDDD)

The commission adopts new §113.1535 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart DDDDDDD, adopted by the EPA on January 5, 2010 (75 FR 522), with amendments published on July 20, 2010 (75 FR 41991) and December 23, 2011 (76 FR 80261). This GACT standard applies to prepared animal feed manufacturing operations that are area sources. HAPs emitted from these facilities include chromium and manganese compounds. The July 20, 2010, amendments corrected the date for new sources to submit a Notification of Compliance Status form, corrected the information to be included in the Notification of Compliance Report, and restored language relating to submittal of the annual compliance

certification report. The December 23, 2011, amendments revised GACT requirements for pelleting processes at large, existing prepared feeds manufacturing facilities, and associated requirements for compliance demonstration, monitoring, reporting, and recordkeeping. The December 23, 2011, amendments also clarified the requirement that doors be kept closed in areas where materials containing chromium and manganese are present; and clarified the requirement to install a device to minimize emissions at the point of bulk loadout.

§113.1555, Polyvinyl Chloride and Copolymers Production Major Sources (40 Code of Federal Regulations Part 63, Subpart HHHHHHHH)

The commission adopts new §113.1555 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart HHHHHHHH, adopted by the EPA on April 17, 2012 (77 FR 22848). This MACT standard applies to PVC and copolymers production operations that are major sources, or are located at major sources. The primary HAP emitted from these facilities is vinyl chloride.

Final Regulatory Impact Analysis Determination

The commission reviewed the rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking does not meet the definition of a major environmental rule as defined in that statute, and in addition, if it did meet the definition, would not be subject to the

requirement to prepare a regulatory impact analysis.

A major environmental rule means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The specific intent of these rules is to adopt amendments to a number of existing NESHAPs incorporated into Chapter 113, adopt incorporations of a number of recently-promulgated NESHAPs not yet incorporated into Chapter 113, and repeal several Chapter 113 sections that reference NESHAPs that are no longer effective due to court actions. The NESHAPs are promulgated by the EPA for source categories mandated by 42 United States Code (USC), §7412 and required to be included in operating permits by 42 USC, §7661a. These NESHAPs are technology based standards commonly referred to as MACT standards which EPA develops to regulate emissions of HAPs as required under the FCAA. Certain sources of HAPs will be affected and stationary sources are required to comply with federal standards whether or not the commission adopts the standards or takes delegation from the EPA. The rules are not anticipated to add any significant additional costs to affected individuals or businesses beyond what is already required to comply with federal MACT standards on the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Additionally, the rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225, applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

Under 42 USC, §7661a, states are required to have federal operating permit programs that provide authority to issue permits and assure compliance with each applicable standard, regulation, or requirement under the FCAA, including NESHAPs, which are required under 42 USC, §7412. Similar to requirements in 42 USC, §7410, regarding the requirement to adopt and implement plans to attain and maintain the National Ambient Air Quality Standards, states are not free to ignore requirements in 42 USC, §7661a, and must develop and submit programs to provide for operating permits for major sources that include all applicable requirements of the FCAA.

The requirement to provide a fiscal analysis of regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th Legislature, 1997. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 that concluded "based on an assessment of rules adopted by the agency in the past, it is not anticipated that the bill will have significant fiscal implications for the agency due to its limited application." The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law.

Because of the ongoing need to meet federal requirements, the commission routinely proposes and adopts rules incorporating or designed to satisfy specific federal requirements. The legislature is presumed to understand this federal scheme. If each rule proposed by the commission in order to meet a federal requirement was considered to be a major environmental rule that exceeds federal law, then each of those rules would require the full Regulatory Impact Analysis (RIA) contemplated by SB 633. This

conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the Legislative Budget Board (LBB) in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes, and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full RIA for rules that are extraordinary in nature. While the adopted rules may have a broad impact, that impact is no greater than is necessary or appropriate to meet the requirements of the FCAA, and in fact creates no additional impacts since the rules do not modify the federal NESHAP, but are incorporations by reference, which do not change the federal requirements, or repeals of current requirements.

For these reasons, the adopted rules fall under the exception in Texas Government Code, §2001.0225(a), because they are required by, and do not exceed, federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code, but left this provision substantially un-amended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." (*Central Power & Light Co. v. Sharp*, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), writ denied with per curiam opinion respecting another issue,

960 S.W.2d 617 (Tex. 1997); *Bullock v. Marathon Oil Co.*, 798 S.W.2d 353, 357 (Tex. App. Austin 1990, no writ) superseded by statute on another point of law, Tax Code §112.108, Other Actions Prohibited, as recognized in, *First State Bank of Dumas v. Sharp*, 863 S.W. 2d 81, 83, (Tex. App. Austin 1993, no writ.); *Cf. Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, pet. denied); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).)

The commission's interpretation of the RIA requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance" (*See Texas Government Code, §2001.035*). The legislature specifically identified Texas Government Code, §2001.0225 as falling under this standard. As discussed in this analysis and elsewhere in this preamble, the commission has substantially complied with the requirements of Texas Government Code, §2001.0225.

The adopted rules implement requirements of the FCAA. The NESHAP standards being incorporated into state law are federal technology-based standards that are required by

42 USC, §7412, required to be included in permits under 42 USC, §7661a, are adopted by reference without modification or substitution, and will not exceed any standard set by state or federal law, or are repeals of existing requirements. These rules are not an express requirement of state law. The rules do not exceed a requirement of a delegation agreement or a contract between state and federal government, as the EPA delegates the NESHAP to Texas in accordance with the delegation procedures codified in 40 CFR Part 63. The amendments were not developed solely under the general powers of the agency, but are authorized by specific sections of Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act), and the Texas Water Code, which are cited in the Statutory Authority section of this preamble, including Texas Health and Safety Code, §§382.011, 382.012, and 382.017.

Therefore, this rulemaking action is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invited public comment regarding the draft regulatory impact analysis determination during the public comment period. No comments were received.

Takings Impact Assessment

The commission evaluated the adopted rulemaking and performed an analysis of whether the rulemaking constitutes a taking under Texas Government Code, Chapter

2007. The commission's assessment indicates Texas Government Code, Chapter 2007 does not apply.

Under Texas Government Code, §2007.002(5), taking means: "(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect."

The commission completed a takings impact analysis for the rulemaking action under the Texas Government Code, §2007.043. The specific intent of these rules is to adopt amendments to a number of existing NESHAPs incorporated into Chapter 113, adopt incorporations of a number of recently-promulgated NESHAPs not yet incorporated

into Chapter 113, and repeal several Chapter 113 sections that reference NESHAPs that are no longer effective due to court actions. The NESHAPs are promulgated by the EPA for source categories mandated by 42 USC, §7412 and required to be included in operating permits by 42 USC, §7661a. These NESHAPs are technology-based standards commonly referred to as MACT standards which the EPA develops to regulate emissions of HAPs as required under the FCAA. Certain sources of HAPs will be affected and stationary sources are required to comply with federal standards whether or not the commission adopts the standards or takes delegation from the EPA. The adopted rules will not create any additional burden on private real property. Under federal law, the affected industries will be required to comply with the NESHAPs regardless of whether the commission or the EPA is the agency responsible for implementation of the NESHAPs. The adopted rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The adopted rules also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the rulemaking will not cause a taking under the Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission determined that this rulemaking action relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the

Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201, *et seq.*), and commission rules in 30 TAC Chapter 281, Subchapter B, Consistency with Texas Coastal Management Program. As required by 30 TAC §281.45(a)(3), Actions Subject to Consistency with the Goals and Policies of the CMP, and 31 TAC §505.11(b)(2), Actions and Rules Subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Advisory Committee and determined that the action is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this rulemaking action is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l), Goals). The CMP policy applicable to this rulemaking action is the policy that commission rules comply with federal regulations in 40 CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.32, Policies for Emission of Air Pollutants). The adopted rules incorporate federal regulations concerning emissions of HAPs from certain industries into Chapter 113, allowing the commission to enforce those standards. This would tend to benefit the environment because it would result in lower emissions of HAPs. Therefore, in accordance with 31 TAC §505.22(e), Consistency Required for New Rules and Rule Amendments Subject to

the Coastal Management Program, the commission affirms that this rulemaking action is consistent with CMP goals and policies.

The commission invited public comment regarding the consistency of this rulemaking with the CMP during the public comment period. No comments were received.

Effect on Sites Subject to the Federal Operating Permits Program

Chapter 113 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits Program. Owners or operators subject to the Federal Operating Permits Program must, consistent with the revision process in Chapter 122, upon the effective date of the adopted rulemaking, revise their operating permits to include the new Chapter 113 requirements. In addition, owners and operators of area sources should be aware that federal rules require certain area source categories to obtain a federal operating permit.

Public Comment

The commission held a public hearing on the proposed rules in Austin on April 11, 2013. The comment period for the proposed rules closed on April 15, 2013. No comments on the proposed rules were received.

**SUBCHAPTER C: NATIONAL EMISSION STANDARDS FOR HAZARDOUS
AIR POLLUTANTS FOR SOURCE CATEGORIES**

(FCAA, §112, 40 CFR PART 63)

§§113.150, 113.1190, and 113.1200

Statutory Authority

The repealed sections are adopted under Texas Water Code (TWC), §5.103, concerning Rules, and TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The repealed sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and THSC, §382.051, concerning

Permitting Authority of the Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act.

The repealed sections implement THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

[§113.150. Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J).]

[The Polyvinyl Chloride and Copolymers Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart J, is incorporated by reference as adopted July 10, 2002 (67 FR 45886).]

[§113.1190. Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ).]

[The Brick and Structural Clay Products Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJJJ, is incorporated by reference as amended through April 20, 2006 (71 FR 20446).]

**[\$113.1200. Clay Ceramics Manufacturing (40 Code of Federal Regulations
Part 63, Subpart KKKKK).]**

[The Clay Ceramics Manufacturing Maximum Achievable Control Technology
standard as specified in 40 Code of Federal Regulations Part 63, Subpart KKKKK, is
incorporated by reference as amended through April 20, 2006 (71 FR 20446).]

**SUBCHAPTER C: NATIONAL EMISSION STANDARDS FOR HAZARDOUS
AIR POLLUTANTS FOR SOURCE CATEGORIES**

(FCAA, §112, 40 CFR PART 63)

**§§113.100, 113.120, 113.130, 113.180, 113.190, 113.230, 113.240, 113.260,
113.290, 113.300, 113.340, 113.390, 113.400, 113.410, 113.420, 113.560,
113.600, 113.610, 113.620, 113.640, 113.650, 113.670, 113.690, 113.770,
113.790, 113.880, 113.890, 113.1040, 113.1090, 113.1110, 113.1130, 113.1140,
113.1160, 113.1170, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370,
113.1380, 113.1390, 113.1400, 113.1410, 113.1425, 113.1435, 113.1445,
113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480,
113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525,
113.1530, 113.1535, 113.1555**

Statutory Authority

The amendments and new sections are adopted under Texas Water Code (TWC), §5.103, concerning Rules, and TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The amendments and new sections are also adopted under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose

to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and THSC, §382.051, concerning Permitting Authority of the Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act.

The amendments and new sections implement THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.100. General Provisions (40 Code of Federal Regulations Part 63, Subpart A).

The General Provisions for the National Emission Standards for Hazardous Air Pollutants for Source Categories as specified in 40 Code of Federal Regulations (CFR) Part 63, Subpart A, are incorporated by reference as amended through **February 1, 2013**

(78 FR 7488) ~~September 11, 2012 (77 FR 55698)~~ [May 16, 2007 (72 FR 27437)] with the following exceptions.

(1) The language of 40 CFR §63.5(e)(2)(i) is amended to read as follows:

The executive director will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 180 calendar days after receipt of sufficient information to evaluate an application submitted under 40 CFR §63.5(d). The 180-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 90 calendar days after receipt of the original application and within 60 calendar days after receipt of any supplementary information that is submitted.

(2) The language of 40 CFR §63.6(i)(12)(i) is amended to read as follows:

The executive director will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 60 calendar days after receipt of sufficient information to evaluate a request submitted under 40 CFR §63.6(i)(4)(i) or (i)(5). The 60-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is

complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(3) The language of 40 CFR §63.6(i)(13)(i) is amended to read as follows:

The executive director will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 60 calendar days after receipt of sufficient information to evaluate a request submitted under 40 CFR §63.6(i)(4)(ii). The 60-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(4) The language of 40 CFR §63.6(i)(13)(ii) is amended to read as follows:

When notifying the owner or operator that the [his/her] application is not complete, the executive director will specify the information needed to complete the application and

provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after they are [he/she is] notified of the incomplete application, additional information, or arguments to the executive director to enable further action on the application.

(5) The language of 40 CFR §63.8(e)(5)(ii) is amended to read as follows:

The owner or operator of an affected source using a Continuous Opacity Monitoring System (COMS) to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the executive director two or, upon request, three copies of a written report of the results of the COMS performance evaluation under this paragraph. The copies shall be provided at least 30 calendar days before the performance test required under §63.7 is conducted.

(6) The language of 40 CFR §63.9(i)(3) is amended to read as follows: If,

in the executive director's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the executive director will approve the adjustment. The executive director will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 30 calendar days of receiving sufficient information to evaluate the request.

(7) The language of 40 CFR §63.10(e)(2)(ii) is amended to read as follows:

The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the executive director two or, upon request, three copies of a written report of the results of the COMS performance evaluation conducted under §63.8(e). The copies shall be furnished at least 30 calendar days before the performance test required under §63.7 is conducted.

§113.120. Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 Code of Federal Regulations Part 63, Subpart G).

The Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart G, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [December 21, 2006 (71 FR 76603)].

§113.130. Organic Hazardous Air Pollutants for Equipment Leaks (40 Code of Federal Regulations Part 63, Subpart H).

The Organic Hazardous Air Pollutants for Equipment Leaks Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart H, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [June 23, 2003 (68 FR 37345)].

§113.180. Perchloroethylene Dry Cleaning Facilities (40 Code of Federal Regulations Part 63, Subpart M).

The Perchloroethylene Dry Cleaning Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart M, is incorporated by reference as amended through July 11, 2008 (73 FR 39871) [September 21, 2006 (71 FR 55280)].

§113.190. Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 Code of Federal Regulations Part 63, Subpart N).

The Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart N, is incorporated by

reference as amended through September 19, 2012 (77 FR 58220) [April 20, 2006 (71 FR 20446)].

§113.230. Gasoline Distribution Facilities (40 Code of Federal Regulations Part 63, Subpart R).

The Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart R, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 6, 2006 (71 FR 17352)].

§113.240. Pulp and Paper Industry (40 Code of Federal Regulations Part 63, Subpart S).

The Pulp and Paper Industry Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart S, is incorporated by reference as amended through September 11, 2012 (77 FR 55698 ~~76 FR 55698~~) [April 13, 2004 (69 FR 19734)].

§113.260. Group I Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart U).

The Group I Polymers and Resins Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart U, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.290. Secondary Lead Smelting (40 Code of Federal Regulations Part 63, Subpart X).

The Secondary Lead Smelting Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart X, is incorporated by reference as amended through January 5, 2012 (77 FR 556) [June 23, 2003 (68 FR 37350)].

§113.300. Marine Tank Vessel Loading Operations (40 Code of Federal Regulations Part 63, Subpart Y).

The Marine Tank Vessel Loading Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart Y, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.340. Petroleum Refineries (40 Code of Federal Regulations Part 63, Subpart CC).

The Petroleum Refineries Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CC, is incorporated by reference as amended through June 30, 2010 (75 FR 37730) [June 23, 2003 (68 FR 37351)].

§113.390. Oil and Natural Gas Production Facilities (40 Code of Federal Regulations Part 63, Subpart HH).

The Oil and Natural Gas Production Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HH, is incorporated by reference as amended through August 16, 2012 (77 FR 49490) [January 3, 2007 (72 FR 26)].

§113.400. Shipbuilding and Ship Repair (Surface Coating) (40 Code of Federal Regulations Part 63, Subpart II).

The Shipbuilding and Ship Repair (Surface Coating) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart II, is incorporated by reference as amended through November 21, 2011 (76 FR 72050) [December 29, 2006 (71 FR 78369)].

