

The Texas Commission on Environmental Quality (commission) adopts amendments to Subchapter C, concerning National Emission Standards for Hazardous Air Pollutants for Source Categories, §§113.110, 113.120, 113.130, 113.170, 113.200, 113.240, 113.250, 113.260, 113.280, 113.320, 113.330, 113.340, 113.350, 113.380, 113.390, 113.400, 113.470, 113.490, 113.500, 113.510, 113.520, 113.530, 113.540, 113.560, 113.620, 113.640, 113.650, 113.670, 113.690, 113.700, 113.720, 113.730, 113.790, and 113.810. The commission also adopts new §§113.150, 113.440, 113.550, 113.740, 113.750, 113.780, 113.840, 113.860, 113.900, 113.910, 113.930, 113.970, 113.1020, 113.1030, 113.1040, 113.1050, 113.1070, and 113.1260. The amendments and new sections are adopted *without changes* to the proposed text as published in the April 4, 2003 issue of the *Texas Register* (28 TexReg 2891) and will not be republished.

The amendments to Chapter 113 incorporate amendments to National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories that the United States Environmental Protection Agency (EPA) has made to Title 40 Code of Federal Regulations Part 63 (40 CFR 63). These are technology-based standards commonly referred to as the maximum achievable control technology (MACT) standards. In addition, the new sections incorporate by reference 18 MACT standards which have not been previously incorporated into Chapter 113. The EPA is developing these national standards to regulate emissions of hazardous air pollutants under the Federal Clean Air Act Amendments of 1990, §112, as codified in 42 United States Code, §7412.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

Under federal law, affected industries are required to implement the MACT standards regardless of whether the commission or EPA is the agency responsible for implementation. As MACT standards are promulgated or amended by EPA, the commission then incorporates them into Chapter 113 through formal rulemaking procedures. After each MACT standard or amendment is adopted, the commission seeks formal delegation from EPA under 40 CFR 63, Subpart E, which implements 42 United States Code, §7412(1). Upon delegation, the commission will be responsible to administer and enforce the MACT requirements.

The commission is incorporating amendments that EPA has made to 34 of the federal MACT standards previously incorporated into the commission rules by updating the federal promulgation dates and *Federal Register* (FR) citations stated in the commission rules. The 34 standards along with their corresponding Chapter 113 sections and original incorporation date are listed in the following table.

Figure: 30 TAC Preamble-1

40 CFR 63 Subpart (Chapter 113 Section)	MACT Title	Original Incorporation (Commission Adoption)
F (§113.110)	Synthetic Organic Chemical Manufacturing Industry	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

40 CFR 63 Subpart (Chapter 113 Section)	MACT Title	Original Incorporation (Commission Adoption)
L (§113.170)	Coke Oven Batteries	July 14, 1999
O (§113.200)	Ethylene Oxide Emissions Standards for Sterilization Facilities	October 15, 1997
S (§113.240)	Pulp and Paper Industry	July 14, 1999
T (§113.250)	Halogenated Solvent Cleaning	June 25, 1997
U (§113.260)	Group I Polymers and Resins	October 7, 1998
W (§113.280)	Epoxy Resins Production and Non-Nylon Polyamides Production	October 15, 1997
AA (§113.320)	Phosphoric Acid Manufacturing Plants	June 14, 2000
BB (§113.330)	Phosphate Fertilizers Production Plants	June 14, 2000
CC (§113.340)	Petroleum Refineries	October 15, 1997
DD (§113.350)	Off-Site Waste and Recovery Operations	October 7, 1998
GG (§113.380)	Aerospace Manufacturing and Rework Facilities	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
PP (§113.470)	Containers	July 14, 1999
RR (§113.490)	Individual Drain Systems	July 14, 1999
SS (§113.500)	Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process	June 14, 2000
TT (§113.510)	Equipment Leaks - Control Level 1	June 14, 2000
UU (§113.520)	Equipment Leaks - Control Level 2	June 14, 2000
VV (§113.530)	Oil Water Separators and Organic-Water Separators	July 15, 1999
WW (§113.540)	Storage Vessels (Tanks) - Control Level 2	June 14, 2000

40 CFR 63 Subpart (Chapter 113 Section)	MACT Title	Original Incorporation (Commission Adoption)
YY (§113.560)	Generic Maximum Achievable Control Technology Standards	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
MMM (§113.700)	Pesticide Active Ingredient Production	June 14, 2000
OOO (§113.720)	Manufacture of Amino/Phenolic Resins	June 14, 2000
PPP (§113.730)	Polyether Polyols Production	June 14, 2000
VVV (§113.790)	Publicly Owned Treatment Works	June 14, 2000
XXX (§113.810)	Ferrous Alloys Production: Ferromanganese and Silicomanganese	June 14, 2000

The commission is also incorporating by reference, without change, 18 federal MACT standards as listed in the following table.

Figure: 30 TAC Preamble-2

40 CFR 63 Subpart (Chapter 113 Section)	MACT Title
J (§113.150)	Polyvinyl Chloride and Copolymers Production
MM (§113.440)	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand Alone Semicemical Pulp Mills

40 CFR 63 Subpart (Chapter 113 Section)	MACT Title
XX (§113.550)	Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
QQQ (§113.740)	Primary Copper Smelting
RRR (§113.750)	Secondary Aluminum Production
UUU (§113.780)	Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
AAAA (§113.840)	Municipal Solid Waste Landfills
CCCC (§113.860)	Manufacturing of Nutritional Yeast
GGGG (§113.900)	Solvent Extraction for Vegetable Oil Production
HHHH (§113.910)	Wet-Formed Fiberglass Mat Production
JJJJ (§113.930)	Paper and Other Web Coating
NNNN (§113.970)	Surface Coating of Large Appliances
SSSS (§113.1020)	Surface Coating of Metal Coil
TTTT (§113.1030)	Leather Finishing Operations
UUUU (§113.1040)	Cellulose Products Manufacturing
VVVV (§113.1050)	Boat Manufacturing
XXXX (§113.1070)	Rubber Tire Manufacturing
QQQQQ (§113.1260)	Friction Materials Manufacturing Facilities

SECTION BY SECTION DISCUSSION

*Subchapter C: National Emission Standards for Hazardous Air Pollutants for Source Categories
(FCAA, §112, 40 CFR 63)*

Throughout these amendments, the commission is adding the word “Part” after the phrase “Code of Federal Regulations.” Similarly, where the acronym “CFR” is used in existing sections, it is expanded to the Code of Federal Regulations. These amendments are being adopted so that the rule language will conform to commission and *Texas Register* formatting and style standards. In addition, the commission is amending the titles of §§113.200, 113.240, 113.350, 113.500, 113.510, 113.520, 113.540, 113.560, and 113.690 to be the same as the titles for the corresponding subparts in 40 CFR 63.

Section 113.110 - Synthetic Organic Chemical Manufacturing Industry (40 CFR 63, Subpart F)

The commission amends §113.110 by incorporating by reference, without change, all amendments to Subpart F made by the EPA since April 26, 1999. During this time frame, EPA amended Subpart F on May 8, 2000 (65 FR 26491) and January 22, 2001 (66 FR 6922). The May 8, 2000 amendment revised the definition of the term “equipment leak” to add “connectors” to the list of equipment that is subject to the equipment leak provisions. The January 22, 2001 amendment revised the definition of the term “process vent” and added procedures for identifying “process vents” in order to ensure consistent interpretation of the term. EPA also revised several provisions to reflect the terminology used in the revised definition of process vent, and added provisions to allow off-site control of process vent emissions and to establish a new compliance date under certain circumstances.

