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and/or restoring wood products that meet the following requirements are exempt from obtaining an air quality permit.

(1) If a pneumatic sawdust collection system is used, it must be followed by a filter with no visible emissions.

(2) Waste materials shall be stored and disposed of properly. There shall be no visible emissions leaving the property.

(3) If the total coatings, solvents, and stripping agents used exceeds six gallons per day (gpd) or one gpd of methylene chloride, the following requirements must be met:

(A) the application area must be exhausted using forced air through a stack with an unobstructed vertical discharge above the peak of the roof line; and

(B) in addition to the requirements of subparagraph (A) of this paragraph, if application is made by spraying, the application area must also be vented through a filter system with a minimum particulate removal efficiency of 95%.

(4) Purchase receipts for total coatings, solvents, and stripping agents for the most recent 24 months must be kept on site and be made immediately available upon request of personnel from the agency or any other air pollution control agency having jurisdiction. If the total materials purchased exceeds 550 gallons in any one month, records of the amount of materials used per month must be kept on-site to demonstrate that total emissions do not exceed 25 tons per year in any consecutive 12 months.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 26, 1997.

TRD-9708328

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1966



Chapter 112. Control of Air Pollution from Sulfur Compounds

Control of Sulfur Dioxide

30 TAC §112.8

The Texas Natural Resource Conservation Commission (commission) adopts an amendment to §112.8, concerning Allowable Emission Rates From Solid Fossil Fuel-Fired Steam Generators by deleting subsection (c). Section 112.8 is adopted without changes to the proposed text as published in the April 4, 1997, issue of the *Texas Register* (22 TexReg 3280), and will not be republished.

EXPLANATION OF ADOPTED RULE. In September 1992, the Texas Air Control Board (TACB) amended §112.8 to require owners of solid fossil fuel-fired steam generators of greater than 1,500 million British thermal units (MMBtu) heat input per hour to conduct a study of the sulfur dioxide (SO₂) emissions from these units and the effect on winter haze in the Dallas/Fort Worth (DFW) area. The purpose of the study was to determine if reductions in SO₂ emissions from these units would result

in a significant reduction in the winter haze. The TACB or its successor was to make a finding on the study by October 31, 1996. The study has been submitted and the finding of the commission was that SO₂ reductions from the affected units would not significantly affect visibility in DFW. Because of this finding, the units will not be required to meet the emission standard of 1.2 pounds of SO₂ per MMBtu heat input by July 31, 2000 contained in §112.8(c). Instead, the emission standard will remain at 3.0 pounds per MMBtu. Therefore, §112.8(c) has no further application and the commission rescinds subsection (c). Subsequently section §112.8(d) and (e) were renumbered as subsections (c) and (d).

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to delete a subsection that is no longer required. The amendment poses no impact on private real property and will maintain the status quo regarding SO₂ emissions in the DFW area.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW. The commission has determined that this adoption 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 the commission's rules at 30 TAC Chapter 281, Subchapter B, Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the adopted action will not have a direct and significant adverse effect on the coastal natural resource areas (CNRAs) identified in the applicable policies. This adoption removes a requirement for a study, and does not change the emissions standard for sulfur dioxide, regarding the DFW area, an area of the state which is not located in a CNRA as that area is defined in Texas Natural Resources Code §33.203(1). Therefore, no new sources of air contaminants are authorized by the rule revision. In compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

HEARING AND COMMENTERS. A public hearing was held in Austin on April 24, 1997. The comment period closed on May 5, 1997. Only one commenter, Texas Utilities Services, Inc. (TU), submitted oral and written comments which were in full agreement with the proposal.

GENERAL COMMENTS. TU stated that the study, which was conducted by the commission and funded by TU at a total cost of \$1.8 million, involved three years of data collection and analysis and was the most extensive monitoring of air quality to date in the DFW area. They also stated that the findings of the study concluded that a reduction of SO₂ emissions from these units would not affect visibility in the DFW area, therefore, §112.8(c) has no further application.

The commission agrees that the study was the most extensive monitoring of air quality in the DFW area, but with the caveat that the study applied only to wintertime haze. The commission

would like to express its appreciation for the efforts of TU toward the collection and analysis of the tremendous amount of data regarding the haze problem in the DFW area. The commission also agrees that a reduction of SO₂ from the TU units would not significantly affect the visibility in the DFW area and that §112.8(c) has no further application.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 26, 1997.