§113.410. Wood Furniture Manufacturing Operations (40 Code of Federal Regulations Part 63, Subpart JJ).

The Wood Furniture Manufacturing Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJ, is incorporated by reference as amended through November 21, 2011 (76 FR 72050) [June 23, 2003 (68 FR 37353)].

§113.420. Printing and Publishing (40 Code of Federal Regulations Part 63, Subpart KK).

The Printing and Publishing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart KK, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [May 24, 2006 (71 FR 29792)].

§113.560. Generic Maximum Achievable Control Technology Standards (40 Code of Federal Regulations Part 63, Subpart YY).

The Generic Maximum Achievable Control Technology Standards as specified in 40 Code of Federal Regulations Part 63, Subpart YY, is incorporated by reference as amended through June 29, 2007 (72 FR 35663) [April 20, 2006 (71 FR 20446)].

§113.600. Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 Code of Federal Regulations Part 63, Subpart CCC).

The Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCC, is incorporated by reference as amended through September 19, 2012 (77 FR 58220) [April 20, 2006 (71 FR 20446)].

§113.610. Mineral Wool Production (40 Code of Federal Regulations Part 63, Subpart DDD).

The Mineral Wool Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDD, is

incorporated by reference as amended through December 1, 2011 (76 FR 74708) [June 23, 2003 (68 FR 37356)].

§113.620. Hazardous Waste Combustors (40 Code of Federal Regulations Part 63, Subpart EEE).

The Hazardous Waste Combustor Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEE, is incorporated by reference as amended through October 28, 2008 (73 FR 64068) [October 25, 2006 (71 FR 62388)].

§113.640. Pharmaceuticals Production (40 Code of Federal Regulations Part 63, Subpart GGG).

The Pharmaceuticals Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart GGG, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.650. Natural Gas Transmission and Storage Facilities (40 Code of Federal Regulations Part 63, Subpart HHH).

The Natural Gas Transmission and Storage Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHH, is incorporated by reference as amended through August 16, 2012 (77 FR 49490) [April 20, 2006 (71 FR 20446)].

§113.670. Group IV Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart JJJ).

The Group IV Polymers and Resins Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJ, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 20, 2006 (71 FR 20446)].

§113.690. Portland Cement Manufacturing Industry (40 Code of Federal Regulations Part 63, Subpart LLL).

The Portland Cement Manufacturing Industry Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart LLL, is incorporated by reference as amended through **February 12, 2013 (78 FR 10006)** ~~January 18, 2011 (76 FR 2832)~~ [December 20, 2006 (71 FR 76518)].

§113.770. Primary Lead Processing [Smelting] (40 Code of Federal Regulations Part 63, Subpart TTT).

The Primary Lead Processing [Smelting] Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TTT, is incorporated by reference as amended through November 15, 2011 (76 FR 70834) [April 20, 2006 (71 FR 20446)].

§113.790. Publicly Owned Treatment Works (40 Code of Federal Regulations Part 63, Subpart VVV).

The Publicly Owned Treatment Works Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VVV, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [June 23, 2003 (68 FR 37360)].

§113.880. Organic Liquids Distribution (Non-Gasoline) (40 Code of Federal Regulations Part 63, Subpart EEEE).

The Organic Liquids Distribution (Non-Gasoline) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEE, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [July 28, 2006 (71 FR 42898)].

§113.890. Miscellaneous Organic Chemical Manufacturing (40 Code of Federal Regulations Part 63, Subpart FFFF).

The Miscellaneous Organic Chemical Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart FFFF, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [July 14, 2006 (71 FR 40316)].

§113.1040. Cellulose Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart UUUU).

The Cellulose Products Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UUUU, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 20, 2006 (71 FR 20446)].

§113.1090. [Stationary] Reciprocating Internal Combustion Engines (40 Code of Federal Regulations Part 63, Subpart ZZZZ).

The [Stationary] Reciprocating Internal Combustion Engines Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZ, is incorporated by reference as amended through **January 30, 2013 (78 FR 6674)** ~~March 9, 2011 (76 FR 12863)~~ [April 20, 2006 (71 FR 20446)].

§113.1110. Semiconductor Manufacturing (40 Code of Federal Regulations Part 63, Subpart BBBB).

The Semiconductor Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBB, is incorporated by reference as amended through July 22, 2008 (73 FR 42529) [April 20, 2006 (71 FR 20446)].

§113.1130. Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources (40 Code of Federal Regulations Part 63, Subpart DDDDD).

The Industrial, Commercial, and Institutional Boilers and Process Heaters

Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDDDD, is incorporated by reference as amended through January 31, 2013 (78 FR 7138) ~~March 21, 2011 (76 FR 15608).~~

§113.1140. Iron and Steel Foundries (40 Code of Federal Regulations Part 63, Subpart EEEEE).

The Iron and Steel Foundries Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEEE, is incorporated by reference as amended through February 7, 2008 (73 FR 7210) [April 20, 2006 (71 FR 20446)].

§113.1160. Site Remediation (40 Code of Federal Regulations Part 63, Subpart GGGGG).

The Site Remediation Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart GGGGG, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [November 29, 2006 (71 FR 69011)].

§113.1170. Miscellaneous Coating Manufacturing (40 Code of Federal Regulations Part 63, Subpart HHHHH).

The Miscellaneous Coating Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHHH, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [October 4, 2006 (71 FR 58499)].

§113.1300. Coal- and Oil-Fired Electric Utility Steam Generating Units (40 Code of Federal Regulations Part 63, Subpart UUUUU).

The Coal- and Oil-Fired Electric Utility Steam Generating Units Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UUUUU, is incorporated by reference as amended through April 24, 2013 (78 FR 24073) ~~April 19, 2012 (77 FR 23399).~~

§113.1320. Hospital Ethylene Oxide Sterilizers Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWW).

The Hospital Ethylene Oxide Sterilizers Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart WWWW, is incorporated by reference as adopted December 28, 2007 (72 FR 73611).

§113.1340. Electric Arc Furnace Steelmaking Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYY).

The Electric Arc Furnace Steelmaking Facilities Area Sources standard as specified in 40 Code of Federal Regulations Part 63, Subpart YYYY, is incorporated by reference as adopted December 28, 2007 (72 FR 74088).

§113.1350. Iron and Steel Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZ).

The Iron and Steel Foundries Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZ, is incorporated by reference as adopted January 2, 2008 (73 FR 226).

§113.1370. Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB).

The Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBBBB, is incorporated by reference as amended through January 24, 2011 (76 FR 4156).

§113.1380. Gasoline Dispensing Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC).

The Gasoline Dispensing Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCCCCC, is incorporated by reference as amended through January 24, 2011 (76 FR 4156).

§113.1390. Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDD).

The Polyvinyl Chloride and Copolymers Production Area Sources Generally Available [Maximum Achievable] Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDDDDD, is incorporated by reference as

amended through April 17, 2012 (77 FR 22848) [adopted January 23, 2007 (72 FR 2930)].

§113.1400. Primary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart EEEEEEE).

The Primary Copper Smelting Area Sources Generally Available [Maximum Achievable] Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEEEEE, is incorporated by reference as amended through July 3, 2007 (72 FR 36363) [adopted January 23, 2007 (72 FR 2930)].

§113.1410. Secondary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart FFFFFFF).

The Secondary Copper Smelting Area Sources Generally Available Control Technology [Maximum Achievable Control Technology] standard as specified in 40 Code of Federal Regulations Part 63, Subpart FFFFFFF, is incorporated by reference as amended through July 3, 2007 (72 FR 36363) [adopted January 23, 2007 (72 FR 2930)].

§113.1425. Paint Stripping and Miscellaneous Surface Coating at Area Sources (40 Code of Federal Regulations Part 63, Subpart HHHHHH).

The Paint Stripping and Miscellaneous Surface Coating at Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHHHH, is incorporated by reference as amended through February 13, 2008 (73 FR 8408).

§113.1435. Industrial, Commercial, and Institutional Boilers Area Sources (40 Code of Federal Regulations Part 63, Subpart JJJJJJ).

The Industrial, Commercial, and Institutional Boilers Area Sources standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJJJJ, is incorporated by reference as adopted **amended through February 1, 2013 (78 FR 7488)** ~~March 21, 2011~~ (76 FR 15554).

§113.1445. Acrylic and Modacrylic Fibers Area Sources (40 Code of Federal Regulations Part 63, Subpart LLLLLL).

The Acrylic and Modacrylic Fibers Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart

LLLLL, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1450. Carbon Black Production Area Sources (40 Code of Federal Regulations Part 63, Subpart MMMMMM).

The Carbon Black Production Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart MMMMMM, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1455. Chemical Manufacturing Area Sources: Chromium Compounds (40 Code of Federal Regulations Part 63, Subpart NNNNNN).

The Chemical Manufacturing Area Sources: Chromium Compounds Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart NNNNNN, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1460. Flexible Polyurethane Foam Production and Fabrication Area Sources (40 Code of Federal Regulations Part 63, Subpart OOOOOO).

The Flexible Polyurethane Foam Production and Fabrication Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart OOOOOO, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1465. Lead Acid Battery Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart PPPPPP).

The Lead Acid Battery Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart PPPPPP, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1470. Wood Preserving Area Sources (40 Code of Federal Regulations Part 63, Subpart QQQQQQ).

The Wood Preserving Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart QQQQQQ, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1475. Clay Ceramics Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart RRRRRR).

The Clay Ceramics Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart RRRRRR, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1480. Glass Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart SSSSSS).

The Glass Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart SSSSSS, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1485. Secondary Nonferrous Metals Processing Area Sources (40 Code of Federal Regulations Part 63, Subpart TTTTTT).

The Secondary Nonferrous Metals Processing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TTTTTT, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1495. Chemical Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart VVVVVV).

The Chemical Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VVVVVV, is incorporated by reference as amended through December 21, 2012 (77 FR 75740).

§113.1500. Plating and Polishing Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWWWW).

The Plating and Polishing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart WWWWWW, is incorporated by reference as amended through September 19, 2011 (76 FR 57913).

§113.1505. Metal Fabrication and Finishing Area Sources (40 Code of Federal Regulations Part 63, Subpart XXXXXX).

The Metal Fabrication and Finishing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart XXXXXX, is incorporated by reference as adopted July 23, 2008 (73 FR 42978).

§113.1510. Ferroalloys Production Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYYYY).

The Ferroalloys Production Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart YYYYYY, is incorporated by reference as adopted December 23, 2008 (73 FR 78637).

§113.1515. Aluminum, Copper, and Other Nonferrous Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZZZ).

The Aluminum, Copper, and Other Nonferrous Foundries Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZZZ, is incorporated by reference as amended through September 10, 2009 (74 FR 46493).

§113.1520. Asphalt Processing and Asphalt Roofing Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart AAAAAA).

The Asphalt Processing and Asphalt Roofing Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart AAAAAAA, is incorporated by reference as amended through March 18, 2010 (75 FR 12988).

§113.1525. Chemical Preparations Industry Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB BB).

The Chemical Preparations Industry Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBB BB, is incorporated by reference as adopted December 30, 2009 (74 FR 69194).

§113.1530. Paints and Allied Products Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC).

The Paints and Allied Products Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCCCCC, is incorporated by reference as amended through June 3, 2010 (75 FR 31317).

**§113.1535. Prepared Feeds Manufacturing Area Sources (40 Code of
Federal Regulations Part 63, Subpart DDDDDDD).**

The Prepared Feeds Manufacturing Area Sources Generally Available Control
Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart
DDDDDDD, is incorporated by reference as amended through December 23, 2011 (76
FR 80261).

**§113.1555. Polyvinyl Chloride and Copolymers Production Major Sources
(40 Code of Federal Regulations Part 63, Subpart HHHHHHH).**

The Polyvinyl Chloride and Copolymers Production Maximum Achievable
Control Technology standard as specified in 40 Code of Federal Regulations Part 63,
Subpart HHHHHHH, is incorporated by reference as adopted April 17, 2012 (77 FR
22848).

Texas Commission on Environmental Quality



ORDER ADOPTING NEW, AMENDED, AND REPEALED RULES

Docket No. 2012-2076-RUL
Rule Project No. 2013-004-113-AI

On July 26, 2013, the Texas Commission on Environmental Quality (Commission), during a public meeting, considered adoption of amendments to §§113.100, 113.120, 113.130, 113.180, 113.190, 113.230, 113.240, 113.260, 113.290, 113.300, 113.340, 113.390, 113.400, 113.410, 113.420, 113.560, 113.600, 113.610, 113.620, 113.640, 113.650, 113.670, 113.690, 113.770, 113.790, 113.880, 113.890, 113.1040, 113.1090, 113.1110, 113.1140, 113.1160, 113.1170, 113.1390, 113.1400, and 113.1410; the repeal of §§113.150, 113.1190, and 113.1200; and new §§113.1130, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, and 113.1555.

The Commission adopts these amendments, repeals and new sections in Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants. These amendments and new sections incorporate by reference changes that the United States Environmental Protection Agency has made to the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 Code of Federal Regulations Part 63. The repeals are necessary to remove NESHAP requirements that were vacated by the Federal courts.

Under Tex. Health & Safety Code Ann. §§ 382.011, 382.012, and 382.023 (Vernon 2011), the Commission has the authority to control the quality of the state's air and to issue orders consistent with the policies and purposes of the Texas Clean Air Act, Chapter 382 of the Tex. Health & Safety Code. The proposed rules were published for comment in the March 15, 2013 issue of the *Texas Register* (38 TexReg 1801).

Pursuant to Tex. Health & Safety Code Ann. § 382.017 (Vernon 2001), Tex. Gov't Code Chapter 2001 (Vernon 2008) and after proper notice, the Commission conducted a public hearing to consider the new, amended and repealed rules. Proper notice included prominent advertisement in the areas affected at least 30 days prior to the date of the hearing. The public hearing was offered in Austin, Texas on April 11, 2013, was not opened, because no one elected to provide comments.

The Commission circulated hearing notices of its intended action to the public, including interested persons, the Regional Administrator of the EPA, and all applicable local air pollution control agencies. The public was invited to submit data, views, and recommendations on the

proposed new, amended and repealed rules, either orally or in writing, at the hearing or during the comment period. Prior to the scheduled hearing, copies of the proposed new, amended and repealed rules were available for public inspection at the Commission's central office and on the Commission's Web site.

No comments were received regarding the new, amended and repealed rules.

IT IS THEREFORE ORDERED BY THE COMMISSION that the new, amended and repealed rules incorporated by reference to this Order are hereby adopted. The Commission further authorizes staff to make any non-substantive revisions to the rules necessary to comply with *Texas Register* requirements. The adopted rules and the preamble to the adopted rules are incorporated by reference in this Order as if set forth at length verbatim in this Order.

IT IS FURTHER ORDERED BY THE COMMISSION that on behalf of the Commission, the Chairman should transmit a copy of this Order, together with the adopted rules, to the Regional Administrator of EPA to request delegation of authority to implement and enforce the NESHAP pursuant to the Federal Clean Air Act, codified at 42 U.S. Code Ann. §§ 7401 - 7671q, as amended.

This Order constitutes the Order of the Commission required by the Administrative Procedure Act, Tex. Gov't Code, § 2001.033 (Vernon 2008).

If any portion of this Order is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

Issued date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., Chairma

(2) repair, adjustment, calibration, lubrication, and cleaning of oil and gas site process equipment;

(3) replacement of piping components, pneumatic controllers, boiler refractories, wet and dry seals, meters, instruments, analyzers, screens, and filters;

(4) turbine or engine hot section swaps;

(5) piping used to bypass a facility during maintenance;

(6) planned MSS activities with the same character and quantity of emissions as those listed in paragraphs (1) - (5) of this subsection;

(7) pigging and purging of piping;

(8) blowdowns;

(9) emptying, purging, degassing, or refilling of tanks and vessels (except as excluded in subparagraph (E) of this paragraph), and any associated temporary emission capture and control facilities if the following requirements are met:

(A) all contents from process equipment or storage vessels must be removed to the maximum extent practicable prior to opening equipment to commence degassing and maintenance. Liquid and solid removal must be directed to covered containment, recycled or disposed of properly. If it is necessary to drain liquid into an open pan or sump, the liquid must be covered or transferred to a covered vessel within one hour of being drained;

(B) facilities must be degassed using best management practices to ensure air contaminants are removed from the system to the extent allowed by process equipment or storage vessel design. Emissions must be directed out the top of floating roof tanks;

(C) tanks and vessels degassed by forced ventilation are limited to degassing a single tank or vessel at a time;

(D) in lieu of the requirements in subparagraphs (A) and (B), or (C) of this paragraph, facilities may route emissions through a closed system to a control device; and

(E) emptying tanks for convenience purposes is not authorized; and

(10) facilities used for abrasive blasting, surface preparation, and surface coating on equipment and structures used at the site in oil and gas handling or production.