Section 113.120 - Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 CFR 63, Subpart G)

The commission amends §113.120 by incorporating by reference, without change, all amendments to Subpart G made by the EPA since April 26, 1999. During this time frame, EPA amended Subpart G on October 17, 2000 (65 FR 61744); December 14, 2000 (65 FR 78268); and January 22, 2001 (66 FR 6922). The October 17, 2000 amendments included test method version D2879-96 in the definition of the term “maximum true vapor pressure.” The December 14, 2000 amendments consolidated portions of the subpart which are applicable to storage vessels, process vents, transfer operations, and equipment leaks within the synthetic organic chemical manufacturing industry. The amendments allow a source the option of complying with a single consolidated rule in 40 CFR Part 65, concerning Consolidated Federal Air Rule. The federal consolidated air rule is an optional compliance alternative for synthetic organic chemical manufacturing industry sources. The commission adopted the federal consolidated air rule into Chapter 113, Subchapter E, on September 25, 2002 with an effective date of October 20, 2002. As discussed in the previous paragraph, Subpart G was also amended along with Subpart F on January 22, 2001.

Section 113.130 - Organic Hazardous Air Pollutants for Equipment Leaks (40 CFR 63, Subpart H)

The commission amends §113.130 by incorporating by reference, without change, all amendments to Subpart H made by the EPA since April 26, 1999. During this time frame, EPA amended Subpart H on December 14, 2000 (65 FR 78268) and January 22, 2001 (66 FR 6922). The December 14, 2000 amendment allows sources affected by this subpart the alternative compliance option of complying with the federal consolidated air rule. As discussed previously, Subpart H was also amended along with Subparts F and G on January 22, 2001.

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

The commission adopts new §113.150, which will incorporate by reference, without change, the Subpart J rules adopted by the EPA on July 10, 2002 (67 FR 45886). This new MACT standard requires that existing polyvinyl chloride and copolymer production facilities, which already must comply with the existing vinyl chloride NESHAP found in 40 CFR Part 61, Subpart F, to continue to comply with that existing NESHAP. This rule reflects EPA's determination that, except for equipment leaks at new sources, the hazardous air pollutant control level for the polyvinyl chloride and copolymers production source category resulting from compliance with the existing vinyl chloride NESHAP already reflects the application of MACT and thus meets the requirements of 42 United States Code, §7412(d). For equipment leaks, new sources must comply with the most current technology standards in the generic MACT rules found in 40 CFR 63, Subpart YY. Compliance with the existing vinyl chloride NESHAP promotes regulatory consistency and eliminates the costs that would be incurred by enforcing a new set of standards that likely would result in no additional hazardous air pollutants emissions reductions.

Section 113.170 - Coke Oven Batteries (40 CFR 63, Subpart L)

The commission amends §113.170 by incorporating by reference, without change, all amendments to Subpart L made by the EPA since October 27, 1993. During this time frame, EPA amended Subpart L on January 13, 1994 (59 FR 1992) and October 17, 2000 (65 FR 61744). The January 13, 1994 amendment included minor corrections to Appendix A of Subpart L. On October 17, 2000, EPA amended 40 CFR §63.301 and §63.304 by adding English units in addition to the metric units.

Section 113.200 - Ethylene Oxide Emissions Standards for Sterilization Facilities (40 CFR 63, Subpart O)

The commission amends §113.200 by incorporating by reference, without change, all amendments to Subpart O made by the EPA since December 14, 1999. During this time frame, Subpart O was amended on November 2, 2001 (66 FR 55577) to eliminate MACT requirements for chamber exhaust vents. This action reduced safety problems associated with the previous requirements, and also revised testing and monitoring requirements for sterilization chamber, aeration, and chamber exhaust vents to correct technical problems associated with the previous requirements.

Section 113.240 - Pulp and Paper Industry (40 CFR 63, Subpart S)

The commission amends §113.240 by incorporating by reference, without change, all amendments to Subpart S made by the EPA since April 12, 1999. During this time frame, EPA amended Subpart S on December 22, 2000 (65 FR 80755) and May 14, 2001 (66 FR 24268). The December 22, 2000 amendments revised the pulping process vent standards, the biological treatment system standards, monitoring requirements, and test methods and procedures to address technical issues identified after promulgation of the subpart in 1998. The amendment also specified that downtime, due to routine maintenance of pulping process vent control devices, is included in the excess emissions allowances. The May 14, 2001 amendments corrected two incorrectly referenced subparagraphs and made additional technical corrections.

Section 113.250 - Halogenated Solvent Cleaning (40 CFR 63, Subpart T)

The commission amends §113.250 by incorporating by reference, without change, all amendments to Subpart T made by the EPA since December 14, 1999. During this time frame, EPA amended Subpart

T on September 8, 2000 (65 FR 54419) to provide corrections and clarifications to EPA amendments made on December 3, 1999, and finalized compliance options for continuous web cleaning. The intent of these amendments was to ensure that all owners or operators of solvent cleaning machines have appropriate and understandable requirements for their cleaning machines.

Section 113.260 - Group I Polymers and Resins (40 CFR 63, Subpart U)

The commission amends §113.260 by incorporating by reference, without change, all amendments to Subpart U made by the EPA since June 30, 1999. During this time frame, EPA amended Subpart U on June 19, 2000 (65 FR 38030) and July 16, 2001 (66 FR 36924). The June 19, 2000 amendments addressed numerous technical issues and concerns with the rules raised by petitioners to the United States Court of Appeals (U.S. Court of Appeals) for the District of Columbia Circuit, *Union Carbide Corp. v. EPA, 96-413 and Consolidated Cases (D.C. Cir.)*. Also, the amendments were needed to update the rules as necessitated by the January 17, 1997 amendments to 40 CFR 63, Subparts F - I. The July 16, 2001 amendments corrected minor cross-referencing and typographical errors.

Section 113.280 - Epoxy Resins Production and Non-Nylon Polyamides Production (40 CFR 63, Subpart W)

The commission amends §113.280 by incorporating by reference, without change, all amendments to Subpart W made by the EPA since March 8, 1995. During this time frame, Subpart W was amended on May 8, 2000 (65 FR 26491) to revise the definition of the term “equipment leak” by adding “connectors” to the list of equipment that is subject to the equipment leak provisions.

Section 113.320 - Phosphoric Acid Manufacturing Plants (40 CFR 63, Subpart AA); and

Section 113.330 - Phosphate Fertilizers Production Plants (40 CFR 63, Subpart BB)

The commission amends §113.320 and §113.330 by incorporating by reference, without change, all amendments to Subparts AA and BB made by the EPA since June 10, 1999. During this time frame, Subparts AA and BB were amended on December 17, 2001 (66 FR 65072); June 12, 2002 (67 FR 40578); and June 13, 2002 (67 FR 40814). The December 17, 2000 amendment revised the applicability and monitoring requirements for both subparts; and corrected typographical errors in Subpart AA; changed the emissions limit for phosphate rock calciners; clarified certain monitoring requirements; and specified applicability of certain parts of the general provisions. However, due to adverse comments received during the public comment period, on June 12, 2002, EPA withdrew direct final rule amendment to Subpart AA concerning emissions limit for phosphate rock calciners. The June 13, 2002 amendment revised the operating requirements for both subparts, and changed the emissions limit for phosphate rock calciners in Subpart AA.

Section 113.340 - Petroleum Refineries (40 CFR 63, Subpart CC)

The commission amends §113.340 by incorporating by reference, without change, all amendments to Subpart CC made by the EPA since August 18, 1998. During this time frame, EPA amended Subpart CC on May 25, 2001 (66 FR 28840). The May 25, 2001 amendment corrected an error in the amendatory instructions in an earlier correcting amendment, in which 40 CFR §63.640(b)(1) and (2) were inadvertently removed from Subpart CC.