TRD-9708309

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1970



Chapter 113. Control of Air Pollution from Toxic Materials

The Texas Natural Resource Conservation Commission (commission) adopts the repeal of Subchapter B, §§113.41-113.43, 113.51-113.53, and 113.71, concerning Nonferrous Smelters in El Paso County; §§113.81, 113.83-113.85, 113.87, 113.88, 113.91, and 113.92, concerning Lead Smelters in Dallas County; §§113.111-113.114, concerning Alternate Controls; and §§113.121-113.128, concerning Compliance and Control Plan Requirements; a new Subchapter B, §§113.31-113.37, 113.41-113.48, 113.51-113.54, and 113.61-113.68, concerning Lead from Stationary Sources; and a new Subchapter C, §§113.100, 113.110, 113.120, 113.130, 113.140, 113.220, 113.230, 113.250, 113.290, 113.300, and 113.360, concerning National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. Sections 113.100, 113.110, 113.120, 113.130, 113.140, 113.220, 113.230, 113.250, 113.290, 113.300, and 113.360 are adopted with changes to the proposed text as published in the March 18, 1997 issue of the *Texas Register* (22 TexReg 2854). Repealed §§113.41-113.43, 113.51-113.53, 113.71, 113.81, 113.83-113.85, 113.87, 113.88, 113.91, 113.92, 113.111-113.114, 113.121-113.128, and new §§113.31-113.37, 113.41-113.48, 113.51-113.54, and 113.61-113.68 are adopted without changes to the proposed text as published and will not be republished.

Subchapter C has been developed in response to requirements by the United States Environmental Protection Agency (EPA) and the Federal Clean Air Act (FCAA) Amendments of 1990 for certain sources to control emissions of hazardous air pollutants. These requirements are contained in 40 Code of Federal Regulations (CFR) Part 63. The EPA is developing these national standards to regulate emissions of hazardous air pollutants under of the FCAA, Section 112. These NESHAPs for source categories are technology based standards and commonly referred to as Maximum Achievable Control Technology (MACT)

Standards. As of March 5, 1997, 19 federal MACT Standards and the accompanying General Provisions had been promulgated by the EPA.

EXPLANATION OF ADOPTED RULES. The sections contained in the new Subchapter B are the same as those contained in the current Subchapter B, except that the section numbers are changed for organizational improvement and corrections are made to the name of the agency. In addition, §113.33(b) is changed to §113.33(a)(3) and §113.33(c) is changed to §113.33(b) accordingly to correct a longstanding error in the outline. Finally, §113.62 and §113.66 are changed to reflect that the original compliance dates were long passed for facilities which were affected at the time of the original adoption of the rules. For Subchapter C, the commission adopts by reference without changes seven of the federal MACT Standards. The commission also adopts the General Provisions into Subchapter C with some changes to the federal rule language. These eight federal rules, each of which are under their own undesignated head of the same name, are the General Provisions, 40 CFR 63, Subpart A; Hazardous Organic NESHAP, 40 CFR 63, Subparts F, G, H, I; Industrial Process Cooling Towers, 40 CFR 63, Subpart Q; Gasoline Distribution, 40 CFR 63, Subpart R; Halogenated Solvents, 40 CFR 63, Subpart T; Secondary Lead Smelting, 40 CFR 63, Subpart X; Marine Vessel Loading, 40 CFR 63, Subpart Y; and Magnetic Tape, 40 CFR 63, Subpart EE. Section 113.120; Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 CFR 63, Subpart G) is adopted as a State Implementation Plan (SIP) revision as partial fulfillment of volatile organic compound (VOC) reductions in ozone nonattainment areas.

Adoption of the seven MACT standards by reference without changes is intended to minimize the confusion of interested parties in referencing both the federal regulations (40 CFR Part 63) and Chapter 113. As other MACT standards continue to be promulgated, they will be reviewed for compatibility with current state regulations and policies. The commission will then incorporate them into Chapter 113 through formal rulemaking procedures. The commission will seek formal delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, Section 112(l). No state rule or program is federally approved and enforceable unless and until it is approved by the EPA through the full Section 112(l) process. With delegation, the responsibility for administration of these standards will be with the commission.

Proposed §113.100, General Provisions, includes changes to utilize the existing New Source Review (NSR) program to implement preconstruction requirements. These changes make the time frames for review consistent with those used in the state's NSR program. This will result in a more consistent program for the regulated community.

There may be overlapping requirements between these federal rules and existing state rules for the control of VOC emissions contained in 30 TAC Chapter 115. The commission anticipates that the VOC reduction rules will be modified after EPA revises the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter in 1997. The commission believes the most appropriate time to resolve conflicts with promulgated MACT standards is after the new NAAQS are issued.

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this adoption pursuant