(c) Best Management Practices.

(1) All facilities with the potential to emit air contaminants must be maintained in good working order and operated properly.

(2) Each permit holder shall establish, implement, and update, as appropriate, a program to maintain and repair facilities as required by paragraph (1) of this subsection. The minimum requirements of this program must include:

(A) a maintenance program developed by the permit holder for all equipment that is consistent with good air pollution control practices, or alternatively, manufacturer's specifications and recommended programs applicable to equipment performance and the effect on emissions;

(B) cleaning and routine inspection of all equipment;

(C) repair of equipment on timeframes that minimize equipment failures and maintain performance;

(D) training of personnel who implement the maintenance program; and

(E) records of conducted planned MSS activities.

(d) Recordkeeping. Records to demonstrate compliance with this section must be kept in accordance with §106.8(c) of this title (relating to Recordkeeping).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 1, 2013.

TRD-201300936

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: April 14, 2013

For further information, please call: (512) 239-2141



CHAPTER 113. STANDARDS OF PERFORMANCE FOR HAZARDOUS AIR POLLUTANTS AND FOR DESIGNATED FACILITIES AND POLLUTANTS
SUBCHAPTER C. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES (FCAA, §112, 40 CFR PART 63)

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§113.100, 113.120, 113.130, 113.180, 113.190, 113.230, 113.240, 113.260, 113.290, 113.300, 113.340, 113.390, 113.400, 113.410, 113.420, 113.560, 113.600, 113.610, 113.620, 113.640, 113.650, 113.670, 113.690, 113.770, 113.790, 113.880, 113.890, 113.1040, 113.1090, 113.1110, 113.1140, 113.1160, 113.1170, 113.1390, 113.1400, and 113.1410; the repeal of §§113.150, 113.1190, and 113.1200; and new §§113.1130, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, and 113.1555.

Background and Summary of the Factual Basis for the Proposed Rules

The proposal would revise Chapter 113, Standards of Performance for Hazardous Air Pollutants and for Designated Facilities and Pollutants, to incorporate by reference changes that the United States Environmental Protection Agency (EPA) has made to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, under 40 Code of Federal Regulations (CFR) Part 63. The EPA's changes to 40 CFR Part 63 include amendments to a number of existing NESHAPs and the promulgation of a number of new NESHAPs. In addition, three NESHAPs have been vacated by court actions since the last time Chapter 113 was revised.

The proposed amendments to Chapter 113 would incorporate by reference amendments and additions that the EPA made to the NESHAP under 40 CFR Part 63 as published through December 21, 2012. These standards are required by the Federal Clean

Air Act (FCAA) Amendments of 1990, §112, which requires the EPA to develop national technology-based standards for new and existing sources of hazardous air pollutants (HAPs) listed in FCAA, §112. These technology-based standards are commonly called maximum achievable control technology (MACT) and generally available control technology (GACT) standards. The MACT standards are generally required to be based on the maximum degree of emission control that is achievable, taking into consideration cost and any non-air quality health and environmental impacts and energy requirements. The GACT standards reflect a less stringent level of control (relative to MACT) and are intended to be applied to non-major sources of HAPs, known as area sources. The EPA has the option to apply either MACT or GACT to area sources, at their discretion.

The proposed new sections would incorporate 25 recently-promulgated MACT and GACT standards for a variety of area source categories by reference. The proposed new sections would also incorporate three new MACT standards covering certain major source categories by reference.

The commission also proposes to repeal three existing sections of Chapter 113, as those sections reference MACT standards that have been vacated by court decisions and are no longer in effect. The sections proposed for repeal are §113.150, Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J); §113.1190, Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ); and §113.1200, Clay Ceramics Manufacturing (40 Code of Federal Regulations Part 63, Subpart KKKKK).

Under federal law, affected industries are required to implement the MACT and GACT standards regardless of whether the commission or the EPA is the agency responsible for implementation. As MACT and GACT standards are promulgated or amended by the EPA, they are reviewed by commission staff for compatibility with current commission regulations and policies. The commission then incorporates them, as appropriate, into Chapter 113 through the formal rulemaking procedures. Unless otherwise noted, all incorporations by reference proposed in this rulemaking are without change (meaning that the standards are incorporated as published, with no modifications to the text of the regulation being incorporated). After each MACT or GACT standard or amendment is adopted, the commission will seek formal delegation from the EPA under 40 CFR Part 63, Subpart E, Approval of State Programs and Delegation of Federal Authorities, which implements FCAA, §112(l). Upon delegation, the commission will be responsible for administering and enforcing the MACT or GACT requirements.

The commission proposes to incorporate the following amendments that the EPA has made to the 40 CFR Part 63, General Provisions, and the federal MACT and GACT standards previously incorporated into the commission rules, by updating the federal promulgation dates and *Federal Register* (FR) citations stated in the commission rules, as discussed more specifically in the Section by Section Discussion in this preamble. The 36 amended standards, along with their corresponding Chapter 113 sections and original incorporation dates, are listed in the following table (Figure 1).

Figure 1: 30 TAC Chapter 113--Preamble

The commission proposes to incorporate by reference without change 28 recently-promulgated federal MACT and GACT standards not currently included in Chapter 113, as summarized in the following table (Figure 2).

Figure 2: 30 TAC Chapter 113--Preamble

Certain major source and area source regulations recently promulgated by the EPA are undergoing reconsideration, which may result in additional changes to those standards. These regulations include the EPA's recent standards for Industrial, Commercial, and Institutional Boilers (both major and area sources); Coal- and Oil-fired Electric Utility Steam Generating Units; and Portland Cement Manufacturing. The EPA signed reconsideration amendments to the Boiler and Portland Cement standards on December 20, 2012, but those amendments have not yet been published in the FR at the time this preamble was drafted. The commission has provided information regarding these reconsideration actions in the Section by Section Discussion of this preamble. The commission requests comments regarding the incorporation by reference of all final reconsideration actions by the EPA, whether or not noted in this notice, to facilitate state delegation and implementation of the final NESHAP.

This rulemaking does not include the EPA's recently-promulgated standard for Gold Mine Ore Processing and Production Area Sources (40 CFR 63 Subpart EEEEEEE) as, based on an informal review of agency records, it appears that Texas does not currently have a significant gold ore processing industry. However, the commission solicits comment on whether there are any facilities in Texas, which would be subject to the NESHAP for Gold Mine Ore Processing and Production Area Sources. If no facilities subject to this standard are identified, TCEQ will prepare and submit a negative declaration for this source category.

For implementation and enforcement of the area source standards, the commission generally intends to follow the approach outlined in the EPA's Area Source Rule Implementation Guidance dated June 4, 2010. This EPA guidance prioritizes the area source standards based on environmental impact and the potential for emission reductions. Group 1 standards have the highest potential for emission reductions and environmental impact, with Groups 2 and 3 having a lower potential for emission reductions and environmental impact. The EPA's guidance explains that for Group 1 standards, the EPA recommends an approach using direct compliance monitoring and enforcement. For the Group 2 and Group 3 standards, the EPA recommends the use of compliance assistance and outreach programs as the primary means of implementation and enforcement.

Section by Section Discussion

§113.100, General Provisions (40 Code of Federal Regulations Part 63, Subpart A)

The commission proposes to amend §113.100 by incorporating by reference all amendments to 40 CFR Part 63, Subpart A since this section was last amended. During this period, the EPA amended Subpart A on May 6, 2008 (73 FR 24870), December 22, 2008 (73 FR 78199), September 13, 2010 (75 FR 55636), November 12, 2010 (75 FR 69348), and August 11, 2011 (76 FR 49669). The EPA also made numerous amendments to 40 CFR §63.14 of Subpart A, which are addressed in a separate paragraph of this Section by Section Discussion. The May 6, 2008, amendments to Subpart A revised 40 CFR §63.13(a), Addresses of State air pollution control agencies and EPA Regional Offices, to update the mailing address used to submit reports and correspondence to EPA Region VIII. The December 22, 2008, amendments revised 40 CFR §63.11, Control device and work practice requirements, to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and

repair requirements. The September 13, 2010, amendments revised the General Provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from the EPA, and relocated all requirements pertaining to audit samples from the test methods themselves into the General Provisions. The November 12, 2010, amendments revised 40 CFR §63.13(a) to update the mailing address used to submit reports and correspondence to EPA Region IX. The August 11, 2011, amendments revised 40 CFR §63.13(a) to update the mailing address used to submit reports and correspondence to EPA Region I. Although the changes to EPA Regional mailing addresses described in this paragraph do not affect states in EPA Region VI such as Texas, it is administratively more efficient to include these amendments than to specifically exclude them.

The amendments to 40 CFR Part 63, Subpart A proposed to be incorporated by reference in this action also include all revisions to 40 CFR §63.14, Incorporations by reference, adopted by the EPA on or before September 11, 2012. During this period, 40 CFR §63.14 was amended by the EPA numerous times to update test methods and reference documents as needed to support the standards in 40 CFR Part 63. The individual changes to 40 CFR §63.14 can be found by consulting the List of CFR Sections Affected, published by the Office of the FR, National Archives and Records Administration. A table (Figure 3) showing the FR publication dates and page numbers associated with the amendments to 40 CFR §63.14 follows.

Figure 3: 30 TAC Chapter 113--Preamble

All of these revisions to 40 CFR §63.14 are proposed to be incorporated by reference as part of the proposed revisions to §113.100. The most recent revision date to 40 CFR §63.14 was September 11, 2012, which is the date cited in §113.100 for the proposed incorporation of Subpart A.

The commission also proposes to replace the term "his/her" as used in §113.100 with more general terminology consistent with current rule writing practices.

§113.120, Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 Code of Federal Regulations Part 63, Subpart G)

The commission proposes to amend §113.120 by incorporating by reference all amendments to 40 CFR Part 63, Subpart G since this section was last amended. During this period, the EPA amended Subpart G on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart G to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.130, Organic Hazardous Air Pollutants for Equipment Leaks (40 Code of Federal Regulations Part 63, Subpart H)

The commission proposes to amend §113.130 by incorporating by reference all amendments to 40 CFR Part 63, Subpart H since this section was last amended. During this period, the EPA amended Subpart H on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart H to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.150, Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J)

The commission proposes to repeal §113.150, as the corresponding MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Mossville Env. Action Now v. EPA*, 370 F. 3d 1232, on June 18, 2004, and is no longer in effect. The EPA has promulgated revised standards for polyvinyl chloride (PVC) production in response to the vacatur of Subpart J, and the commission is also proposing to adopt the revised standards as part of this proposed rulemaking, in new §113.1555, Polyvinyl Chloride and Copolymers Production Major Sources (40 Code of Federal Regulations Part 63, Subpart HHHHHH), in addition to proposing to adopt revised standards for PVC production at area sources in §113.1390, Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDD). These revised standards for PVC production are further addressed in the Section by Section Discussion for §113.1390 and new §113.1555.

§113.180, Perchloroethylene Dry Cleaning Facilities (40 Code of Federal Regulations Part 63, Subpart M)

The commission proposes to amend §113.180 by incorporating by reference all amendments to 40 CFR Part 63, Subpart M since this section was last amended. During this period, the EPA amended Subpart M on July 11, 2008 (73 FR 39871). The July 11, 2008, amendments corrected erroneous cross references, corrected typographical errors in the rule text, and clarified monitoring requirements.

§113.190, Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 Code of Federal Regulations Part 63, Subpart N)

The commission proposes to amend §113.190 by incorporating by reference all amendments to 40 CFR Part 63, Subpart N since this section was last amended. During this period, the EPA amended Subpart N on September 19, 2012 (77 FR 58220). The September 19, 2012, amendments finalized the EPA's residual risk and technology review for this source category. The amendments included revisions to the emissions limits for total chromium; the addition of housekeeping requirements to minimize fugitive emissions; and a requirement to phase-out the use of perfluorooctane sulfonic acid based fume suppressants. In addition, the amendments revised testing, monitoring, record-keeping, and reporting requirements; revised regulatory provisions related to emissions during periods of startup, shutdown, and malfunction (SSM); and added provisions to provide for an affirmative defense against civil penalties.

§113.230, Gasoline Distribution Facilities (40 Code of Federal Regulations Part 63, Subpart R)

The commission proposes to amend §113.230 by incorporating by reference all amendments to 40 CFR Part 63, Subpart R since this section was last amended. During this period, the EPA amended Subpart R on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart R to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.240, Pulp and Paper Industry (40 Code of Federal Regulations Part 63, Subpart S)

The commission proposes to amend §113.240 by incorporating by reference all amendments to 40 CFR Part 63, Subpart S since this section was last amended. During this period, the EPA amended Subpart S on September 11, 2012 (77 FR 55698).

The September 11, 2012, amendments finalized the EPA's residual risk and technology review for this source category. The amendments included a requirement for five-year repeat emissions testing for selected process equipment; revisions to provisions addressing periods of SSM; a requirement for electronic reporting of performance test results; additional test methods for measuring methanol emissions; and other technical and editorial changes.

§113.260, Group I Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart U)

The commission proposes to amend §113.260 by incorporating by reference all amendments to 40 CFR Part 63, Subpart U since this section was last amended. During this period, the EPA amended Subpart U on December 22, 2008 (73 FR 78199) and April 21, 2011 (76 FR 22566). The December 22, 2008, amendments added references to Subpart U to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The April 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category (which consists of facilities producing butyl rubber, epichlorohydrin elastomers, ethylene propylene rubber, Hypalon™, neoprene, nitrile butadiene rubber, polybutadiene rubber, polysulfide rubber, and styrene butadiene rubber and latex). The April 21, 2011, amendments also included revisions related to emissions during periods of SSM; revisions addressing electronic submission of emission test results; and provisions to provide for an affirmative defense against civil penalties.

§113.290, Secondary Lead Smelting (40 Code of Federal Regulations Part 63, Subpart X)

The commission proposes to amend §113.290 by incorporating by reference all amendments to 40 CFR Part 63, Subpart X since this section was last amended. During this period, the EPA amended Subpart X on January 5, 2012 (77 FR 556). The January 5, 2012, amendments finalized the EPA's residual risk and technology review for this source category. These amendments included revisions to the emissions limits for lead compounds; revisions to the standards for fugitive emissions; the addition of total hydrocarbon and dioxin and furan emissions limits for reverberatory and electric furnaces; the addition of a work practice standard for mercury emissions; the modification and addition of testing and monitoring, recordkeeping, and reporting requirements and related notifications; revisions to provisions related to emissions during periods of SSM; and minor corrections for editorial purposes and plain language corrections.

§113.300, Marine Tank Vessel Loading Operations (40 Code of Federal Regulations Part 63, Subpart Y)

The commission proposes to amend §113.300 by incorporating by reference all amendments to 40 CFR Part 63, Subpart Y since this section was last amended. During this period, the EPA amended Subpart Y on April 21, 2011 (76 FR 22566). The April 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category. The amendments added standards for two subcategories of marine vessel loading facilities for which the current MACT standards did not include emission standards. For these source categories, the EPA added a requirement for the facilities to perform submerged filling. The amendments also eliminated the exemption for SSM emissions, and revised the SSM-associated monitoring, recordkeeping, and reporting requirements to require reporting and recordkeeping for periods of malfunction. The amendments also added pro-

visions for an affirmative defense against civil penalties for exceedances of emission standards caused by malfunctions, as well as criteria for establishing the affirmative defense. Additionally, the amendments required the electronic submittal of performance test data to increase the ease and efficiency of data submittal and to improve data accessibility. In addition, the commission proposes to update the name of this source category and this section to Marine Tank Vessel Loading Operations.