Section 113.350 - Off-Site Waste and Recovery Operations (40 CFR 63, Subpart DD)

The commission amends §113.350 by incorporating by reference, without change, all amendments to Subpart DD made by the EPA since July 20, 1999. During this time frame, Subpart DD was amended on January 8, 2001 (66 FR 1263). This amendment corrected numerous typographical and cross-reference errors; removed a plus or minus 1% accuracy requirement and replaced it with a reference to 40 CFR Part 60, Appendix B, Performance Specification 8 or 9; and added an additional option to the carbon canister monitoring and replacement requirements so that the requirements would be consistent with other NESHAP and Resource Conservation and Recovery Act air rules.

Section 113.380 - Aerospace Manufacturing and Rework Facilities (40 CFR 63, Subpart GG)

The commission amends §113.380 by incorporating by reference, without change, all amendments to Subpart GG made by the EPA from September 1, 1998 through December 8, 2000. During this time frame, EPA amended Subpart GG on October 17, 2000 (65 FR 61744) and December 8, 2000 (65 FR 76941). The October 17, 2000 amendment added the American Society for Testing and Materials test method "E 260-96" to 40 CFR §63.750(b)(2). The December 8, 2000 amendment revised the standards to include a separate emission limit for exterior primers used for large commercial aircraft at existing facilities that produce fully assembled, large commercial aircraft.

Section 113.390 - Oil and Natural Gas Production Facilities (40 CFR 63, Subpart HH)

The commission amends §113.390 by incorporating by reference, without change, all amendments to Subpart HH made by the EPA since June 17, 1999. During this time frame, Subpart HH was amended on June 29, 2001 (66 FR 34548) to correct errors and to clarify the intent of the standard.

Section 113.400 - Shipbuilding and Ship Repair (Surface Coating) (40 CFR 63, Subpart II)

The commission amends §113.400 by incorporating by reference, without change, all amendments to Subpart II made by the EPA since December 17, 1996. During this time frame, Subpart II was amended on October 17, 2000 (65 FR 61744) to add references to later versions of American Society for Testing and Materials test methods.

Section 113.440 - Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR 63, Subpart MM)

The commission adopts new §113.440, which will incorporate by reference, without change, the final rules and all amendments to Subpart MM made by the EPA since January 12, 2001. The standard applies to process components at new and existing sources used in chemical recovery processes at kraft, soda, sulfite, and stand-alone semichemical pulp mills. EPA issued the final rules for Subpart MM on January 12, 2001 (66 FR 3180). Since Subpart MM was initially issued, EPA amended the rules on July 19, 2001 (66 FR 37591) to make technical corrections and on August 6, 2001 (66 FR 41086) to correct a typographical error. Hazardous air pollutants that are regulated by this MACT standard include gaseous organics and metals.

Section 113.470 - Containers (40 CFR 63, Subpart PP)

The commission amends §113.470 by incorporating by reference, without change, all amendments to Subpart PP made by the EPA since July 20, 1999. During this time frame, Subpart PP was amended on January 8, 2001 (66 FR 1263) to correct a cross-reference error.

Section 113.490 - Individual Drain Systems (40 CFR 63, Subpart RR)

The commission amends §113.490 by incorporating by reference, without change, all amendments to Subpart RR made by the EPA since July 20, 1999. During this time frame, Subpart RR was amended on January 8, 2001 (66 FR 1263) to correct typographical errors.

Section 113.500 - Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR 63, Subpart SS);

Section 113.510 - Equipment Leaks - Control Level 1 (40 CFR Part 63, Subpart TT);

Section 113.520 - Equipment Leaks - Control Level 2 (40 CFR 63, Subpart UU); and

Section 113.540 - Storage Vessels (Tanks) - Control Level 2 (40 CFR 63, Subpart WW)

The commission amends §§113.500, 113.510, 113.520, and 113.540 by incorporating by reference, without change, all amendments to Subparts SS - UU and WW made by the EPA since November 22, 1999. During this time frame, Subparts SS - UU and WW were amended on July 12, 2002 (67 FR 46258) as part of an amendment to 40 CFR 63, Subpart YY. The Subpart YY amendment added four processes (cyanide chemicals manufacturing, carbon black production, ethylene production, and spandex production) to the generic MACT standard and incorporated generic requirements established for similar emissions sources that are also applicable to the four processes. The amendments specified the appropriate methods for demonstrating compliance with percent reduction requirements and

emission concentration limits for the four processes in Subparts SS - UU and WW and specified who has the authority to implement and enforce the subparts. The amendments also specified that the authorities may be delegated to a state, local, or tribal agency.

Section 113.530 - Oil-Water Separators and Organic-Water Separators (40 CFR 63, Subpart VV)

The commission amends §113.530 by incorporating by reference, without change, all amendments to Subpart VV made by the EPA since July 20, 1999. During this time frame, Subpart VV was amended on January 8, 2001 (66 FR 1263) to correct a typographical error.

Section 113.550 - Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations (40 CFR 63, Subpart XX)

The commission adopts new §113.550, which will incorporate by reference, without change, the final rules to Subpart XX adopted by the EPA on July 12, 2002 (67 FR 46258). This MACT standard applies to heat exchange systems and wastewater operations at ethylene manufacturing facilities. The primary hazardous air pollutants that will be controlled include benzene; 1,3-butadiene; cumene; ethyl benzene; hexane; naphthalene; styrene; toluene; o-xylene, m-xylene, and p-xylene.

Section 113.560 - Generic Maximum Achievable Control Technology Standards (40 CFR 63, Subpart YY)

The commission amends §113.560 by incorporating by reference, without change, all amendments to Subpart YY made by the EPA since November 22, 1999. During this time frame, Subpart YY was amended on December 22, 1999 (64 FR 71852); November 2, 2001 (66 FR 55844); June 7, 2002 (67

FR 39301); twice on July 12, 2002 (67 FR 46258 and 46289); and February 10, 2003 (68 FR 6635).

The December 22, 1999 amendment was a correction to 40 CFR §63.1103(d), Table 5, to insert a number that was missing. The November 2, 2001 amendment concerned the regulation of surge control vessels and bottoms receiver vessels. The June 7, 2002 amendment addressed a petitioner's questions regarding a recordkeeping provision in the promulgated rules; the definition for "process vent"; and editorial, cross-reference, and wording errors. The July 12, 2002 amendment established standards for cyanide chemicals manufacturing, carbon black production, ethylene production, and spandex production source categories. These four source categories were added to the generic MACT standards to reduce the regulatory burden associated with the development of separate rulemakings, to simplify the rulemaking process, to minimize the potential for duplicative or conflicting requirements, to conserve limited resources, and to ensure consistency of the air emissions requirements applied to similar emission points. EPA also issued an amendment on July 12, 2002, which clarified the EPA intent concerning dry spinning spandex production processes by concluding that the MACT floor for spandex dry spinning facilities is "no control" and that adoption of additional emission controls is not warranted. Therefore, EPA determined that it was not necessary or appropriate to promulgate any MACT requirements for spandex dry spinning facilities, but controls on spandex reaction spinning facilities were still necessary. The February 10, 2003 amendment added a definition for "process wastewater" to Subpart YY.

The commission amends §113.620 by incorporating by reference, without change, all amendments to Subpart EEE made by the EPA since November 19, 1999. During this time frame, EPA amended Subpart EEE on July 10, 2000 (65 FR 422920); November 9, 2000 (65 FR 67268); May 14, 2001 (66 FR 24270); July 3, 2001 (66 FR 35087); October 15, 2001 (66 FR 523610); December 6, 2001 (66 FR 63313); February 13, 2002 (67 FR 6792); February 14, 2002 (67 FR 6968); and December 19, 2002 (67 FR 77687).