§113.340, Petroleum Refineries (40 Code of Federal Regulations Part 63, Subpart CC)

The commission proposes to amend §113.340 by incorporating by reference all amendments to 40 CFR Part 63, Subpart CC since this section was last amended. During this period, the EPA amended Subpart CC on October 28, 2009 (74 FR 55670) and June 30, 2010 (75 FR 37730). The October 28, 2009, amendments added leak detection requirements for heat exchange systems in organic HAP service. In addition, the October 28, 2009, amendments deleted methyl ethyl ketone from the list of HAPs in Tables 1 and 7 because this compound has been delisted as a HAP. The June 30, 2010, amendments made corrections for typographical errors and inadvertent errors to section references, and made additional clarifying amendments to Subpart CC.

§113.390, Oil and Natural Gas Production Facilities (40 Code of Federal Regulations Part 63, Subpart HH)

The commission proposes to amend §113.390 by incorporating by reference, without change, all amendments to 40 CFR Part 63, Subpart HH, made by the EPA since this section was last amended. During this period, the EPA amended Subpart HH on December 22, 2008 (73 FR 78199) and August 16, 2012 (77 FR 49490). The December 22, 2008, amendments added references to Subpart HH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The August 16, 2012, amendments finalized the residual risk and technology review for this source category, and included new emission limits reflecting MACT for certain previously uncontrolled emission sources in this source category (such as small glycol dehydrators). The August 16, 2012, amendments also revised leak detection and repair requirements; testing and monitoring requirements; and notification, recordkeeping and reporting requirements. In addition, the August 16, 2012, amendments eliminated the exemption for SSM emissions, and added provisions for an affirmative defense for exceedances of emission standards caused by malfunctions.

The August 16, 2012, final rule is being challenged by multiple petitioners through reconsideration requests to EPA and petitions for review in the District of Columbia Court of Appeals; however, it remains effective and applicable to affected sources. The commission solicits comment on whether to incorporate the currently effective Subpart HH, or to postpone incorporation of Subpart HH until after any reconsideration actions or court actions are resolved.

§113.400, Shipbuilding and Ship Repair (Surface Coating) (40 Code of Federal Regulations Part 63, Subpart II)

The commission proposes to amend §113.400 to reflect the EPA's withdrawal of the December 29, 2006, direct final amendments (71 FR 78369), and to incorporate by reference amendments promulgated by the EPA on November 21, 2011 (76 FR 72050). The December 29, 2006, direct final amendments were included in the last revision to §113.400. However, the EPA withdrew the December 29, 2006, direct final amend-

ments on February 27, 2007 (72 FR 8630) due to adverse comments and the amendments are no longer in effect. The November 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and also revised the requirements relating to emissions during periods of SSM to eliminate the malfunction exemption. In addition, the November 21, 2011, amendments provided for an affirmative defense against potential violations of emission standards caused by malfunctions.

§113.410, Wood Furniture Manufacturing Operations (40 Code of Federal Regulations Part 63, Subpart JJ)

The commission proposes to amend §113.410 by incorporating by reference all amendments to 40 CFR Part 63, Subpart JJ since this section was last amended. During this period, the EPA amended Subpart JJ on November 21, 2011 (76 FR 72050). These amendments finalized the EPA's residual risk and technology review for this source category, added two alternate compliance options for emissions of formaldehyde, and finalized a prohibition on the use of conventional spray guns. The November 21, 2011, amendments also included clarifying language to better identify the types of operations subject to Subpart JJ. These amendments also eliminated the SSM malfunction exemption, provided for other revisions related to emissions during SSM, provided for an affirmative defense against potential violations of emission standards caused by malfunctions, and added requirements for electronic reporting of performance test results.

§113.420, Printing and Publishing (40 Code of Federal Regulations Part 63, Subpart KK)

The commission proposes to amend §113.420 by incorporating by reference all amendments to 40 CFR Part 63, Subpart KK since this section was last amended. During this period, the EPA amended Subpart KK on April 21, 2011 (76 FR 22566). The April 21, 2011, amendments finalized the EPA's residual risk and technology review conducted for this source category. The amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The amendments also addressed electronic submission of performance test results.

§113.560, Generic Maximum Achievable Control Technology Standards (40 Code of Federal Regulations Part 63, Subpart YY)

The commission proposes to amend §113.560 by incorporating by reference all amendments to 40 CFR Part 63, Subpart YY since this section was last amended. During this period, the EPA published a CFR correction to Subpart YY, on June 29, 2007 (72 FR 35663). A CFR correction is a correction of a minor error in the CFR which is not subject to public comment. The June 29, 2007, CFR correction added a definition of organic HAP to 40 CFR §63.1103, Source Category-Specific Applicability, Definitions, and Requirements.

§113.600, Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 Code of Federal Regulations Part 63, Subpart CCC)

The commission proposes to amend §113.600 by incorporating by reference all amendments to 40 CFR Part 63, Subpart CCC since this section was last amended. During this period, the EPA amended Subpart CCC on September 19, 2012 (77 FR 58220). The September 19, 2012, amendments finalized the EPA's residual risk and technology review for this source cate-

gory. The amendments deleted an alternative compliance option provided in the original rule because it allowed a source to establish a source specific limit, which could be less stringent than MACT. The September 19, 2012, amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. In addition, the amendments addressed electronic submission of performance test results.

§113.610, Mineral Wool Production (40 Code of Federal Regulations Part 63, Subpart DDD)

The commission proposes to amend §113.610 by incorporating by reference all amendments to 40 CFR Part 63, Subpart DDD since this section was last amended. During this period, the EPA amended Subpart DDD on December 1, 2011 (76 FR 74708). The December 1, 2011, amendments reinstated 40 CFR §63.1196, What definitions should I be aware of?.

§113.620, Hazardous Waste Combustors (40 Code of Federal Regulations Part 63, Subpart EEE)

The commission proposes to amend §113.620 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEE since this section was last amended. During this period, the EPA amended Subpart EEE on April 8, 2008 (73 FR 18970) and October 28, 2008 (73 FR 64068). The April 8, 2008, amendments clarified several compliance and monitoring provisions and also corrected several omissions and typographical errors in 40 CFR Part 63, Subpart EEE. The October 28, 2008, amendments addressed eight issues raised in petitions for reconsideration. The October 28, 2008, amendments also addressed comments relating to a post-promulgation decision of the United States Court of Appeals for the District of Columbia Circuit, in *Sierra Club v. EPA*, 479 F. 3d 875, (the Brick MACT litigation). The October 28, 2008, amendments also revised the new source standard for particulate matter (PM) for cement kilns and for incinerators that burn hazardous waste, amended the PM matter detection system provisions, revised the health-based compliance alternative for total chlorine, and made several corrections and clarifications.

§113.640, Pharmaceuticals Production (40 Code of Federal Regulations Part 63, Subpart GGG)

The commission proposes to amend §113.640 by incorporating by reference all amendments to 40 CFR Part 63, Subpart GGG since this section was last amended. During this period, the EPA amended Subpart GGG on December 22, 2008 (73 FR 78199) and April 21, 2011 (76 FR 22566). The December 22, 2008, amendments added references to Subpart GGG to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The April 21, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and corrected an editorial error. The April 21, 2011, amendments also eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The April 21, 2011, amendments also addressed electronic submission of performance test results.

§113.650, Natural Gas Transmission and Storage Facilities (40 Code of Federal Regulations Part 63, Subpart HHH)

The commission proposes to amend §113.650 by incorporating by reference, without change, all amendments to 40 CFR Part

63, Subpart HHH, made by the EPA since this section was last amended. During this period, the EPA amended Subpart HHH on December 22, 2008 (73 FR 78199) and August 16, 2012 (77 FR 49490). The December 22, 2008, amendments added references to Subpart HHH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements. The August 16, 2012, amendments finalized the residual risk and technology review for this source category, and included new emission limits reflecting MACT for certain previously uncontrolled emission sources in this source category (such as small glycol dehydrators). The August 16, 2012, amendments also revised testing and monitoring requirements and notification, recordkeeping, and reporting requirements. The August 16, 2012, amendments also eliminated the exemption for SSM emissions, provided for other revisions related to emissions during SSM, and added provisions for an affirmative defense for exceedances of emission standards caused by malfunctions.

Multiple petitioners are challenging the August 16, 2012, final rule through reconsideration requests to EPA and petitions for review in the District of Columbia Court of Appeals. The August 16, 2012, final rule remains effective and applicable to affected sources. The commission solicits comment on whether to incorporate the currently effective Subpart HHH, or to postpone incorporation of Subpart HHH until after any reconsideration actions or court actions are resolved.

§113.670, Group IV Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart JJJ)

The commission proposes to amend §113.670 by incorporating by reference all amendments to 40 CFR Part 63, Subpart JJJ since this section was last amended. During this period, the EPA amended Subpart JJJ on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart JJJ to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.690, Portland Cement Manufacturing Industry (40 Code of Federal Regulations Part 63, Subpart LLL)

The commission proposes to amend §113.690 by incorporating by reference all amendments to 40 CFR Part 63, Subpart LLL since this section was last amended. During this period, the EPA amended Subpart LLL on September 9, 2010 (75 FR 54970) and January 18, 2011 (76 FR 2832). The September 9, 2010, amendments added or revised emission limits for mercury, total hydrocarbons, and PM from new and existing kilns located at major and area sources, and for hydrochloric acid (HCl) from new and existing kilns located at major sources. The September 9, 2010, amendments also eliminated the SSM exemption and provided for an affirmative defense for exceedances of emission standards caused by malfunctions. The January 18, 2011, amendments revised regulatory language to clarify compliance dates and clarify that the previously issued emission limits that were changed in the September 9, 2010, action remain in effect until sources are required to comply with the revised limits.

The EPA published a limited reconsideration of the September 9, 2010, rule on July 18, 2012 (77 FR 42368). The EPA signed a final rule reconsidering the Portland Cement Manufacturing MACT on December 20, 2012, but this final rule has not yet been published in the FR as of the date this preamble was drafted. The rule signed by the EPA on December 20, 2012, retained the stack emission standards for mercury, HCl, and total hydrocar-

bons (THC) under the NESHAP, amended the stack emission standard for PM under the NESHAP, and made a conforming amendment to the New Source Performance Standard for PM. The amendments also included provisions to account for commingled HAP emissions from coal mills that are an integral part of the kiln, established a continuous monitoring regime for parametric monitoring of PM, set work practice standards for startup and shutdown, and revised the compliance date for the PM, mercury, HCl, THC, and clinker storage pile existing source standards. The EPA retained the affirmative defense for civil penalties for violations of emission limits occurring as a result of a malfunction.

The commission solicits comment on whether the currently-effective (January 18, 2011) rule should be incorporated by reference as proposed, or if the commission should incorporate the amended rules signed by the EPA on December 20, 2012. At the time this preamble was drafted, the FR citation (date, volume, and page number) associated with the amendments signed by the EPA on December 20, 2012, is not available, so it is not possible to draft specific rule language incorporating the December 20, 2012, version of the rule at this time. However, it is the commission's intention to incorporate the rules signed on December 20, 2012, once those rules have been formally published in the FR, unless adverse comments on such an action are received.

§113.770, Primary Lead Processing (40 Code of Federal Regulations Part 63, Subpart TTT)

The commission proposes to amend §113.770 by incorporating by reference all amendments to 40 CFR Part 63, Subpart TTT since this section was last amended. During this period, the EPA amended Subpart TTT on November 15, 2011 (76 FR 70834). The November 15, 2011, amendments finalized the EPA's residual risk and technology review for this source category, and revised the title and applicability provisions of this source category. The amendments also revised the stack emission limits for lead, revised work practice standards to minimize fugitive dust emissions, and revised testing, monitoring, and related notification, recordkeeping, and reporting requirements. In addition, the November 15, 2011, amendments eliminated the SSM exemption, provided for other revisions related to emissions during SSM, and provided for an affirmative defense for exceedances of emission standards caused by malfunctions.

§113.790, Publicly Owned Treatment Works (40 Code of Federal Regulations Part 63, Subpart VVV)

The commission proposes to amend §113.790 by incorporating by reference all amendments to 40 CFR Part 63, Subpart VVV since this section was last amended. During this period, the EPA amended Subpart VVV on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart VVV to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.880, Organic Liquids Distribution (Non-Gasoline) (40 Code of Federal Regulations Part 63, Subpart EEEE)

The commission proposes to amend §113.880 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEEE since this section was last amended. During this period, the EPA published amendments to Subpart EEEE on April 23, 2008 (73 FR 21825), July 17, 2008 (73 FR 40977), and December 22, 2008 (73 FR 78199). The April 23, 2008, amendments clarified combustion control device compliance requirements, storage tank control compliance dates, and vapor balance system

monitoring requirements. In addition, the April 23, 2008, amendments corrected various typographical errors in 40 CFR Part 63, Subpart EEEE. However, the EPA received adverse comments on some portions of the April 23, 2008, direct final amendments, and subsequently withdrew those portions of the amendments. The adverse comments related to the storage tank compliance date and the monitoring of storage tank pressure relief devices. The July 17, 2008, amendments responded to the adverse comments and implemented the April 23, 2008, direct final amendments that had been withdrawn. The July 17, 2008, amendments also corrected typographical errors that the EPA identified in other sections of the rule text that were not addressed in the April 23, 2008, notices. The December 22, 2008, amendments added references to Subpart EEEE to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.890, Miscellaneous Organic Chemical Manufacturing (40 Code of Federal Regulations Part 63, Subpart FFFF)

The commission proposes to amend §113.890 by incorporating by reference all amendments to 40 CFR Part 63, Subpart FFFF since this section was last amended. During this period, the EPA amended Subpart FFFF on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart FFFF to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1040, Cellulose Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart UUUU)

The commission proposes to amend §113.1040 by incorporating by reference all amendments to 40 CFR Part 63, Subpart UUUU since this section was last amended. During this period, the EPA amended Subpart UUUU on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments added references to Subpart UUUU to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1090, Reciprocating Internal Combustion Engines (40 Code of Federal Regulations Part 63, Subpart ZZZZ)

The commission proposes to amend §113.1090 by incorporating by reference all amendments to 40 CFR Part 63, Subpart ZZZZ since this section was last amended. During this period, the EPA amended Subpart ZZZZ on January 18, 2008 (73 FR 3568), March 3, 2010 (75 FR 9648), June 30, 2010 (75 FR 37732), August 20, 2010 (75 FR 51570), and March 9, 2011 (76 FR 12863). The January 18, 2008, amendments to Subpart ZZZZ established national emission standards for new and reconstructed stationary reciprocating internal combustion engines (RICE) that are: 1) located at area sources of HAP emissions; or 2) have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions. The March 3, 2010, amendments established national emissions standards for existing stationary compression ignition RICE that are: 1) located at area sources of HAP emissions; or that 2) have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions. In addition, the March 3, 2010, amendments promulgated NESHAP for existing non-emergency stationary compression ignition engines greater than 500 brake horsepower located at major sources of HAP emissions. The March 3, 2010, amendments also revised provisions related to SSM for engines. The June 30, 2010, amendments restored two paragraphs that were inadvertently removed from Subpart

ZZZZ during the promulgation of the March 3, 2010, amendments. The August 20, 2010, amendments promulgated NESHAP for existing stationary spark ignition RICE that are located at area sources of HAP emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of HAP emissions. The March 9, 2011, amendments revised regulatory text to clarify compliance requirements related to continuous parameter monitoring systems, and corrected minor typographical errors in the regulatory text of the August 20, 2010, action. The commission also proposes to remove the word "stationary" from the title of this section, as the EPA no longer uses that term in the title of this NESHAP.