The July 10, 2000 amendment corrected numerous typographical errors and clarified several issues from the September 30, 1999 promulgated rules; clarified one issue from a closely related June 19, 1998 amendment; and made one revision to the November 19, 1999 technical correction.

The November 9, 2000 amendment was an interpretative clarification and a technical correction. Part one of the amendment addressed several questions from sources concerning the applicability of new source standards versus existing source standards for hazardous waste incinerators by specifying the original intent of the rules on these issues. The second part of the amendment made three technical corrections which addressed performance testing, the continuous monitoring system evaluation plans, and continuous monitoring system data averaging.

The May 14, 2001 amendment was based on a court decision, *Chemical Manufacturers Association v. EPA*, 217 F. 3d 861 (D.C. Cir. 2000), in which the court vacated the Notice of Intent to Comply provisions of EPA's rules relating to the standards for hazardous waste combustors. EPA also filed a motion with the Washington D.C. Circuit to vacate certain parameter limits of baghouses and

electrostatic precipitators in order to allow additional opportunity for notice and comment on the issue (*CKRC v. EPA*, no 99-1457, EPA Motion to November 14, 2000).

The July 3, 2001 amendment improved the implementation of the emission standards associated with the final rule promulgated on September 30, 1999 (64 FR 52,828), primarily in the areas of compliance, testing, and monitoring requirements. However, due to adverse comments received during the public comment period, on October 15, 2001, EPA withdrew portions of three sections, including the proposed new definition of the phrase “preheater tower combustion gas monitoring location” from the direct final rules published on July 3, 2001.

The December 6, 2001 amendment extended the compliance date for Subpart EEE for one year. This amendment was in response to the Washington D.C. Circuit 2001 opinion on *Cement Kiln Recycling Coalition v. EPA*, 255 F.3d 855, 872 issued July 24, 2001. The February 13, 2002 amendment revised the September 1999 emission standards with the issuance of an Interim Standards Rule which, while less stringent than the original rules, achieves most of the emission gains of the original rules. The interim standards replaced the vacated standards temporarily, until final standards could be promulgated. The February 14, 2002 amendments focused on improving the implementation of the emissions standards, primarily in the areas of compliance, testing, and monitoring.

Finally, the December 19, 2002 amendments made the following technical corrections: 1) sources that comply early are not required to submit the notice of compliance within 90 days of completing the comprehensive performance test; 2) the hydrochloric acid and chlorine gas emission standard for new

lightweight aggregate kilns was changed to 600 parts per million by volume; 3) the minimum power requirement for ionizing wet scrubbers was deleted; 4) the requirement to include a carbon bed testing schedule in the performance test plan was deleted; 5) combustion system leak requirements were added; 6) the compliance date extension requirements were changed; 7) the Resource Conservation and Recovery Act permitting requirements were changed; 8) the limit on waste feed-rate for compliance with the dioxin/furan emissions standard was changed; 9) the limit on the maximum ash feed-rate for incinerators was changed; and 10) the sampling and analysis requirements were changed.

Section 113.640 - Pharmaceuticals Production (40 CFR 63, Subpart GGG)

The commission amends §113.640 by incorporating by reference, without change, all amendments to Subpart GGG made by the EPA since September 21, 1998. During this time frame, EPA amended Subpart GGG on August 29, 2000 (65 FR 52588); August 2, 2001 (66 FR 401210); and April 2, 2002 (67 FR 15486). The August 29, 2000 amendment addressed 12 technical issues and concerns raised by petitioners in the U.S. Court of Appeals for the District of Columbia Circuit, *PhRMA v. EPA*, 98-1551 (D.C. Cir.). The August 2, 2001 amendment provided additional compliance options for process vent and storage tank emissions, specified additional methods that may be used to analyze wastewater, shifted one compound from the list of partially soluble hazardous air pollutants to the list of soluble hazardous air pollutants, eliminated an unintended restriction on the use of enhanced biological treatment, allowed a sewer line between drains and the first downstream junction box to be vented, clarified how to assign storage tanks that are shared among pharmaceutical manufacturing process units and other types of process units, clarified monitoring frequency requirements for connectors, clarified and simplified recordkeeping and reporting requirements, eliminated inconsistencies, and corrected

several referencing and typesetting errors. The April 2, 2002 amendment corrected a reference to 40 CFR §63.1257(d)(3)(iii) and removed an incorrect definition of the term “ ρ ” in the calculation of the mass flow rate in wastewater stream entering combustion treatment processes.

Section 113.650 - Natural Gas Transmission and Storage Facilities (40 CFR 63, Subpart HHH)

The commission amends §113.650 by incorporating by reference, without change, all amendments to Subpart HHH made by the EPA since June 17, 1999. During this time frame, EPA amended Subpart HHH on June 29, 2001 (66 FR 34548); September 27, 2001 (66 FR 49299); and February 22, 2002 (67 FR 8202). The June 29, 2001 amendment corrected errors and restated the intent of the standard. The September 27, 2001 and February 22, 2002 amendments made technical corrections to the June 29, 2001 amendment.

Section 113.670 - Group IV Polymers and Resins (40 CFR 63, Subpart JJJ)

The commission amends §113.670 by incorporating by reference, without change, all amendments to Subpart JJJ made by the EPA since June 30, 1999. During this time frame, EPA amended Subpart JJJ on June 19, 2000 (65 FR 38030); August 29, 2000 (65 FR 52319); October 26, 2000 (65 FR 64161); February 23, 2001 (66 FR 11233); February 26, 2001 (66 FR 11543); July 16, 2001 (66 FR 36924); and August 6, 2001 (66 FR 40903).

The June 19, 2000 amendment addressed numerous technical issues and concerns with the rules raised by petitioners to the U.S. Court of Appeals for the District of Columbia Circuit, *Union Carbide Corp.*

v. EPA, 96-413 and Consolidated Cases (D.C. Cir.). In addition, the amendments updated Subpart JJJ as necessitated by amendments to the hazardous organic NESHAP in Subparts F - I.

The August 29, 2000 amendment was a direct final rule that indefinitely stayed the compliance date for the process contact cooling tower provisions for existing affected sources producing polyethylene terephthalate using the continuous terephthalic acid high viscosity multiple end finisher process.

However, due to adverse comments, on October 26, 2000, EPA withdrew the August 29, 2000 direct final rule. The February 23, 2001 was another direct final rule that indefinitely stayed the February 27, 2001 compliance date for the process contact cooling tower provisions for existing affected sources producing poly using the continuous terephthalic acid high viscosity multiple end finisher process.

The February 26, 2001 amendment extended certain compliance dates contained in the subpart concerning the equipment leaks provisions as applied to hazardous air pollutant affected sources and corrected a reference error. The July 16, 2001 amendment corrected minor cross-referencing and typographical errors, and made minor clarifications.

The EPA was petitioned to reconsider the equipment leak detection and repair standards contained in this subpart as they pertained to polyethylene terephthalate facilities. The August 6, 2001 amendment denied the petition and retained the equipment leak provisions of the promulgated rules, except for a modification of the definition of a leak for certain ethylene glycol pumps. In addition, the amendment extended the equipment leak provisions compliance date for polyethylene terephthalate affected sources

to August 6, 2002, in order to provide those facilities time to develop a leak detection and repair program.

Section 113.690 - Portland Cement Manufacturing Industry (40 CFR 63, Subpart LLL)

The commission amends §113.690 by incorporating by reference, without change, all amendments to Subpart LLL made by the EPA since June 14, 1999. During this time frame, EPA amended Subpart LLL on April 5, 2002 (67 FR 16614); July 2, 2002 (67 FR 44371); July 5, 2002 (67 FR 44766); and December 6, 2002 (67 FR 72580).

The April 5, 2002 direct final rule amendments improved the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring, to resolve issues and questions raised since promulgation of the rule. However, due to adverse comments received during the public comment period concerning the April 5, 2002 amendments, EPA withdrew portions of the amendments to three sections on July 2, 2002.

The July 5, 2002 amendments corrected errors to Table 1 concerning monitoring requirements. The amendments also addressed two issues which arose from the explanatory language in the preamble to the April 5, 2002 direct final rule amendments. First, the amendments specified that the production rate is not a parameter for which operating limits are established and that the production rate measured during dioxin/furan or particulate matter performance testing is not an operation limit for the source. Furthermore, the amendments specified that a source would need to reconduct a performance test if the current operation is not representative of the operation during the previous performance test, such that

the change in operation may adversely affect compliance. Finally, the amendments specified that only the transfer points used to convey coal from mill to the kiln are potential affected sources under Subpart LLL.

The December 6, 2002 amendments improved the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring, to resolve issues and questions raised since promulgation of the rule. Specifically, the amendments addressed the issues raised as a result from adverse comment to the April 5, 2002 amendments that were withdrawn on July 2, 2002.

Section 113.700 - Pesticide Active Ingredient Production (40 CFR 63, Subpart MMM)

The commission amends §113.700 by incorporating by reference, without change, all amendments to Subpart MMM made by the EPA since June 23, 1999. During this time frame, EPA amended Subpart MMM twice on November 21, 2001 (66 FR 58393 and 58396); twice on March 22, 2002 (67 FR 13508 and 13514); June 3, 2002 (67 FR 38200); and September 20, 2002 (67 FR 59336). The November 21, 2001 amendments changed the requirements for pre-compliance plans to three months in advance of the compliance date instead of six months. Due to issues raised by petitioners in the U.S. Court of Appeals for the District of Columbia Circuit, the amendments also revised the definition of the term “process tank,” *American Coke and Coal Chemicals Institute v. EPA, No. 99-1339 (D.C. Cir.)*.

In a “good cause final rule” the second of two March 22, 2002 amendments provided an interim compliance date extension for existing sources from June 23, 2002 to August 22, 2002 pending resolution of a settlement agreement. The interim compliance date extension was necessary because

EPA simultaneously published a March 22, 2002 direct final amendment to extend the compliance deadline until December 23, 2003, but the comment period extended past the existing March 23, 2002 pre-compliance plan deadline. The June 3, 2002 amendments officially extended the compliance date until December 23, 2003.

The September 20, 2002 amendments addressed the issues raised by petitioners (American Crop Protection Association and American Cyanamid Company (now BASF Corporation) U.S. Court of Appeals for the District of Columbia Circuit, *ACPA v. EPA*, No. 9901334 (Consolidated with *ACPA v. EPA*, No. 99-1332)), to ensure that the rule was implemented as intended, to correct errors, and to maintain consistency with other rules.

Section 113.720 - Manufacture of Amino/Phenolic Resins (40 CFR 63, Subpart OOO)

The commission amends §113.720 by incorporating by reference, without change, all amendments to Subpart OOO made by the EPA since January 20, 2000. During this time frame, Subpart OOO was amended on February 22, 2000 (65 FR 8768) to correct typographical errors and an equation.

Section 113.730 - Polyether Polyols Production (40 CFR 63, Subpart PPP)

The commission amends §113.730 by incorporating by reference, without change, all amendments to Subpart PPP made by the EPA since June 1, 1999. During this time frame, Subpart PPP was amended on June 14, 1999 (64 FR 31895) and May 8, 2000 (65 FR 26491). The June 14, 1999 amendment was a correction to an equation. The May 8, 2000 amendment revised the definition of the term “equipment leak” by adding “connectors” to the list of equipment that is subject to the equipment leak provisions;

corrected errors in several equations; corrected numerous cross-referencing errors; incorporated definitions by reference; removed references to 40 CFR 63, Subpart I; and made revisions concerning the applicability, performance testing, reports, and initial notifications.

Section 113.740 - Primary Copper Smelting (40 CFR 63, Subpart QQQ)

The commission adopts new §113.740, which will incorporate by reference, without change, the final rules to Subpart QQQ adopted by the EPA on June 12, 2002 (67 FR 40478). This new MACT standard establishes emissions limitations and work practice standards for primary copper smelters that are, or are part of, a major source of hazardous air pollutant emissions and that use batch copper converters. The primary toxic metal hazardous air pollutants that will be controlled include antimony, arsenic, beryllium, cadmium, cobalt, lead, manganese, nickel, and selenium.

§113.750. Secondary Aluminum Production (40 CFR 63, Subpart RRR).

The commission adopts new §113.750, which will incorporate by reference, without change, the final rules for Subpart RRR adopted by the EPA on March 23, 2000 (65 FR 15690) and amended on June 14, 2002 (67 FR 41118); August 13, 2002 (67 FR 52616); September 24, 2002 (67 FR 59787); November 8, 2002 (67 FR 68038); and December 30, 2002 (67 FR 79808). On March 23, 2000, EPA promulgated standards for new and existing sources at secondary aluminum production facilities. Hazardous air pollutants emitted by the affected facilities include organic hazardous air pollutants (including dioxins and furans), inorganic gaseous hazardous air pollutants (hydrogen chloride, hydrogen fluoride, and chlorine), and particulate metal hazardous air pollutants. Emissions of other pollutants

include particulate matter and volatile organic compounds. Secondary aluminum production facilities that are area sources are only subject to limitations on emissions of dioxins and furans.

As part of a settlement agreement with industry trade associations, the June 14, 2002 amendments were published as direct final rules and clarified compliance dates and deferred certain early compliance obligations. The compliance date for a newly affected source (which is constructed or reconstructed at an existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility and that is subject to the rule) was deferred until March 24, 2003 or upon startup, whichever is later. The amendment also specified that the operation, maintenance, and monitoring plan must be submitted no later than the compliance date for existing sources, and 90 days after the initial performance test for new sources. The amendments also required the owner or operator to prepare a site-specific plan that meets the requirements of 40 CFR 63, Subpart A, to obtain approval of the plan, and conduct any performance test no later than the compliance date for existing sources and within 90 days after the compliance date stated in rule for new sources. The requirement for notification of compliance status was revised to correspond to the new dates specified in the amendments. In the August 13, 2002 amendments, EPA withdrew the entire June 14, 2002 direct final rule due to adverse comments on several of the provisions in the direct final rule. Along with the direct final rules, EPA proposed a parallel rule amendment on June 14, 2002, and adopted all of the amendments as proposed on September 24, 2002.

The November 8, 2002 amendments corrected an error in the effective date listed in the September 24, 2002 notice, changing the effective date from November 25, 2002 to September 24, 2002.

The December 30, 2002 amendments revised the applicability provisions for aluminum die casters, foundries, and extruders. The amendments also added new provisions governing control of commonly ducted units; revised the procedures for adoption of operation, maintenance, and monitoring plans; revised the criteria concerning testing of representative emissions units; revised the standard for unvented in-line flux boxes; and clarified the control requirements for sidewall furnaces.

Section 113.780 - Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units (40 CFR 63, Subpart UUU)

The commission adopts new §113.780, which will incorporate by reference, without change, the final promulgated rules in Subpart UUU adopted by the EPA on April 11, 2002 (67 FR 17762). This MACT standard affects sources at petroleum refineries which include catalytic cracking units, catalytic reforming units, and sulfur recovery units, as well as associated by-pass lines. Hazardous air pollutants that are to be reduced by this final rule include organics (acetaldehyde, benzene, formaldehyde, hexane, phenol, toluene, and xylene); reduced sulfur compounds (carbonyl sulfide and carbon disulfide); inorganics (hydrogen chloride and chlorine); and particulate metals (antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, and nickel).