§113.1110, Semiconductor Manufacturing (40 Code of Federal Regulations Part 63, Subpart BBBB)

The commission proposes to amend §113.1110 by incorporating by reference all amendments to 40 CFR Part 63, Subpart BBBB since this section was last amended. During this period, the EPA amended Subpart BBBB on July 22, 2008 (73 FR 42529). The July 22, 2008, amendments established a new MACT floor level of control for existing and new combined HAP process vent streams, and clarified the applicability of this NESHAP by adding definitions for organic, inorganic, and combined HAP process vent streams.

§113.1130, Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources (40 Code of Federal Regulations Part 63, Subpart DDDD)

The commission proposes new §113.1130 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart DDDD, adopted by the EPA on September 13, 2004 (69 FR 55218), with amendments published on December 28, 2005 (70 FR 76918), April 20, 2006 (71 FR 20446), December 6, 2006 (71 FR 70651), and March 21, 2011 (76 FR 15608). This MACT standard regulates HAP emissions from boilers and process heaters located at major sources of HAP. HAPs emitted from these facilities include hydrogen chloride, formaldehyde, polycyclic organic matter, acetaldehyde, benzene, and metal compounds such as arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, mercury, nickel, and selenium. The December 28, 2005, amendments clarified the process for demonstrating eligibility for the health-based compliance alternatives contained in the rule. The April 20, 2006, amendments revised the general and compliance requirements as they related to SSM. The December 6, 2006, amendments clarified the procedures for implementing the emissions averaging provision and for conducting compliance testing when boilers are vented to a common stack. In addition, the December 6, 2006, amendments clarified certain definitions.

The District of Columbia Court of Appeals, in *Natural Resources Defense Council v. EPA*, 489 F.3d 1250, June 8, 2007, vacated and remanded the provisions of the Boiler MACT, 40 CFR Part 63, Subpart DDDD, published September 13, 2004 (69 FR 55218). This is because the court had also vacated the Commercial and Industrial Solid Waste Incineration (CISWI) Definitions Rule, September 22, 2005 (70 FR 55568). The vacatur of the CISWI definitions rule resulted in a need for the Boiler MACT to also be revised because the applicability of the Boiler MACT would be affected once the EPA revised the CISWI definitions rule to be consistent with the opinion of the court. In response to the vacatur of the Boiler MACT, the EPA adopted revisions to the Boiler MACT on March 21, 2011 (76 FR 15608). However, on March 21, 2011, the EPA also issued a notice that it intended to reconsider the final rule (76 FR 15266) and a notice delaying

the effective date of the final Boiler MACT rules (76 FR 28662), until such time as judicial review was completed, or the EPA finalized reconsideration of the rules, whichever was earlier. This notice of delay was challenged, and was vacated by the District of Columbia Court of Appeals in *Sierra Club v. Jackson*, 833 F. Supp.2d 11, January 9, 2012. The March 21, 2011, revisions to the Boiler MACT are also being challenged by multiple petitioners, and have been consolidated into one proceeding, *U.S. Sugar Corp. v. EPA*, No. 11-1108, in the District of Columbia Court of Appeals.

The EPA proposed reconsideration amendments to Subpart DDDDD on December 23, 2011 (76 FR 80598). The EPA signed a final rule reconsidering the Boiler major source MACT on December 20, 2012, but this final rule has not yet been published in the FR as of the date this preamble was drafted. The rule signed by the EPA on December 20, 2012, included numerous changes. The EPA's review of existing and new data resulted in changes to emission limits for various pollutants. Overall, for both new and existing affected units, about 30% of the emission limits are more stringent, half are less stringent, and 20% unchanged as compared to the March 2011 final rule. The EPA also established an alternative emission standard for carbon monoxide (CO), based on continuous emission monitoring system (CEMS) data for several subcategories. The amendments also added periodic tune-up work practices to address dioxin and furan emissions. In addition, the EPA updated the compliance dates for new and existing sources. The amendments revised the list of exemptions to include residential boilers that may be located at an industrial, commercial, or institutional major source. The exemption for boilers or process heaters used specifically for research and development was revised to include boilers used for certain testing purposes. The amendments clarified that the exemption for boilers and process heaters used for research and development includes boilers used for testing the propulsion systems on military vessels. The amendments also revised work practice standards for periods of startup and shutdown to better reflect MACT during those periods. In addition, the amendments added definitions of startup and shutdown and revised the definition of the limited use subcategory. The amendments additionally made numerous technical corrections to the final rule to clarify definitions, references, applicability and compliance issues raised by petitioners and other stakeholders.

The commission solicits comment on whether the currently-effective (March 21, 2011) rule should be incorporated by reference as proposed, or if the commission should incorporate the amended rules signed by the EPA on December 20, 2012. At the time this preamble was drafted, the FR citation (date, volume, and page number) associated with the amendments signed by the EPA on December 20, 2012, is not available, so it is not possible to draft specific rule language incorporating the December 20, 2012, version of the rule at this time. However, it is the commission's intention to incorporate the rules signed on December 20, 2012, once those rules have been formally published in the FR, unless adverse comments on such an action are received.

§113.1140, Iron and Steel Foundries (40 Code of Federal Regulations Part 63, Subpart EEEEE)

The commission proposes to amend §113.1140 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEEEE since this section was last amended. During this period, the EPA amended Subpart EEEEE, on February 7, 2008 (73 FR 7210). The February 7, 2008, amendments added alternative

compliance options for cupolas at existing foundries and clarified several provisions to increase operational flexibility and improve readability of the rule requirements.

§113.1160, Site Remediation (40 Code of Federal Regulations Part 63, Subpart GGGGG)

The commission proposes to amend §113.1160 by incorporating by reference all amendments to 40 CFR Part 63, Subpart GGGGG since this section was last amended. During this period, the EPA amended Subpart GGGGG on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments revised Subpart GGGGG to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1170, Miscellaneous Coating Manufacturing (40 Code of Federal Regulations Part 63, Subpart HHHHH)

The commission proposes to amend §113.1170 by incorporating by reference all amendments to 40 CFR Part 63, Subpart HHHHH since this section was last amended. During this period, the EPA amended Subpart HHHHH on December 22, 2008 (73 FR 78199). The December 22, 2008, amendments revised Subpart HHHHH to allow an alternative work practice using optical gas imaging technology as a method to meet leak detection and repair requirements.

§113.1190, Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ)

The commission proposes to repeal §113.1190, as this MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Sierra Club v. EPA*, 479 F.3d 875, on March 13, 2007, and is no longer in effect. The EPA has not adopted revised standards for this source category.

§113.1200, Clay Ceramics Manufacturing (40 Code of Federal Regulations Part 63, Subpart KKKKK)

The commission proposes to repeal §113.1200, as this MACT standard was vacated by the decision of the United States Court of Appeals for the District of Columbia Circuit in *Sierra Club v. EPA*, 479 F.3d 875, on March 13, 2007, and is no longer in effect. The EPA has not adopted revised standards for this source category.

§113.1300, Coal- and Oil-Fired Electric Utility Steam Generating Units (40 Code of Federal Regulations Part 63, Subpart UUUUU)

The commission proposes new §113.1300 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart UUUUU, adopted by the EPA on February 16, 2012 (77 FR 9304), with amendments published on April 19, 2012 (77 FR 23399). This rule is commonly referred to as the Mercury Air Toxics Standard (MATS). This MACT standard regulates HAP emissions from coal- and oil-fired electric utility steam generating units located at major or area sources of HAP. HAPs emitted from these facilities include hydrogen chloride, hydrogen fluoride, and metal compounds such as selenium, arsenic, chromium, and nickel. The April 19, 2012, amendments corrected typographical errors, such as invalid cross-references and preamble text that was not consistent with the final regulatory text.

The February 16, 2012, final rule is being challenged by the TCEQ and multiple petitioners through both reconsideration requests to the EPA and petitions for review in the District of Columbia Court of Appeals. The EPA recently published a limited reconsideration of the final rule on November 30, 2012 (77 FR

71323). The February 16, 2012, final rule remains currently effective, and applicable to affected sources. The EPA has not yet adopted a final rule reconsidering the MATS. The commission solicits comment on whether the current rule should be incorporated by reference, as proposed, or if incorporation should be postponed until after any reconsideration actions or court actions are resolved.

§113.1320, Hospital Ethylene Oxide Sterilizers Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWW)

The commission proposes new §113.1320 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart WWWW, adopted by the EPA on December 28, 2007 (72 FR 73611). This GACT standard regulates HAP emissions from hospital ethylene oxide sterilizers located at area sources of HAP. The HAP emitted from these facilities is ethylene oxide.

§113.1340, Electric Arc Furnace Steelmaking Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYY)

The commission proposes new §113.1340 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart YYYY, adopted by the EPA on December 28, 2007 (72 FR 74088). This MACT and GACT standard regulates HAP emissions from electric arc furnace steelmaking facilities that are area sources of HAP. HAPs emitted from these facilities include mercury, chromium, lead, manganese, nickel, and other metals.

§113.1350, Iron and Steel Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZ)

The commission proposes new §113.1350 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart ZZZZ, adopted by the EPA on January 2, 2008 (73 FR 226). This GACT standard regulates HAP emissions from iron and steel foundries that are area sources of HAP. HAPs emitted from these facilities include compounds of mercury, chromium, lead, manganese, and nickel.

§113.1370, Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB)

The commission proposes new §113.1370 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart BBBB, adopted by the EPA on January 10, 2008 (73 FR 1916), with amendments published by the EPA on March 7, 2008 (73 FR 12275) and January 24, 2011 (76 FR 4156). This GACT standard regulates HAP emissions from gasoline distribution bulk terminals, bulk plants, and pipeline facilities that are area sources of HAP. HAPs emitted from these facilities include benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether. The March 7, 2008, amendments corrected errors in citations for test methods, corrected cross references within 40 CFR Part 63, Subpart BBBB, and corrected references to the regulation's promulgation date that were intended to refer to the compliance date. The January 24, 2011, amendments clarified certain definitions, applicability-related provisions, and compliance-related provisions in response to issues raised in the petitions for reconsideration.

§113.1380, Gasoline Dispensing Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCC)

The commission proposes new §113.1380 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart CCCC, adopted by the EPA on January 10, 2008

(73 FR 1916), with amendments published on March 7, 2008 (73 FR 12275), June 25, 2008 (73 FR 35939), and January 24, 2011 (76 FR 4156). This GACT standard regulates HAP emissions from gasoline dispensing facilities that are area sources of HAP. HAPs emitted from these facilities include benzene, ethylbenzene, hexane, toluene, xylenes, isooctane, naphthalene, cumene, and methyl tert-butyl ether. The March 7, 2008, amendments corrected a number of errors in rule citations and cross references. The June 25, 2008, amendments revised the pressure and vacuum vent valve cracking pressure and leak rate requirements for vapor balance systems used to control emissions. The January 24, 2011, amendments clarified certain definitions, applicability-related provisions, and compliance-related provisions in response to issues raised in the petitions for reconsideration.

§113.1390, Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDD)

The commission proposes to amend §113.1390 by incorporating by reference all amendments to 40 CFR Part 63, Subpart DDDD since this section was adopted. During this period, the EPA published amendments to Subpart DDDD on April 17, 2012 (77 FR 22848). The April 17, 2012, amendments clarified the applicability of Subpart DDDD to existing and new area sources, and revised GACT requirements for this source category.

§113.1400, Primary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart EEEE)

The commission proposes to amend §113.1400 by incorporating by reference all amendments to 40 CFR Part 63, Subpart EEEE since this section was adopted. During this period, the EPA published amendments to Subpart EEEE on July 3, 2007 (72 FR 36363). The July 3, 2007, amendments clarified when exhaust gases must be controlled, and what control devices may be used. The amendments also corrected rule numbering errors. In addition, a proposed revision to §113.1400 would replace the phrase "Maximum Achievable Control Technology" with "Generally Available Control Technology," as this NESHAP is a GACT standard and not a MACT standard.

§113.1410, Secondary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart FFFF)

The commission proposes to amend §113.1410 by incorporating by reference all amendments to 40 CFR Part 63, Subpart FFFF since this section was adopted. During this period, the EPA published direct final amendments to Subpart FFFF on July 3, 2007 (72 FR 36363). The July 3, 2007, amendments clarified the date that defines a new copper smelter, and corrected a cross-referencing error. In addition, a proposed revision to §113.1410 would replace the term "Maximum Achievable Control Technology" with "Generally Available Control Technology," as this NESHAP is a GACT standard and not a MACT standard.

§113.1425, Paint Stripping and Miscellaneous Surface Coating at Area Sources (40 Code of Federal Regulations Part 63, Subpart HHHH)

The commission proposes new §113.1425 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart HHHH, adopted by the EPA on January 9, 2008 (73 FR 1738), with amendments published on February 13, 2008 (73 FR 8408). This GACT standard regulates HAP emissions from paint stripping and miscellaneous surface coating facilities

that are area sources of HAPs. HAPs emitted from these facilities include methylene chloride and compounds of chromium, lead, manganese, nickel, and cadmium. The February 13, 2008, amendments corrected minor errors in the rule text.

§113.1435, Industrial, Commercial, and Institutional Boilers Area Sources (40 Code of Federal Regulations Part 63, Subpart JJJJJJ)

The commission proposes new §113.1435 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart JJJJJJ, adopted by the EPA on March 21, 2011 (76 FR 15554). This MACT and GACT standard regulates HAP emissions from industrial, commercial, and institutional boilers that are area sources of HAP. HAPs emitted from these facilities include mercury, arsenic, beryllium, cadmium, lead, chromium, manganese, nickel, and polycyclic organic compounds.

On December 23, 2011 (76 FR 80532) the EPA proposed reconsideration amendments to Subpart JJJJJJ. The EPA signed a final rule reconsidering the Boiler area source NESHAP on December 20, 2012, but this final rule has not yet been published in the FR as of the date this preamble was drafted. The rule signed by the EPA on December 20, 2012, included numerous changes. The EPA's review of existing and new data resulted in a number of changes to emission limits for various pollutants. The EPA also established an alternative emission standard for CO, based on CEMS data for several subcategories. The amendments also added periodic tune-up work practices to address CO and mercury emissions from new and existing small coal-fired units, in lieu of numeric emission limits. In addition, the amendments updated the compliance dates for new and existing sources. The amendments also revised the list of boilers that are not part of the source categories subject to Subpart JJJJJJ, clarified certain boiler types, and included certain additional boilers located at an industrial, commercial, or institutional area source facility. The amendments also revised work practice standards for periods of startup and shutdown to better reflect MACT and GACT during those periods. In addition, the amendments added definitions of startup and shutdown and revised the definition of the limited use subcategory. The amendments additionally made numerous technical corrections to the final rule to clarify definitions, references, applicability, and compliance issues raised by petitioners and other stakeholders.

The commission solicits comment on whether the currently-effective (March 21, 2011) rule should be incorporated by reference as proposed, or if the commission should incorporate the amended rules signed by the EPA on December 20, 2012. At the time this preamble was drafted, the FR citation (date, volume, and page number) associated with the amendments signed by the EPA on December 20, 2012, is not available, so it is not possible to draft specific rule language incorporating the December 20, 2012, version of the rules at this time. However, it is the commission's intention to incorporate the rules signed on December 20, 2012, once those rules have been formally published in the FR, unless adverse comments on such an action are received.

§113.1445, Acrylic and Modacrylic Fibers Area Sources (40 Code of Federal Regulations Part 63, Subpart LLLLLL)

The commission proposes new §113.1445 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart LLLLLL, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard regulates HAP emissions from acrylic and modacrylic fiber production facilities that are area sources of

HAP. The HAP emitted from these facilities is primarily acrylonitrile. The March 26, 2008, amendments made a minor editorial correction to add a phrase that had been omitted from the published rule.

§113.1450, Carbon Black Production Area Sources (40 Code of Federal Regulations Part 63, Subpart MMMMMM)

The commission proposes new §113.1450 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart MMMMMM, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard regulates HAP emissions from carbon black production facilities that are area sources of HAP. HAPs emitted from these facilities include polycyclic organic compounds. The March 26, 2008, amendments corrected minor rule citation errors and added a phrase that had been omitted from the published rule.