Section 113.790 - Publicly Owned Treatment Works (40 CFR 63, Subpart VVV)

The commission amends §113.790 by incorporating by reference, without change, all amendments to Subpart VVV made by the EPA since October 26, 1999. During this time frame, Subpart VVV was amended on March 23, 2001 (66 FR 16140) and October 21, 2002 (67 FR 64742). The March amendments corrected grammatical, typographic, formatting, and cross-reference errors. Following

this notice, the Pharmaceutical Research and Manufacturers of America filed a petition for judicial review. As part of the settlement agreement, in the October 21, 2002 amendments, EPA rescinded the applicability provision specified in 40 CFR §63.1580(c); applied the same NESHAP requirements that apply to industrial publicly owned treatment works that are major hazardous air pollutant sources to all industrial publicly owned treatment works plants that are area hazardous air pollutant sources; and exempted industrial publicly owned treatment works that are area hazardous air pollutant sources from the permit requirements in 42 United States Code, §7661a(a).

Section 113.810 - Ferroalloys Production: Ferromanganese and Silicomanganese (40 CFR 63, Subpart XXX)

The commission amends §113.810 by incorporating by reference, without change, all amendments to Subpart XXX made by the EPA since May 20, 1999. During this time frame, Subpart XXX was amended on March 22, 2001 (66 FR 16007) and established new emission limitations for ferromanganese and silicomanganese production in open submerged arc furnaces. The amendments established four subcategories within the category of furnaces and specified numerical emission limitations for particulate matter for each, to account for differences in emission potential and control, furnace size, operating conditions, and alloy type.

Section 113.840 - Municipal Solid Waste Landfills (40 CFR 63, Subpart AAAA)

The commission adopts new §113.840, which will incorporate by reference, without change, the final promulgated rules in Subpart AAAA adopted by the EPA on January 16, 2003 (68 FR 2227). This new MACT standard applies to new and existing municipal solid waste landfills that are major or area

sources of emissions. The hazardous air pollutant emissions from these landfills include, but are not limited to, benzene, ethyl benzene, toluene, and vinyl chloride.

Section 113.860 - Manufacturing of Nutritional Yeast (40 CFR 63, Subpart CCCC)

The commission adopts new §113.860, which will incorporate by reference, without change, the final promulgated rules in Subpart CCCC adopted by the EPA on May 21, 2001 (66 FR 27876). This new MACT standard applies to process components at new and existing major sources which are in the nutritional yeast manufacturing source category. The EPA identified this source category as a major source of hazardous air pollutant emissions of acetaldehyde.

Section 113.900 - Solvent Extraction for Vegetable Oil Production (40 CFR 63, Subpart GGGG)

The commission adopts new §113.900, which will incorporate by reference, without change, the final promulgated rules and all amendments to Subpart GGGG adopted by the EPA since April 12, 2001. The final rule for Subpart GGGG was issued on April 12, 2001 (66 FR 19006) and amended on April 5, 2002 (67 FR 16317). This new MACT standard applies to process components at new and existing major sources at vegetable oil production facilities which use solvent extraction, which includes facilities that produce crude vegetable oil and meal products by removing oil from listed oil seeds through direct contact with an organic solvent. The EPA identified this source category as a major source of hazardous air pollutant emissions of n-hexane.

The April 5, 2002 amendments specified that the startup, shutdown, and maintenance provisions were applicable to vegetable oil production plants and specified the applicability of the NESHAP general provisions in 40 CFR 63, Subpart A.

Section 113.910 - Wet-Formed Fiberglass Mat Production (40 CFR 63, Subpart HHHH)

The commission adopts new §113.910, which will incorporate by reference, without change, the final promulgated rules for Subpart HHHH adopted by the EPA on April 11, 2002 (67 FR 17824). This new MACT standard applies to process components at new and existing major sources which are in the wet-formed fiberglass mat production source category. The primary hazardous air pollutant emissions from these sources are formaldehyde, methanol, and vinyl acetate.

Section 113.930 - Paper and Other Web Coating (40 CFR 63, Subpart JJJJ)

The commission adopts new §113.930, which will incorporate by reference, without change, the final promulgated rules for Subpart JJJJ adopted by the EPA on December 4, 2002 (67 FR 72330). This new MACT standard applies to facilities that coat paper and other web substrates. The final standards are designed to eliminate approximately 80% of nationwide hazardous air pollutant emissions from facilities that coat paper and other web substrates. The EPA identified this source category as a major source of hazardous air pollutant emissions of toluene, methanol, methyl ethyl ketone, xylenes, phenol, methylene chloride, ethylene glycol, glycol ethers, hexane, methyl isobutyl ketone, cresols and cresylic acid, dimethylformamide, vinyl acetate, formaldehyde, and ethyl benzene.

Section 113.970 - Surface Coating of Large Appliances (40 CFR 63, Subpart NNNN)

The commission adopts new §113.970, which will incorporate by reference, without change, the final rules to Subpart NNNN adopted by the EPA on July 23, 2002 (67 FR 48254). This new MACT standard applies to new and existing sources that apply surface coatings to large appliances. The EPA identified this source category as a major source of hazardous air pollutant emissions of glycol ethers, methylene diphenyl diisocyanate, methyl ethyl ketone, toluene, and xylene. These compounds account for over 80% of the nationwide hazardous air pollutant emissions from this source category.

Section 113.1020 - Surface Coating of Metal Coil (40 CFR 63, Subpart SSSS)

The commission adopts new §113.1020, which will incorporate by reference, without change, the final rules and all amendments to Subpart SSSS adopted by the EPA since June 10, 2002. EPA issued the final rule for Subpart SSSS on June 10, 2002 (67 FR 39794) and technical corrections on March 17, 2003 (68 FR 12590). This new MACT standard applies to process components at new and existing sources that coat metal coil products. The primary hazardous air pollutants that will be controlled include methyl ethyl ketone, glycol ethers, xylenes (isomers and mixtures), toluene, and isophorone. The March 17, 2003 amendments corrected the time line for beginning the first semiannual reporting period and submitting the first semiannual report.

Section 113.1030 - Leather Finishing Operations (40 CFR 63, Subpart TTTT)

The commission adopts new §113.1030, which will incorporate by reference, without change, the final promulgated rules in Subpart TTTT adopted by the EPA on February 27, 2002 (67 FR 9156). This new MACT standard applies to process components at new and existing major sources at leather

finishing operations. The EPA has identified these facilities as major sources of emissions of hazardous air pollutants, such as glycol ethers, toluene, and xylene.

Section 113.1040 - Cellulose Products Manufacturing (40 CFR 63, Subpart UUUU)

The commission adopts new §113.1040, which will incorporate by reference, without change, the final rules in Subpart UUUU adopted by the EPA on June 11, 2002 (67 FR 40044). This new MACT standard applies to process components at cellulose products manufacturing. Cellulose products manufacturing includes both the miscellaneous viscose process source category and the cellulose ethers production source category. The miscellaneous viscose process source category comprises the cellulose food casing, rayon, cellulosic sponge, and cellophane manufacturing industries. The cellulose ethers production source category comprises the methyl cellulose, hydroxypropyl methyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, and carboxymethyl cellulose manufacturing industries. The EPA identified the miscellaneous viscose process source category and the cellulose ethers production source category as including major sources of emissions of hazardous air pollutants, such as carbon disulfide, carbonyl sulfide, ethylene oxide, methanol, methyl chloride, propylene oxide, and toluene.