§113.1455, Chemical Manufacturing Area Sources: Chromium Compounds (40 Code of Federal Regulations Part 63, Subpart NNNNNN)

The commission proposes new §113.1455 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart NNNNNN, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to area sources that manufacture chromium compounds. HAPs emitted from these facilities include chromium compounds. The March 26, 2008, amendments corrected control device inspection requirements, and added a phrase that had been omitted from the published rule.

§113.1460, Flexible Polyurethane Foam Production and Fabrication Area Sources (40 Code of Federal Regulations Part 63, Subpart OOOOOO)

The commission proposes new §113.1460 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart OOOOOO, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to flexible foam production and flexible foam fabrication plants that are area sources. HAPs emitted from these facilities include methylene chloride. The March 26, 2008, amendments corrected a paragraph formatting error, added language to clarify compliance certification requirements, and revised a table indicating applicable requirements of 40 CFR Part 63 Subpart A.

§113.1465, Lead Acid Battery Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart PPPPPP)

The commission proposes new §113.1465 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart PPPPPP, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to lead acid battery manufacturing plants that are area sources. HAPs emitted from these facilities include lead and cadmium compounds. The March 26, 2008, amendments corrected citation errors relating to performance testing requirements, corrected an error in the deadline for submitting compliance status reports, deleted erroneous cross references, and revised a table indicating applicable requirements of 40 CFR Part 63, Subpart A.

§113.1470, Wood Preserving Area Sources (40 Code of Federal Regulations Part 63, Subpart QQQQQQ)

The commission proposes new §113.1470 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart QQQQQQ, adopted by the EPA on July 16, 2007 (72 FR 38864), with amendments published on March 26, 2008 (73 FR 15923). This GACT standard applies to wood preserving facilities that are area sources. HAPs emitted from these facilities include arsenic, chromium, methylene chloride, and dioxin. The March 26, 2008, amendments corrected a rule citation, added a phrase that had been inadvertently omitted from the rule text, and corrected a table indicating applicable requirements of 40 CFR Part 63, Subpart A.

§113.1475, Clay Ceramics Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart RRRRRR)

The commission proposes new §113.1475 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart RRRRRR, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to clay ceramics manufacturing facilities that are area sources and use more than 50 tons per year of clay. HAPs emitted from these facilities include chromium, lead, manganese, and nickel compounds.

§113.1480, Glass Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart SSSSSS)

The commission proposes new §113.1480 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart SSSSSS, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to glass manufacturing facilities that are area sources and that produce 50 tons per year of glass that contains one or more specified HAPs. HAPs emitted from these facilities include arsenic, cadmium, chromium, lead, manganese, and nickel compounds.

§113.1485, Secondary Nonferrous Metals Processing Area Sources (40 Code of Federal Regulations Part 63, Subpart TTTTTT)

The commission proposes new §113.1485 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart TTTTTT, adopted by the EPA on December 26, 2007 (72 FR 73180). This GACT standard applies to nonferrous metal processing facilities that are area sources. HAPs emitted from these facilities include arsenic, chromium, lead, manganese, and nickel compounds.

§113.1495, Chemical Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart VVVVVV)

The commission proposes new §113.1495 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart VVVVVV, adopted by the EPA on October 29, 2009 (74 FR 56008), with amendments published on December 21, 2012 (77 FR 75740). This GACT standard applies to agricultural chemicals and pesticides manufacturing, cyclic crude and intermediate production, industrial inorganic chemical manufacturing, industrial organic chemical manufacturing, inorganic pigments manufacturing, miscellaneous organic chemical manufacturing, plastic materials and resins manufacturing, pharmaceutical production, and synthetic rubber manufacturing. This standard is limited to area sources. HAPs emitted from these facilities include 1,3-butadiene; 1,3-dichloropropene; acetaldehyde; chloroform; ethylene dichloride; methylene chloride; hexachlorobenzene; hydrazine; quinoline; and compounds of arsenic, cadmium, chromium, lead, manganese, and nickel. The EPA extended the effective date of certain Title V permit requirements (40 CFR §63.11494(e)) on December 14, 2010 (75 FR 77762),

until March 14, 2011. The EPA indefinitely extended the effective date of 40 CFR §63.11494(e) on March 14, 2011 (76 FR 13515).

The EPA published a limited reconsideration of the final rule on January 30, 2012, (77 FR 4522), and published a stay of the October 29, 2009, final rule on October 25, 2012 (77 FR 65136), staying Subpart VVVVVV in its entirety until December 24, 2012. The EPA adopted final reconsideration amendments on December 21, 2012. The December 21, 2012, amendments lifted the stay of the Title V permit requirement issued on March 14, 2011, and lifted the stay of the final rule issued on October 25, 2012. In addition, the December 21, 2012, amendments revised the approach for addressing malfunctions and standards applicable during startup and shutdown periods, and made amendments and technical corrections to the final rule to clarify applicability and compliance issues. The December 21, 2012, amendments also extended the compliance date for existing sources until March 21, 2013.

§113.1500, Plating and Polishing Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWWWW)

The commission proposes new §113.1500 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart WWWWWW, adopted by the EPA on July 1, 2008 (73 FR 37728), with amendments published on September 19, 2011 (76 FR 57913). This GACT standard applies to metal plating and polishing facilities that are area sources. HAPs emitted from these facilities include cadmium, chromium, lead, manganese, and nickel compounds. The September 19, 2011, amendments clarified that the emission control requirements did not apply to bench-scale activities, and also included minor technical corrections.

§113.1505, Metal Fabrication and Finishing Area Sources (40 Code of Federal Regulations Part 63, Subpart XXXXXX)

The commission proposes new §113.1505 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart XXXXXX, adopted by the EPA on July 23, 2008 (73 FR 42978). This GACT standard applies to a wide range of metal fabrication and finishing operations that are area sources. HAPs emitted from these facilities include cadmium, chromium, lead, manganese, and nickel compounds.

§113.1510, Ferroalloys Production Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYYYY)

The commission proposes new §113.1510 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart YYYYYY, adopted by the EPA on December 23, 2008 (73 FR 78637). This GACT standard applies to ferroalloy production facilities that are area sources. HAPs emitted from these facilities include chromium, manganese, and nickel compounds.

§113.1515, Aluminum, Copper, and Other Nonferrous Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZZZ)

The commission proposes new §113.1515 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart ZZZZZZ, adopted by the EPA on June 25, 2009 (74 FR 30366), with amendments published on September 10, 2009 (74 FR 46493). This GACT standard applies to area source facilities that pour molten aluminum, copper, or other nonferrous metals into molds to manufacture castings. HAPs emitted from these facilities include chromium, beryllium, cadmium, lead, manganese, and nickel compounds. The September 10, 2009,

amendments clarified applicability requirements and terminology in 40 CFR §63.11544, Am I subject to this subpart?

§113.1520, Asphalt Processing and Asphalt Roofing Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart AAAAAAA)

The commission proposes new §113.1520 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart AAAAAAA, adopted by the EPA on December 2, 2009 (74 FR 63236), with amendments published on March 18, 2010 (75 FR 12988). This GACT standard applies to asphalt processing and asphalt roofing manufacturing operations that are area sources. HAPs emitted from these facilities include polycyclic aromatic hydrocarbons. The March 18, 2010, amendments corrected typographical errors in 40 CFR §63.11563, What are my monitoring requirements?, and corrected cross references in 40 CFR §63.11564, What are my notification, recordkeeping, and reporting requirements?.

§113.1525, Chemical Preparations Industry Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB BBB)

The commission proposes new §113.1525 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart BBBB BBB, adopted by the EPA on December 30, 2009 (74 FR 69194). This GACT standard applies to area source facilities that manufacture chemical preparations containing compounds of chromium, lead, manganese, or nickel, except for manufacturers of certain types of ink. HAPs emitted from these facilities include chromium, lead, manganese, and nickel compounds.

§113.1530, Paints and Allied Products Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC C)

The commission proposes new §113.1530 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart CCCCCC C, adopted by the EPA on December 3, 2009 (74 FR 63504), with amendments published on March 5, 2010 (75 FR 10184) and June 3, 2010 (75 FR 31317). This GACT standard applies to area source facilities that manufacture materials such as paint, ink, or adhesive that are intended to be applied to a substrate and consist of a mixture of resins, pigments, solvents, or other additives. HAPs emitted from these facilities include benzene, methylene chloride, and compounds of cadmium, chromium, lead, and nickel. The March 5, 2010, amendments corrected cross-references and other editorial errors. The June 3, 2010, amendments revised the definition of "material containing hazardous air pollutants" to restore language relating to a *de minimis* concentration of non-carcinogens.

§113.1535, Prepared Feeds Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDDD)

The commission proposes new §113.1535 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart DDDDDDD, adopted by the EPA on January 5, 2010 (75 FR 522), with amendments published on July 20, 2010 (75 FR 41991) and December 23, 2011 (76 FR 80261). This GACT standard applies to prepared animal feed manufacturing operations that are area sources. HAPs emitted from these facilities include chromium and manganese compounds. The July 20, 2010, amendments corrected the date for new sources to submit a Notification of Compliance Status form, corrected the information to be included in the Notification of Compliance Report, and restored language relating to submittal of the annual compliance certification report. The December 23, 2011, amendments

revised GACT requirements for pelleting processes at large, existing prepared feeds manufacturing facilities, and associated requirements for compliance demonstration, monitoring, reporting, and recordkeeping. The December 23, 2011, amendments also clarified the requirement that doors be kept closed in areas where materials containing chromium and manganese are present; and clarified the requirement to install a device to minimize emissions at the point of bulk loadout.

§113.1555, Polyvinyl Chloride and Copolymers Production Major Sources (40 Code of Federal Regulations Part 63, Subpart HHHHHHH)

The commission proposes new §113.1555 by incorporating by reference the final promulgated rules in 40 CFR Part 63, Subpart HHHHHHH, adopted by the EPA on April 17, 2012 (77 FR 22848). This MACT standard applies to PVC and copolymers production operations that are major sources, or are located at major sources. The primary HAP emitted from these facilities is vinyl chloride.

Fiscal Note: Costs to State and Local Government

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rules. The proposed rules will require the agency to update or issue Title V permits at some emission sources affected by the proposed rules, but the agency does not expect any significant increase in workload and no increase in agency revenue.

The EPA adopted new MACT and GACT standards in 2007 through 2012, and the proposed rules would incorporate these standards by reference in Chapter 113 to ensure that state and federal rules remain consistent. The proposed rules, once adopted, would allow the agency to continue to receive delegation authority from the EPA.

Regulated entities affected by the proposed rules are required to comply with these federal standards whether or not the proposed rules are adopted. The proposed rules are not expected to add additional costs to the regulated community beyond what is already required to comply with the federal standards and requirements. No fees will be charged for any permit changes, including Title V modifications, as a result of the proposed rules.

Units of local government do not typically own or operate the types of facilities that would be required to comply with the proposed rules. If a local government is required to comply with federal MACT and GACT standards, it would not experience any additional compliance or permitting costs under the proposed rules.

Public Benefits and Costs

Nina Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be consistency between federal and state rules regarding air emissions.

Businesses and individuals are required to comply with these federal standards whether or not the proposed rules are adopted. Any fiscal impacts on regulated entities will result directly from compliance with federal standards. For example, electric arc furnaces, iron and steel foundries, and glass manufacturing facilities are required by the federal MACT and GACT standards to do more testing of controls and recordkeeping. The proposed

rules are not anticipated to add additional costs to the regulated community beyond what is already required to comply with the federal standards, and large businesses would not pay any additional permit fees to comply with the proposed rules.

The following is a partial list of industry groups and facilities, typically owned by large businesses, that could be required to implement the MACT and GACT standards: petroleum refineries; the pulp and paper industry; the polymer and resin industry; the chemical manufacturing industry, shipbuilding, and repair facilities; hazardous waste combustors; the pharmaceutical production industry; the Portland cement manufacturing industry; the semiconductor manufacturing industry; and the PVC and copolymer production industry.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the adoption of federal standards in the proposed rules. A partial list of small business activities that may be required to comply with new MACT and GACT standards are: metal fabrication; metal polishing; surface coating; gasoline dispensing; small foundries; ceramic production; paint manufacturing; glass manufacturing; battery manufacturing; animal feed production; and asphalt roofing production. The proposed rules are not anticipated to add additional costs to the regulated community beyond what is already required to comply with the federal standards. Small businesses would not be required to pay additional permit fees when complying with the proposed rules.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to protect the environment and comply with federal regulations. If the agency does not incorporate the federal standards into the proposed rules, it may not receive delegation authority from the EPA, and small and micro-businesses could be directly regulated by the EPA instead of the commission.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed the rulemaking in light of the regulatory impact analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking does not meet the definition of a major environmental rule as defined in that statute, and in addition, if it did meet the definition, would not be subject to the requirement to prepare a regulatory impact analysis.

A major environmental rule means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The specific intent of these proposed rules is to adopt amendments to a number of existing NESHAPs incorporated into Chapter 113, adopt incorporations of a number of recently-promulgated NESHAPs not yet incorporated into Chapter 113, and repeal several Chapter

113 sections that reference NESHAPs that are no longer effective due to court actions. The NESHAPs are promulgated by the EPA for source categories mandated by 42 United States Code (USC), §7412 and required to be included in operating permits by 42 USC, §7661a. These NESHAPs are technology based standards commonly referred to as MACT standards which EPA develops to regulate emissions of HAPs as required under the FCAA. Certain sources of HAPs will be affected and stationary sources are required to comply with federal standards whether or not the commission adopts the standards or takes delegation from the EPA. As discussed in the Fiscal Note portion of this preamble, the proposed rules are not anticipated to add any significant additional costs to affected individuals or businesses beyond what is already required to comply with federal MACT standards on the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

Additionally, the rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225, applies only to a major environmental rule, the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

Under 42 USC, §7661a, states are required to have federal operating permit programs that provide authority to issue permits and assure compliance with each applicable standard, regulation, or requirement under the FCAA, including NESHAPs, which are required under 42 USC, §7412. Similar to requirements in 42 USC, §7410, regarding the requirement to adopt and implement plans to attain and maintain the National Ambient Air Quality Standards, states are not free to ignore requirements in 42 USC, §7661a, and must develop and submit programs to provide for operating permits for major sources that include all applicable requirements of the FCAA.

The requirement to provide a fiscal analysis of regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th Legislature, 1997. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 that concluded "based on an assessment of rules adopted by the agency in the past, it is not anticipated that the bill will have significant fiscal implications for the agency due to its limited application." The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law.

Because of the ongoing need to meet federal requirements, the commission routinely proposes and adopts rules incorporating

or designed to satisfy specific federal requirements. The legislature is presumed to understand this federal scheme. If each rule proposed by the commission in order to meet a federal requirement was considered to be a major environmental rule that exceeds federal law, then each of those rules would require the full Regulatory Impact Analysis (RIA) contemplated by SB 633. This conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the Legislative Budget Board (LBB) in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes, and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full RIA for rules that are extraordinary in nature. While the proposed rules may have a broad impact, that impact is no greater than is necessary or appropriate to meet the requirements of the FCAA, and in fact creates no additional impacts since the proposed rules do not modify the federal NESHAP, but are incorporations by reference, which do not change the federal requirements, or repeals of current requirements.

For these reasons, the proposed rules fall under the exception in Texas Government Code, §2001.0225(a), because they are required by, and do not exceed, federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code, but left this provision substantially un-amended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." (*Central Power & Light Co. v. Sharp*, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), writ denied with per curiam opinion respecting another issue, 960 S.W.2d 617 (Tex. 1997); *Bullock v. Marathon Oil Co.*, 798 S.W.2d 353, 357 (Tex. App. Austin 1990, no writ) superseded by statute on another point of law, Tax Code §112.108, Other Actions Prohibited, as recognized in, *First State Bank of Dumas v. Sharp*, 863 S.W. 2d 81, 83, (Tex. App. Austin 1993, no writ.); Cf. *Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, pet. denied); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).)

The commission's interpretation of the RIA requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance" (See Texas Government Code, §2001.035). The legislature specifically identified Texas Government Code, §2001.0225 as falling under this standard. As discussed in this analysis and elsewhere in this preamble, the commission has substantially complied with the requirements of §2001.0225.