Section 113.1050 - Boat Manufacturing (40 CFR 63, Subpart VVVV)

The commission adopts new §113.1050, which will incorporate by reference, without change, the final rules and all amendments to Subpart VVVV adopted by the EPA since August 22, 2001. EPA issued the final rule for Subpart VVVV on August 22, 2001 (66 FR 44218) and amendments on October 3, 2001 (66 FR 50504). This new MACT standard applies to process components at new and existing

boat manufacturing facilities, which include fiberglass resin and gel coat operations, carpet and fabric adhesive operations, and aluminum recreational boat painting operations. The EPA has identified boat manufacturing as a major source of hazardous air pollutants, such as styrene, methyl methacrylate, methylene chloride, toluene, xylene, n-hexane, methyl ethyl ketone, methyl isobutyl ketone, and methyl chloroform. The October 3, 2001 amendments corrected typographical errors.

Section 113.1070 - Rubber Tire Manufacturing (40 CFR 63, Subpart XXXX)

The commission adopts new §113.1070, which will incorporate by reference, without change, the final rules and all amendments to Subpart XXXX adopted by the EPA since July 9, 2002. EPA issued the final rule for Subpart XXXX on July 9, 2002 (67 FR 45588) and technical corrections on March 12, 2003 (68 FR 11745). This new MACT standard applies to process components at new and existing rubber tire manufacturing facilities. The primary hazardous air pollutants that will be controlled include toluene and hexane. The March 12, 2003 amendments corrected typographical errors and made corrections to wording.

Section 113.1260 - Friction Materials Manufacturing Facilities (40 CFR 63, Subpart QQQQQ)

The commission adopts new §113.1260, which will incorporate by reference, without change, the final rules in Subpart QQQQQ adopted by the EPA on October 18, 2002 (67 FR 64498). This new MACT standard applies to process components at new and existing friction materials manufacturing facilities. The primary hazardous air pollutants that will be controlled include n-hexane, toluene, and trichloroethylene.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMIT PROGRAM

Because Chapter 113 contains applicable requirements under 30 TAC Chapter 122, Federal Operating Permits, owners or operators subject to the federal operating permit program must, consistent with the amendment process in Chapter 122, revise their operating permit to include the amended Chapter 113 requirements for each emission unit affected by the amendments to Chapter 113 at their site.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed this rulemaking action in light of the regulatory 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. A “major environmental rule” is one of which the specific intent 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 the amended rules is to adopt MACT standards mandated by the Federal Clean Air Act and the amendments to that act. EPA is developing these national MACT standards to regulate emissions of hazardous air pollutants under 42 United States Code, §7412.

Hazardous air pollutant sources affected by the MACT standards are required to comply with the federal standards whether or not the commission adopts or takes delegation of the standards from EPA.

The adopted rules are not anticipated to add any significant additional costs to affected individuals or businesses beyond the existing requirements to comply with the federal standards. The rules are intended to protect the environment, but are not anticipated to have material adverse effects 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. In addition, §2001.0225 only applies 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.

This rulemaking action does not meet any of these four applicability requirements of a “major environmental rule.” Specifically, the MACT standards within this rulemaking action are federal technology-based standards which will be adopted by reference, and therefore, will not exceed any standard set by federal law. This rulemaking action is not an express requirement of state law, but was developed by EPA as MACT standards mandated by the Federal Clean Air Act and the amendments to that act. The adopted rules do not exceed a requirement of a delegation agreement or a contract between state and federal government. These rules were not developed solely under the general powers of the agency, but are adopted under the Texas Clean Air Act, as codified in Texas Health and Safety Code, §382.011, which authorizes the commission to establish the level of quality to be maintained in the state’s air; §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state’s air; §382.016, which authorizes the commission to prescribe reasonable requirements for measuring and monitoring the emissions of air contaminants; §382.017, which authorizes the commission to adopt rules consistent with the policy and

purposes of the Texas Clean Air Act; and §382.051, which authorizes the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to air permits.

TAKINGS IMPACT ASSESSMENT

The commission prepared a preliminary takings impact assessment for this rulemaking action under Texas Government Code, §2007.043. The specific purpose of this rulemaking action is to facilitate implementation and enforcement of the MACT standards by the state, and will not create any additional burden on private real property. Under federal law, the affected industries will be required to implement these MACT standards regardless of whether the commission or EPA is the agency responsible for implementation of the standards.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission determined that this rulemaking action is subject to the Texas Coastal Management Program in accordance with the Coastal Coordination Act of 1991, as revised (Texas Natural Resources Code, §§33.201 *et seq.*), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Coastal Management Program. As required by 31 TAC §505.11(b)(2), relating to rules subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the Coastal Management Program. The commission reviewed this for consistency with the Coastal Management Program goals and policies in accordance with the rules of the Coastal Coordination Council, and determined that the action is consistent with the applicable Coastal Management Program goals and policies. This rulemaking action is consistent with the goal expressed in 31 TAC §501.12(1)

of protecting and preserving the quality and value of coastal natural resource areas. The Coastal Management Program policy applicable to this rulemaking action is the policy that commission rules comply with regulations in 40 CFR to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). This adoption will incorporate by reference, 18 new and 34 amended federal MACT subparts contained in 40 CFR 63 and is, therefore, consistent with this policy.

PUBLIC COMMENT

A public hearing on this proposal was held in Austin on April 28, 2003. One individual attended, but no one presented testimony. The public comment period closed on May 5, 2003, but no one submitted written testimony.

RESPONSE TO COMMENTS

No persons submitted written or oral comments regarding this rule proposal.

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

(FCAA, §112, 40 CFR 63)

STATUTORY AUTHORITY

The new and amended sections are adopted under Texas Water Code, §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the Texas Water Code; and under Texas Health and Safety Code, §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The new and amended sections are also adopted under Texas Health and Safety Code, §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; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning 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; §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 §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.

§113.110. Synthetic Organic Chemical Manufacturing Industry (40 CFR 63, Subpart F).

The Synthetic Organic Chemical Manufacturing Industry Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart F, is incorporated by reference as amended through January 22, 2001 (66 FR 6922).

§113.120. Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (40 CFR 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 January 22, 2001 (66 FR 6922).

§113.130. Organic Hazardous Air Pollutants for Equipment Leaks (40 CFR 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 January 22, 2001 (66 FR 6922).

§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).

§113.170. Coke Oven Batteries (40 CFR 63, Subpart L).

The Coke Oven Batteries Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart L, is incorporated by reference as amended through October 17, 2000 (65 FR 61744).

§113.200. Ethylene Oxide Emissions Standards for Sterilization Facilities (40 CFR 63, Subpart O).

The Ethylene Oxide Emissions Standards for Sterilization Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart O, is incorporated by reference as amended through November 2, 2001 (66 FR 55577).

§113.240. Pulp and Paper Industry (40 CFR 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 May 14, 2001 (66 FR 24268).

§113.250. Halogenated Solvent Cleaning (40 CFR 63, Subpart T).

The Halogenated Solvent Cleaning Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart T, is incorporated by reference as amended through September 8, 2000 (65 FR 54419).

§113.260. Group I Polymers and Resins (40 CFR 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 July 16, 2001 (66 FR 36924).

§113.280. Epoxy Resins Production and Non-Nylon Polyamides Production (40 CFR 63, Subpart W).

The Epoxy Resins Production and Non-Nylon Polyamides Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart W, is incorporated by reference as amended through May 8, 2000 (65 FR 26491).

§113.320. Phosphoric Acid Manufacturing Plants (40 CFR 63, Subpart AA).

The Phosphoric Acid Manufacturing Plants Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart AA, is incorporated by reference as amended through June 13, 2002 (67 FR 40814).

§113.330. Phosphate Fertilizers Production Plants (40 CFR 63, Subpart BB).