The proposed rules implement requirements of the FCAA. The NESHAP standards being incorporated into state law are federal technology-based standards that are required by 42 USC, §7412, required to be included in permits under 42 USC, §7661a, proposed to be adopted by reference without modification or substitution, and will not exceed any standard set by state or federal law, or are repeals of existing requirements. These rules are not an express requirement of state law. The proposed rules do not

exceed a requirement of a delegation agreement or a contract between state and federal government, as the EPA delegates the NESHAP to Texas in accordance with the delegation procedures codified in 40 CFR Part 63. The amendments were not developed solely under the general powers of the agency, but are authorized by specific sections of Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act), and the Texas Water Code, which are cited in the Statutory Authority section of this preamble, including Texas Health and Safety Code, §§382.011, 382.012, and 382.017.

Therefore, this proposed rulemaking action is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

The commission invites public comment regarding the draft regulatory impact analysis determination during the public comment period. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis of whether the proposed rulemaking constitutes a taking under Texas Government Code, Chapter 2007. The commission's preliminary assessment indicates Texas Government Code, Chapter 2007 does not apply.

Under Texas Government Code, §2007.002(5), taking means: "(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or (B) a governmental action that: (i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action; and (ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect."

The commission completed a takings impact analysis for the proposed rulemaking action under the Texas Government Code, §2007.043. The specific intent of these proposed rules is to adopt amendments to a number of existing NESHAPs incorporated into Chapter 113, adopt incorporations of a number of recently-promulgated NESHAPs not yet incorporated into Chapter 113, and repeal several Chapter 113 sections that reference NESHAPs that are no longer effective due to court actions. The NESHAPs are promulgated by the EPA for source categories mandated by 42 USC, §7412 and required to be included in operating permits by 42 USC, §7661a. These NESHAPs are technology based standards commonly referred to as MACT standards which the EPA develops to regulate emissions of HAPs as required under the FCAA. Certain sources of HAPs will be affected and stationary sources are required to comply with federal standards whether or not the commission adopts the standards or takes delegation from the EPA. The proposed rules will not create any additional burden on private real property. Under federal law, the affected industries will be required to

comply with the NESHAPs regardless of whether the commission or the EPA is the agency responsible for implementation of the NESHAPs. The proposed rules will not affect private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under the Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission determined that this rulemaking action relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201, *et seq.*), and commission rules in 30 TAC Chapter 281, Subchapter B, Consistency with Texas Coastal Management Program. As required by 30 TAC §281.45(a)(3), Actions Subject to Consistency with the Goals and Policies of the CMP, and 31 TAC §505.11(b)(2), Actions and Rules Subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Advisory Committee and determined that the action is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking action is the goal to protect, preserve, restore, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l), Goals). The CMP policy applicable to this rulemaking action is the policy that commission rules comply with federal regulations in 40 CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.32, Policies for Emission of Air Pollutants). The proposed rules would incorporate federal regulations concerning emissions of HAPs from certain industries into Chapter 113, allowing the commission to enforce those standards. This would tend to benefit the environment because it would result in lower emissions of HAPs. Therefore, in accordance with 31 TAC §505.22(e), Consistency Required for New Rules and Rule Amendments Subject to the Coastal Management Program, the commission affirms that this rulemaking action is consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Effect on Sites Subject to the Federal Operating Permits Program

Chapter 113 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits Program. If the proposed rules are adopted, owners or operators subject to the Federal Operating Permits Program must, consistent with the revision process in Chapter 122, upon the effective date of the adopted rulemaking, revise their operating permits to include the new Chapter 113 requirements. In addition, owners and operators of area sources should be aware that federal rules require certain area source categories to obtain a federal operating permit.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on Thursday, April 11, 2013, at 10:00 a.m., in Building B, Room 201A at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services, at (512) 239-1802. Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Charlotte Horn, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-004-113-AI. The comment period closes on April 15, 2013. Copies of the proposed rulemaking can be obtained from the commission's Web site at http://www.tceq.texas.gov/nav/rules/propose_adopt.html. For further information, please contact Michael Wilhoit, Air Permits Division, Technical Program Support Section, (512) 239-1222.

30 TAC §§113.100, 113.120, 113.130, 113.180, 113.190, 113.230, 113.240, 113.260, 113.290, 113.300, 113.340, 113.390, 113.400, 113.410, 113.420, 113.560, 113.600, 113.610, 113.620, 113.640, 113.650, 113.670, 113.690, 113.770, 113.790, 113.880, 113.890, 113.1040, 113.1090, 113.1110, 113.1130, 113.1140, 113.1160, 113.1170, 113.1300, 113.1320, 113.1340, 113.1350, 113.1370, 113.1380, 113.1390, 113.1400, 113.1410, 113.1425, 113.1435, 113.1445, 113.1450, 113.1455, 113.1460, 113.1465, 113.1470, 113.1475, 113.1480, 113.1485, 113.1495, 113.1500, 113.1505, 113.1510, 113.1515, 113.1520, 113.1525, 113.1530, 113.1535, 113.1555

Statutory Authority

The amendments and new sections are proposed under Texas Water Code (TWC), §5.103, concerning Rules, and TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The amendments and new sections are also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and THSC, §382.051,

concerning Permitting Authority of the Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act.

The proposed amendments and new sections implement THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.100. *General Provisions (40 Code of Federal Regulations Part 63, Subpart A).*

The General Provisions for the National Emission Standards for Hazardous Air Pollutants for Source Categories as specified in 40 Code of Federal Regulations (CFR) Part 63, Subpart A, are incorporated by reference as amended through September 11, 2012 (77 FR 55698) [~~May 16, 2007 (72 FR 27437)~~] with the following exceptions.

(1) The language of 40 CFR §63.5(e)(2)(i) is amended to read as follows: The executive director will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 180 calendar days after receipt of sufficient information to evaluate an application submitted under 40 CFR §63.5(d). The 180-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 90 calendar days after receipt of the original application and within 60 calendar days after receipt of any supplementary information that is submitted.

(2) The language of 40 CFR §63.6(i)(12)(i) is amended to read as follows: The executive director will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 60 calendar days after receipt of sufficient information to evaluate a request submitted under 40 CFR §63.6(i)(4)(i) or (i)(5). The 60-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(3) The language of 40 CFR §63.6(i)(13)(i) is amended to read as follows: The executive director will notify the owner or operator in writing of approval or intention to deny approval of a request for an extension of compliance within 60 calendar days after receipt of sufficient information to evaluate a request submitted under 40 CFR §63.6(i)(4)(ii). The 60-day approval or denial period will begin after the owner or operator has been notified in writing that the [his/her] application is complete. The executive director will notify the owner or operator in writing of the status of the [his/her] application, that is, whether the application contains sufficient information to make a determination, within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

(4) The language of 40 CFR §63.6(i)(13)(ii) is amended to read as follows: When notifying the owner or operator that the [his/her] application is not complete, the executive director will specify the information needed to complete the application and provide notice of opportunity for the applicant to present, in writing, within 30 calendar days after they are [he/she is] notified of the incomplete application, additional information, or arguments to the executive director to enable further action on the application.

(5) The language of 40 CFR §63.8(e)(5)(ii) is amended to read as follows: The owner or operator of an affected source using a Continuous Opacity Monitoring System (COMS) to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the executive director two or, upon request, three copies of a written report of the results of the COMS performance evaluation under this paragraph. The copies shall be provided at least 30 calendar days before the performance test required under §63.7 is conducted.

(6) The language of 40 CFR §63.9(i)(3) is amended to read as follows: If, in the executive director's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the executive director will approve the adjustment. The executive director will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 30 calendar days of receiving sufficient information to evaluate the request.

(7) The language of 40 CFR §63.10(e)(2)(ii) is amended to read as follows: The owner or operator of an affected source using a COMS to determine opacity compliance during any performance test required under §63.7 and described in §63.6(d)(6) shall furnish the executive director two or, upon request, three copies of a written report of the results of the COMS performance evaluation conducted under §63.8(e). The copies shall be furnished at least 30 calendar days before the performance test required under §63.7 is conducted.

§113.120. *Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 Code of Federal Regulations Part 63, Subpart G).*

The Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart G, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [~~December 21, 2006 (71 FR 76603)~~].

§113.130. *Organic Hazardous Air Pollutants for Equipment Leaks (40 Code of Federal Regulations Part 63, Subpart H).*

The Organic Hazardous Air Pollutants for Equipment Leaks Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart H, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [~~June 23, 2003 (68 FR 37345)~~].

§113.180. *Perchloroethylene Dry Cleaning Facilities (40 Code of Federal Regulations Part 63, Subpart M).*

The Perchloroethylene Dry Cleaning Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart M, is incorporated by reference as amended through July 11, 2008 (73 FR 39871) [~~September 21, 2006 (71 FR 55280)~~].

§113.190. *Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 Code of Federal Regulations Part 63, Subpart N).*

The Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart N, is incorporated by reference as amended through September 19, 2012 (77 FR 58220) [~~April 20, 2006 (71 FR 20446)~~].

§113.230. *Gasoline Distribution Facilities (40 Code of Federal Regulations Part 63, Subpart R).*

The Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart R, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 6, 2006 (71 FR 17352)].

§113.240. *Pulp and Paper Industry (40 Code of Federal Regulations Part 63, Subpart S).*

The Pulp and Paper Industry Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart S, is incorporated by reference as amended through September 11, 2012 (77 FR 55698) [April 13, 2004 (69 FR 19734)].

§113.260. *Group I Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart U).*

The Group I Polymers and Resins Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart U, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.290. *Secondary Lead Smelting (40 Code of Federal Regulations Part 63, Subpart X).*

The Secondary Lead Smelting Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart X, is incorporated by reference as amended through January 5, 2012 (77 FR 556) [June 23, 2003 (68 FR 37350)].

§113.300. *Marine Tank Vessel Loading Operations (40 Code of Federal Regulations Part 63, Subpart Y).*

The Marine Tank Vessel Loading Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart Y, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.340. *Petroleum Refineries (40 Code of Federal Regulations Part 63, Subpart CC).*

The Petroleum Refineries Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CC, is incorporated by reference as amended through June 30, 2010 (75 FR 37730) [June 23, 2003 (68 FR 37351)].

§113.390. *Oil and Natural Gas Production Facilities (40 Code of Federal Regulations Part 63, Subpart HH).*

The Oil and Natural Gas Production Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HH, is incorporated by reference as amended through August 16, 2012 (77 FR 49490) [January 3, 2007 (72 FR 26)].

§113.400. *Shipbuilding and Ship Repair (Surface Coating) (40 Code of Federal Regulations Part 63, Subpart II).*

The Shipbuilding and Ship Repair (Surface Coating) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart II, is incorporated by reference as amended through November 21, 2011 (76 FR 72050) [December 29, 2006 (71 FR 78369)].

§113.410. *Wood Furniture Manufacturing Operations (40 Code of Federal Regulations Part 63, Subpart JJ).*

The Wood Furniture Manufacturing Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJ, is incorporated by reference as amended through November 21, 2011 (76 FR 72050) [June 23, 2003 (68 FR 37353)].

§113.420. *Printing and Publishing (40 Code of Federal Regulations Part 63, Subpart KK).*

The Printing and Publishing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63,

Subpart KK, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [May 24, 2006 (71 FR 29792)].

§113.560. *Generic Maximum Achievable Control Technology Standards (40 Code of Federal Regulations Part 63, Subpart YY).*

The Generic Maximum Achievable Control Technology Standards as specified in 40 Code of Federal Regulations Part 63, Subpart YY, is incorporated by reference as amended through June 29, 2007 (72 FR 35663) [April 20, 2006 (71 FR 20446)].

§113.600. *Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants (40 Code of Federal Regulations Part 63, Subpart CCC).*

The Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCC, is incorporated by reference as amended through September 19, 2012 (77 FR 58220) [April 20, 2006 (71 FR 20446)].

§113.610. *Mineral Wool Production (40 Code of Federal Regulations Part 63, Subpart DDD).*

The Mineral Wool Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDD, is incorporated by reference as amended through December 1, 2011 (76 FR 74708) [June 23, 2003 (68 FR 37356)].

§113.620. *Hazardous Waste Combustors (40 Code of Federal Regulations Part 63, Subpart EEE).*

The Hazardous Waste Combustor Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEE, is incorporated by reference as amended through October 28, 2008 (73 FR 64068) [October 25, 2006 (71 FR 62388)].

§113.640. *Pharmaceuticals Production (40 Code of Federal Regulations Part 63, Subpart GGG).*

The Pharmaceuticals Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart GGG, is incorporated by reference as amended through April 21, 2011 (76 FR 22566) [April 20, 2006 (71 FR 20446)].

§113.650. *Natural Gas Transmission and Storage Facilities (40 Code of Federal Regulations Part 63, Subpart HHH).*

The Natural Gas Transmission and Storage Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHH, is incorporated by reference as amended through August 16, 2012 (77 FR 49490) [April 20, 2006 (71 FR 20446)].

§113.670. *Group IV Polymers and Resins (40 Code of Federal Regulations Part 63, Subpart JJJ).*

The Group IV Polymers and Resins Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJ, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 20, 2006 (71 FR 20446)].

§113.690. *Portland Cement Manufacturing Industry (40 Code of Federal Regulations Part 63, Subpart LLL).*

The Portland Cement Manufacturing Industry Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart LLL, is incorporated by reference as amended through January 18, 2011 (76 FR 2832) [December 20, 2006 (71 FR 76518)].

§113.770. *Primary Lead Processing [Smelting] (40 Code of Federal Regulations Part 63, Subpart TTT).*

The Primary Lead Processing [Smelting] Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TTT, is incorporated by reference as amended

through November 15, 2011 (76 FR 70834) [April 20, 2006 (71 FR 20446)].

§113.790. Publicly Owned Treatment Works (40 Code of Federal Regulations Part 63, Subpart VVV).

The Publicly Owned Treatment Works Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VVV, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [June 23, 2003 (68 FR 37360)].

§113.880. Organic Liquids Distribution (Non-Gasoline) (40 Code of Federal Regulations Part 63, Subpart EEEE).

The Organic Liquids Distribution (Non-Gasoline) Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEE, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [July 28, 2006 (71 FR 42898)].

§113.890. Miscellaneous Organic Chemical Manufacturing (40 Code of Federal Regulations Part 63, Subpart FFFF).

The Miscellaneous Organic Chemical Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart FFFF, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [July 14, 2006 (71 FR 40316)].

§113.1040. Cellulose Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart UUUU).

The Cellulose Products Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UUUU, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [April 20, 2006 (71 FR 20446)].

§113.1090. [Stationary] Reciprocating Internal Combustion Engines (40 Code of Federal Regulations Part 63, Subpart ZZZZ).

The [Stationary] Reciprocating Internal Combustion Engines Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZ, is incorporated by reference as amended through March 9, 2011 (76 FR 12863) [April 20, 2006 (71 FR 20446)].

§113.1110. Semiconductor Manufacturing (40 Code of Federal Regulations Part 63, Subpart BBBB).

The Semiconductor Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBB, is incorporated by reference as amended through July 22, 2008 (73 FR 42529) [April 20, 2006 (71 FR 20446)].

§113.1130. Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources (40 Code of Federal Regulations Part 63, Subpart DDDD).

The Industrial, Commercial, and Institutional Boilers and Process Heaters Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDDD, is incorporated by reference as amended through March 21, 2011 (76 FR 15608).

§113.1140. Iron and Steel Foundries (40 Code of Federal Regulations Part 63, Subpart EEEE).

The Iron and Steel Foundries Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEE, is incorporated by reference as amended through February 7, 2008 (73 FR 7210) [April 20, 2006 (71 FR 20446)].

§113.1160. Site Remediation (40 Code of Federal Regulations Part 63, Subpart GGGG).

The Site Remediation Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart

GGGG, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [November 29, 2006 (71 FR 69011)].

§113.1170. Miscellaneous Coating Manufacturing (40 Code of Federal Regulations Part 63, Subpart HHHH).

The Miscellaneous Coating Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHH, is incorporated by reference as amended through December 22, 2008 (73 FR 78199) [October 4, 2006 (71 FR 58499)].

§113.1300. Coal- and Oil-Fired Electric Utility Steam Generating Units (40 Code of Federal Regulations Part 63, Subpart UUUU).

The Coal- and Oil-Fired Electric Utility Steam Generating Units Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UUUU, is incorporated by reference as amended through April 19, 2012 (77 FR 23399).

§113.1320. Hospital Ethylene Oxide Sterilizers Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWW).

The Hospital Ethylene Oxide Sterilizers Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart WWWW, is incorporated by reference as adopted December 28, 2007 (72 FR 73611).

§113.1340. Electric Arc Furnace Steelmaking Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYY).

The Electric Arc Furnace Steelmaking Facilities Area Sources standard as specified in 40 Code of Federal Regulations Part 63, Subpart YYYY, is incorporated by reference as adopted December 28, 2007 (72 FR 74088).

§113.1350. Iron and Steel Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZ).

The Iron and Steel Foundries Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZ, is incorporated by reference as adopted January 2, 2008 (73 FR 226).

§113.1370. Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBB).

The Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBB, is incorporated by reference as amended through January 24, 2011 (76 FR 4156).

§113.1380. Gasoline Dispensing Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCC).

The Gasoline Dispensing Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCCC, is incorporated by reference as amended through January 24, 2011 (76 FR 4156).

§113.1390. Polyvinyl Chloride and Copolymers Production Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDD).

The Polyvinyl Chloride and Copolymers Production Area Sources Generally Available [Maximum Achievable] Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDDDD, is incorporated by reference as amended through April 17, 2012 (77 FR 22848) [adopted January 23, 2007 (72 FR 2930)].

§113.1400. Primary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart EEEEE).

The Primary Copper Smelting Area Sources Generally Available [Maximum Achievable] Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart EEEEE, is

incorporated by reference as amended through July 3, 2007 (72 FR 36363) [adopted January 23, 2007 (72 FR 2930)].

§113.1410. Secondary Copper Smelting Area Sources (40 Code of Federal Regulations Part 63, Subpart FFFFFFFF).

The Secondary Copper Smelting Area Sources Generally Available Control Technology [Maximum Achievable Control Technology] standard as specified in 40 Code of Federal Regulations Part 63, Subpart FFFFFFFF, is incorporated by reference as amended through July 3, 2007 (72 FR 36363) [adopted January 23, 2007 (72 FR 2930)].

§113.1425. Paint Stripping and Miscellaneous Surface Coating at Area Sources (40 Code of Federal Regulations Part 63, Subpart HHHHHH).

The Paint Stripping and Miscellaneous Surface Coating at Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHHHH, is incorporated by reference as amended through February 13, 2008 (73 FR 8408).

§113.1435. Industrial, Commercial, and Institutional Boilers Area Sources (40 Code of Federal Regulations Part 63, Subpart JJJJJJ).

The Industrial, Commercial, and Institutional Boilers Area Sources standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJJJJ, is incorporated by reference as adopted March 21, 2011 (76 FR 15554).

§113.1445. Acrylic and Modacrylic Fibers Area Sources (40 Code of Federal Regulations Part 63, Subpart LLLLLL).

The Acrylic and Modacrylic Fibers Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart LLLLLL, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1450. Carbon Black Production Area Sources (40 Code of Federal Regulations Part 63, Subpart MMMMMM).

The Carbon Black Production Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart MMMMMM, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1455. Chemical Manufacturing Area Sources: Chromium Compounds (40 Code of Federal Regulations Part 63, Subpart NNNNNN).

The Chemical Manufacturing Area Sources: Chromium Compounds Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart NNNNNN, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1460. Flexible Polyurethane Foam Production and Fabrication Area Sources (40 Code of Federal Regulations Part 63, Subpart OOOOOO).

The Flexible Polyurethane Foam Production and Fabrication Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart OOOOOO, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1465. Lead Acid Battery Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart PPPPPP).

The Lead Acid Battery Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart PPPPPP, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1470. Wood Preserving Area Sources (40 Code of Federal Regulations Part 63, Subpart QQQQQQ).

The Wood Preserving Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63,

Subpart QQQQQQ, is incorporated by reference as amended through March 26, 2008 (73 FR 15923).

§113.1475. Clay Ceramics Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart RRRRRR).

The Clay Ceramics Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart RRRRRR, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1480. Glass Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart SSSSSS).

The Glass Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart SSSSSS, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1485. Secondary Nonferrous Metals Processing Area Sources (40 Code of Federal Regulations Part 63, Subpart TTTTTT).

The Secondary Nonferrous Metals Processing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TTTTTT, is incorporated by reference as adopted December 26, 2007 (72 FR 73180).

§113.1495. Chemical Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart VVVVVV).

The Chemical Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VVVVVV, is incorporated by reference as amended through December 21, 2012 (77 FR 75740).

§113.1500. Plating and Polishing Area Sources (40 Code of Federal Regulations Part 63, Subpart WWWWWW).

The Plating and Polishing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart WWWWWW, is incorporated by reference as amended through September 19, 2011 (76 FR 57913).

§113.1505. Metal Fabrication and Finishing Area Sources (40 Code of Federal Regulations Part 63, Subpart XXXXXX).

The Metal Fabrication and Finishing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart XXXXXX, is incorporated by reference as adopted July 23, 2008 (73 FR 42978).

§113.1510. Ferroalloys Production Facilities Area Sources (40 Code of Federal Regulations Part 63, Subpart YYYYYY).

The Ferroalloys Production Facilities Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart YYYYYY, is incorporated by reference as adopted December 23, 2008 (73 FR 78637).

§113.1515. Aluminum, Copper, and Other Nonferrous Foundries Area Sources (40 Code of Federal Regulations Part 63, Subpart ZZZZZZ).

The Aluminum, Copper, and Other Nonferrous Foundries Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart ZZZZZZ, is incorporated by reference as amended through September 10, 2009 (74 FR 46493).

§113.1520. Asphalt Processing and Asphalt Roofing Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart AAAAAA).

The Asphalt Processing and Asphalt Roofing Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart AAAAAA, is incorporated by reference as amended through March 18, 2010 (75 FR 12988).

§113.1525. Chemical Preparations Industry Area Sources (40 Code of Federal Regulations Part 63, Subpart BBBBBBB).

The Chemical Preparations Industry Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BBBBBBB, is incorporated by reference as adopted December 30, 2009 (74 FR 69194).

§113.1530. Paints and Allied Products Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart CCCCCC).

The Paints and Allied Products Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCCCCC, is incorporated by reference as amended through June 3, 2010 (75 FR 31317).

§113.1535. Prepared Feeds Manufacturing Area Sources (40 Code of Federal Regulations Part 63, Subpart DDDDDDD).

The Prepared Feeds Manufacturing Area Sources Generally Available Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DDDDDDD, is incorporated by reference as amended through December 23, 2011 (76 FR 80261).

§113.1555. Polyvinyl Chloride and Copolymers Production Major Sources (40 Code of Federal Regulations Part 63, Subpart HHHH-HHH).

The Polyvinyl Chloride and Copolymers Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHHHHH, is incorporated by reference as adopted April 17, 2012 (77 FR 22848).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 1, 2013.

TRD-201300940

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: April 14, 2013

For further information, please call: (512) 239-0779



30 TAC §§113.150, 113.1190, 113.1200

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Commission on Environmental Quality or in the Texas Register office, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeal is proposed under Texas Water Code (TWC), §5.103, concerning Rules, and TWC, §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purpose of the Texas Clean Air Act. The repeal is also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; THSC, §382.012, concerning the State Air Control Plan, which authorizes the commission to prepare and develop a

general, comprehensive plan for the proper control of the state's air; THSC, §382.016, concerning Monitoring Requirements; Examination of Records, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; and THSC, §382.051, concerning Permitting Authority of the Commission; Rules, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits issued under the Texas Clean Air Act.

The repeal implements THSC, §§382.002, 382.011, 382.012, 382.016, 382.017, and 382.051.

§113.150. Polyvinyl Chloride and Copolymers Production (40 CFR 63, Subpart J).

§113.1190. Brick and Structural Clay Products Manufacturing (40 Code of Federal Regulations Part 63, Subpart JJJJJ).

§113.1200. Clay Ceramics Manufacturing (40 Code of Federal Regulations Part 63, Subpart KKKKK).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 1, 2013.

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CHAPTER 290. PUBLIC DRINKING WATER

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §§290.42, 290.44, and 290.109.

Background and Summary of the Factual Basis for the Proposed Rules

The purpose of the proposed amendments is to reflect changes to the Texas Health and Safety Code (THSC), §341.042, made during the 82nd Legislature, 2011, in House Bill (HB) 3372, §3 of HB 3391, and Senate Bill (SB) 1073. These changes relate to rainwater harvesting systems (RWHS) that are connected to a public water system (PWS) and are intended for indoor potable use (affected RWHS).

HB 3372, §3 of HB 3391, and SB 1073 amend THSC, §341.042, Standards for Harvested Rainwater, by requiring the commission to amend the existing rules for structures that are connected to a PWS and have a RWHS by allowing these systems to be used for indoor potable purposes. HB 3372, §3 of HB 3391, and SB 1073 amend THSC, §341.042, by adding requirements: for the commission to coordinate with the Texas Department of State Health Services (TDSHS) to develop rules, including safe drinking water standards and provisions for cross-connection protection for the installation and maintenance of affected RWHS; that the installation of affected RWHSs must be done by a master plumber or a journeyman plumber with a Water Supply Protection Specialist endorsement; and that a person who intends to connect an affected RWHS to a PWS for potable purposes must give written notice to, and receive consent from, the municipality or the owner or operator of the PWS prior to installation. As directed by the legislation, the executive director's staff worked

Figure 1: 30 TAC Chapter 113--Preamble

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title	Original Incorporation (Commission Adoption)
A (§113.100)	General Provisions	June 25, 1997
G (§113.120)	Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater	June 25, 1997
H (§113.130)	Organic Hazardous Air Pollutants for Equipment Leaks	June 25, 1997
M (§113.180)	Perchloroethylene Dry Cleaning Facilities	October 15, 1997
N (§113.190)	Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	October 15, 1997
R (§113.230)	Gasoline Distribution Facilities	June 25, 1997
S (§113.240)	Pulp and Paper Industry	July 14, 1999
U (§113.260)	Group I Polymers and Resins	October 7, 1998
X (§113.290)	Secondary Lead Smelting	June 25, 1997
Y (§113.300)	Marine Tank Vessel Loading Operations	June 25, 1997
CC (§113.340)	Petroleum Refineries	October 15, 1997
HH (§113.390)	Oil and Natural Gas Production Facilities	June 14, 2000
II (§113.400)	Shipbuilding and Ship Repair (Surface Coating)	October 7, 1998
JJ (§113.410)	Wood Furniture Manufacturing Operations	July 14, 1999
KK (§113.420)	Printing and Publishing	October 7, 1998
YY (§113.560)	Generic Maximum Achievable Control Technology Standards	June 14, 2000
CCC (§113.600)	Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants	June 14, 2000
DDD (§113.610)	Mineral Wool Production	June 14, 2000
EEE (§113.620)	Hazardous Waste Combustors	July 14, 1999
GGG (§113.640)	Pharmaceuticals Production	July 14, 1999
HHH (§113.650)	Natural Gas Transmission and Storage Facilities	June 14, 2000
JJJ (§113.670)	Group IV Polymers and Resins	October 7, 1998
LLL (§113.690)	Portland Cement Manufacturing Industry	June 14, 2000
TTT (§113.770)	Primary Lead Processing	June 14, 2000
VVV (§113.790)	Publicly Owned Treatment Works	June 14, 2000
EEEE (§113.880)	Organic Liquids Distribution (Non-Gasoline)	May 25, 2005
FFFF (§113.890)	Miscellaneous Organic Chemical Manufacturing	May 25, 2005
UUUU (§113.1040)	Cellulose Products Manufacturing	June 18, 2003
ZZZZ (§113.1090)	Reciprocating Internal Combustion Engines	May 25, 2005
BBBBB (§113.1110)	Semiconductor Manufacturing	May 25, 2005
EEEEE (§113.1140)	Iron and Steel Foundries	May 25, 2005
GGGGG (§113.1160)	Site Remediation	May 25, 2005
HHHHH (§113.1170)	Miscellaneous Coating Manufacturing	May 25, 2005
DDDDDD (§113.1390)	Polyvinyl Chloride and Copolymers Production Area Sources	December 5, 2007
EEEEEE (§113.1400)	Primary Copper Smelting Area Sources	December 5, 2007
FFFFFF (§113.1410)	Secondary Copper Smelting Area Sources	December 5, 2007

Figure 2: 30 TAC Chapter 113--Preamble

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
DDDDD (§113.1130)	Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources
UUUUU (§113.1300)	Coal- and Oil-fired Electric Utility Steam Generating Units
WWWWW (§113.1320)	Hospital Ethylene Oxide Sterilizers Area Sources
YYYYY (§113.1340)	Electric Arc Furnace Steelmaking Facilities Area Sources
ZZZZZ (§113.1350)	Iron and Steel Foundries Area Sources
BBBBBB (§113.1370)	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources
CCCCCC (§113.1380)	Gasoline Dispensing Facilities Area Sources
HHHHHH (§113.1425)	Paint Stripping and Miscellaneous Surface Coating at Area Sources
JJJJJ (§113.1435)	Industrial, Commercial, and Institutional Boilers Area Sources
LLLLL (§113.1445)	Acrylic and Modacrylic Fibers Area Sources
MMMMM (§113.1450)	Carbon Black Production Area Sources
NNNNN (§113.1455)	Chemical Manufacturing Area Sources: Chromium Compounds
OOOOO (§113.1460)	Flexible Polyurethane Foam Production and Fabrication Area Sources
PPPPP (§113.1465)	Lead Acid Battery Manufacturing Area Sources
QQQQQ (§113.1470)	Wood Preserving Area Sources
RRRRR (§113.1475)	Clay Ceramics Manufacturing Area Sources
SSSSS (§113.1480)	Glass Manufacturing Area Sources
TTTTT (§113.1485)	Secondary Nonferrous Metals Processing Area Sources
VVVVV (§113.1495)	Chemical Manufacturing Area Sources
WWWWW (§113.1500)	Plating and Polishing Area Sources
XXXXX (§113.1505)	Metal Fabrication and Finishing Area Sources
YYYYY (§113.1510)	Ferrous Production Facilities Area Sources
ZZZZZ (§113.1515)	Aluminum, Copper, and other Nonferrous Foundries Area Sources
AAAAA (§113.1520)	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources
BBBBB (§113.1525)	Chemical Preparations Industry Area Sources
CCCCCC (§113.1530)	Paints and Allied Products Manufacturing Area Sources
DDDDD (§113.1535)	Prepared Feeds Manufacturing Area Sources
HHHHH (§113.1555)	Polyvinyl Chloride and Copolymers Production Major Sources

Figure 3: 30 TAC Chapter 113--Preamble

Date of Change to 40 CFR §63.14	FR Citation
July 16, 2007	72 FR 38864
October 29, 2007	72 FR 61060
November 16, 2007	72 FR 64860
December 26, 2007	72 FR 73180
December 28, 2007	72 FR 74088
January 2, 2008	73 FR 226
January 9, 2008	73 FR 1738
January 10, 2008	73 FR 1915
January 18, 2008	73 FR 3568
February 7, 2008	73 FR 7210
March 7, 2008	73 FR 12275
July 23, 2008	73 FR 42978
June 25, 2009	74 FR 30366
October 28, 2009	74 FR 55670
November 23, 2009	74 FR 61037
June 18, 2010	75 FR 34647
September 9, 2010	75 FR 54970
January 24, 2011	76 FR 4156
February 17, 2011	76 FR 9450
March 21, 2011	76 FR 15554
March 21, 2011	76 FR 15608
May 18, 2011	76 FR 28662
May 26, 2011	76 FR 30545
January 5, 2012	77 FR 556
February 16, 2012	77 FR 9304
April 17, 2012	77 FR 22848
August 16, 2012	77 FR 49490
September 11, 2012	77 FR 55698