The Phosphate Fertilizers Production Plants Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart BB, is incorporated by reference as amended through June 13, 2002 (67 FR 40814).

§113.340. Petroleum Refineries (40 CFR 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 May 25, 2001 (66 FR 28840).

§113.350. Off-Site Waste and Recovery Operations (40 CFR 63, Subpart DD).

The Off-Site Waste and Recovery Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart DD, is incorporated by reference as amended through January 8, 2001 (66 FR 1263).

§113.380. Aerospace Manufacturing and Rework Facilities (40 CFR 63, Subpart GG).

The Aerospace Manufacturing and Rework Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart GG, is incorporated by reference as amended through December 8, 2000 (65 FR 76941).

§113.390. Oil and Natural Gas Production Facilities (40 CFR 63, Subpart HH).

The Oil and Natural Gas Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HH, is incorporated by reference as amended through June 29, 2001 (66 FR 34548).

§113.400. Shipbuilding and Ship Repair (Surface Coating) (40 CFR 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 October 17, 2000 (65 FR 61744).

§113.440. Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR 63, Subpart MM).

The Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart MM, is incorporated by reference as amended through August 6, 2001 (66 FR 41086).

§113.470. Containers (40 CFR 63, Subpart PP).

The Containers Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart PP, is incorporated by reference as amended through January 8, 2001 (66 FR 1263).

§113.490. Individual Drain Systems (40 CFR 63, Subpart RR).

The Individual Drain System Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart RR, is incorporated by reference as amended through January 8, 2001 (66 FR 1263).

§113.500. Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR 63, Subpart SS).

The Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart SS, is incorporated by reference as amended through July 12, 2002 (67 FR 46258).

§113.510. Equipment Leaks - Control Level 1 (40 CFR 63, Subpart TT).

The Equipment Leaks - Control Level 1 Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TT, is incorporated by reference as amended through July 12, 2002 (67 FR 46258).

§113.520. Equipment Leaks - Control Level 2 (40 CFR 63, Subpart UU).

The Equipment Leaks - Control Level 2 Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UU, is incorporated by reference as amended through July 12, 2002 (67 FR 46258).

§113.530. Oil-Water Separators and Organic-Water Separators (40 CFR 63, Subpart VV).

The Oil-Water Separators and Organic-Water Separators Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VV, is incorporated by reference as amended through January 8, 2001 (66 FR 1263).

§113.540. Storage Vessels (Tanks) - Control Level 2 (40 CFR 63, Subpart WW).

The Storage Vessels (Tanks) - Control Level 2 Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart WW, is incorporated by reference as amended through July 12, 2002 (67 FR 46258).

§113.550. Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations (40 CFR 63, Subpart XX).

The Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart XX, is incorporated by reference as adopted July 12, 2002 (67 FR 46258).

§113.560. Generic Maximum Achievable Control Technology Standards (40 CFR 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 February 10, 2003 (68 FR 6635).

§113.620. Hazardous Waste Combustors (40 CFR 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 December 19, 2002 (67 FR 77687).

§113.640. Pharmaceuticals Production (40 CFR 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 2, 2002 (67 FR 15486).

§113.650. Natural Gas Transmission and Storage Facilities (40 CFR 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 February 22, 2002 (67 FR 8202).

§113.670. Group IV Polymers and Resins (40 CFR 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 August 6, 2001 (66 FR 40903).

§113.690. Portland Cement Manufacturing Industry (40 CFR 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 December 6, 2002 (67 FR 72580).

§113.700. Pesticide Active Ingredient Production (40 CFR 63, Subpart MMM).

The Pesticide Active Ingredient Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart MMM, is incorporated by reference as amended through September 20, 2002 (67 FR 59336).

§113.720. Manufacture of Amino/Phenolic Resins (40 CFR 63, Subpart OOO).

The Manufacture of Amino/Phenolic Resins Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart OOO, is incorporated by reference as amended through February 22, 2000 (65 FR 8768).

§113.730. Polyether Polyols Production (40 CFR 63, Subpart PPP).

The Polyether Polyols Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart PPP, is incorporated by reference as amended through May 8, 2000 (65 FR 26491).

§113.740. Primary Copper Smelting (40 CFR 63, Subpart QQQ).

The Primary Copper Smelting Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart QQQ, is incorporated by reference as adopted June 12, 2002 (67 FR 40478).

§113.750. Secondary Aluminum Production (40 CFR 63, Subpart RRR).

The Secondary Aluminum Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart RRR, is incorporated by reference as amended through December 30, 2002 (67 FR 79808).

§113.780. Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units (40 CFR 63, Subpart UUU).

The Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart UUU, is incorporated by reference as adopted April 11, 2002 (67 FR 17762).

§113.790. Publicly Owned Treatment Works (40 CFR 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 October 21, 2002 (67 FR 64742).

§113.810. Ferroalloys Production: Ferromanganese and Silicomanganese (40 CFR 63, Subpart XXX).

The Ferroalloys Production: Ferromanganese and Silicomanganese Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart XXX, is incorporated by reference as amended through March 22, 2001 (66 FR 16007).

§113.840. Municipal Solid Waste Landfills (40 CFR 63, Subpart AAAA).

The Municipal Solid Waste Landfills Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart AAAA, is incorporated by reference as adopted January 16, 2003 (68 FR 2227).

§113.860. Manufacturing of Nutritional Yeast (40 CFR 63, Subpart CCCC).

The Manufacturing of Nutritional Yeast Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart CCCC, is incorporated by reference as adopted May 21, 2001 (66 FR 27876).

§113.900. Solvent Extraction for Vegetable Oil Production (40 CFR 63, Subpart GGGG).

The Solvent Extraction for Vegetable Oil Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart GGGG, is incorporated by reference as amended through April 5, 2002 (67 FR 16317).

§113.910. Wet-Formed Fiberglass Mat Production (40 CFR 63, Subpart HHHH).

The Wet-Formed Fiberglass Mat Production Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart HHHH, is incorporated by

reference as adopted April 11, 2002 (67 FR 17824).

§113.930. Paper and Other Web Coating (40 CFR 63, Subpart JJJJ).

The Paper and Other Web Coating Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart JJJJ, is incorporated by reference as adopted December 4, 2002 (67 FR 72330).

§113.970. Surface Coating of Large Appliances (40 CFR 63, Subpart NNNN).

The Surface Coating of Large Appliances Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart NNNN, is incorporated by reference as adopted July 23, 2002 (67 FR 48254).

§113.1020. Surface Coating of Metal Coil (40 CFR 63, Subpart SSSS).

The Surface Coating of Metal Coil Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart SSSS, is incorporated by reference as amended through March 17, 2003 (68 FR 12590).

§113.1030. Leather Finishing Operations (40 CFR 63, Subpart TTTT).

The Leather Finishing Operations Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart TTTT, is incorporated by reference as adopted February 27, 2002 (67 FR 9156).

§113.1040. Cellulose Products Manufacturing (40 CFR 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 adopted June 11, 2002 (67 FR 40044).

§113.1050. Boat Manufacturing (40 CFR 63, Subpart VVVV).

The Boat Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart VVVV, is incorporated by reference as amended through October 3, 2001 (66 FR 50504).

§113.1070. Rubber Tire Manufacturing (40 CFR 63, Subpart XXXX).

The Rubber Tire Manufacturing Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart XXXX, is incorporated by reference as

amended through March 12, 2003 (68 FR 11745).

§113.1260. Friction Materials Manufacturing Facilities (40 CFR 63, Subpart QQQQ).

The Friction Materials Manufacturing Facilities Maximum Achievable Control Technology standard as specified in 40 Code of Federal Regulations Part 63, Subpart QQQQ, is incorporated by reference as adopted October 18, 2002 (67 FR 64498).