

The 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, 113.240, 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 Repealed §§113.41-113.43, 113.51-113.53, 113.71, 113.81, 113.83-113.85, 113.87, 113.88, 113.91, 113.92, 113.111-113.114, 113.121-113.128, and new §§113.31-113.37,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 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 to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to facilitate implementation and enforcement of the MACT standards by the state. Promulgation and enforcement of these rules will have an effect on private real property which is the subject of the rules, but is subject to one of the exemptions in Senate Bill 14.

COASTAL MANAGEMENT PROGRAM (CMP) CONSISTENCY REVIEW

The commission has reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the rulemaking is consistent with the applicable CMP goals and policies.

HEARING AND COMMENTERS

A public hearing was held in Austin on April 11, 1997. The comment period closed April 17. No oral comments were received at the public hearing, and written comments were received from six commenters. The Dow Chemical Company (DOW), Eastman Chemical Company (Eastman), EPA, GNB Technologies, Inc. (GNB), and the Texas Chemical Council generally supported the adoption with some changes.

The City of Dallas (Dallas) stated that the existing rules pertaining to Secondary Lead Smelters in Dallas County should be repealed as there are no longer such facilities in Dallas county. GNB of Collin County stated that they were the only secondary lead smelter in Texas and therefore were the only

facility affected by the Secondary Lead Smelter MACT being adopted by reference in Chapter 113. In addition, GNB stated that the ambient lead monitors near their facility have demonstrated continuous compliance with the lead standard since the first quarter of 1991, therefore, GNB is eager to work with the commission to pursue redesignation of the plant site from nonattainment to attainment status.

The commission agrees with the commenter that the existing lead smelter rules for Dallas County should be repealed because all of the secondary lead smelters in Dallas County have terminated their operations. The commission also agrees that GNB had demonstrated attainment through monitoring and should be redesignated back to attainment. The Dallas County lead smelter rules were originally adopted in 1984 as part of a revision to the SIP for lead. In addition, the control strategy to bring GNB back into attainment was adopted in 1993 as part of a lead SIP revision. For that reason, a rescission of the Dallas County lead rules and the redesignation of GNB to attainment will require a corresponding revision to the Texas lead SIP. Therefore, the commission chose to expedite the adoption of the first cluster of MACT standards by renumbering the existing lead smelter rules at this time. The Dallas lead smelter rules rescission and the GNB redesignation are scheduled for a future cycle of Chapter 113 rulemaking, sometime this summer.

Dallas, TCC, and Eastman all stated that in accordance with the Texas Administrative Code (1 TAC 91.41(c)) all rules adopted by reference must identify the date of any federal rule which is being adopted by reference.

The commission agrees that each rule being adopted by reference in this rulemaking must specify the effective date of the applicable federal rule being adopted by reference and has added the dates accordingly.

Dow stated a concern with the existence of overlapping and potentially conflicting regulations between the proposed MACT standards and existing Chapters 113 and 115. As noted in the preamble, the commission anticipates VOC reduction rules will be modified after EPA revises the NAAQS for ozone and particulate matter in 1997. The commenter asked the commission to “identify those overlaps and conflicts and draft internal guidance for resolution” prior to the issuance of new NAAQS standards which the commenter states may be delayed by EPA.

During the review of the promulgated MACT, staff reviewed the MACT regulations and began making a comparison between Chapter 115 and the MACT standard. It was determined that a comprehensive review of the regulations would be time intensive for both the agency and the industry participants. The review and resolution of the regulations would have delayed the rulemaking and delegation process of these MACTs. Additionally, the commission invites comments on any conflicts between Chapter 115 and Chapter 113. The executive director can manage these conflicts on a case by case situation. It is clear that changes to the ozone and particulate NAAQS will result in changes being required in Chapter 115. Corrections made with internal guidance now may well have to be corrected when the new NAAQS is complete.

The commission believes that final correction of overlapping and conflicting requirements should occur after the promulgation of the new ozone and particulate standards being developed by the EPA. If EPA substantially delays the promulgation of the new NAAQS regulation, the commission will reevaluate the need for the internal guidance document.

The TCC and Eastman stated that the procedural time limits relating to requests for extensions of compliance at 40 CFR 63.5(i)(12)(i) and 63.6(i)(13)(i) and (ii) should be retained. The extension of compliance request is an indication that the sources are having difficulty in meeting the prescribed compliance time period. Increasing the time that the commission has to respond to a request for compliance extension will hinder the facility in making timely project management decisions.

During the review of the General Provisions, all of the affected divisions within the agency reviewed the standards to determine the impacts of general provisions on their division. Staff believes that a request for compliance extension is typically an indication of significant decisions being required by both the industry and the agency. In order for the agency to respond adequately to such a request, staff concluded that the 60 day time frame for responding to requests for compliance extensions is still appropriate.

STATUTORY AUTHORITY

The new rules are 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.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

NONFERROUS SMELTERS IN EL PASO COUNTY

§113.31. Maintenance and Operation of Control Equipment.

The owner or operator of any nonferrous smelter located in El Paso County shall maintain and operate all equipment used for the purpose of preventing emissions of particulate matter to the atmosphere in accordance with the best practices in routine use in the field of air pollution control and shall compile written logs documenting all maintenance and repair activities undertaken with respect to such equipment. The entries made in the maintenance and repair logs shall be retained for a period of at least three years and, upon request, shall be made available for inspection during normal working hours by employees of the commission or local air pollution control agencies.

§113.32. Areas Accessible to the General Public.

The owner or operator of any nonferrous smelter located in El Paso County shall prohibit access by the general public to the property on which the smelter is located, any contiguous property owned by or under the control of the owner or operator of the smelter, and any such property that would be contiguous but for intervening roads.

§113.33. Control of Fugitive Dust.

(a) The owner or operator of any nonferrous smelter located in El Paso County shall comply with the following requirements.

(1) Roads.

(A) All plant roadways shall be paved unless the executive director has approved a plan to minimize fugitive emissions from roads and that plan specifies which roads are to be paved and which are to be treated in some other manner;

(B) All paved plant roadways shall be cleaned with such equipment and in a manner that will minimize visible emissions resulting from the use and from the cleaning of such roadways; and

(C) Written logs documenting the frequency of all sealing, spraying, cleaning, and other programs for the minimization of roadway emissions shall be maintained. The logs shall be retained for a period of at least three years and shall be made available for inspection during normal working hours by employees of the commission or local air pollution control agencies.

(2) Outdoor bulk material storage areas.

(A) Water spraying in combination with chemical sealing shall be used to minimize visible emissions resulting from the outdoor storage of bulk materials containing more than 1.0% lead by weight;

(B) When materials are added to or removed from a chemically sealed outdoor pile of bulk materials, thereby resulting in the breaking of the pile's chemical seal, the pile shall be resealed within 24 hours after such activity;

(C) Written logs shall be maintained and updated daily to document the actions carried out to comply with the requirements of this paragraph, and the logs shall be retained for a period of at least three years and shall be made available for inspection during normal working hours by employees of the commission or local air pollution control agencies; and

(D) Approval for the procedures used to comply with the requirements of this paragraph shall be obtained in advance from the executive director.

(3) Open unpaved areas.

(A) The owner or operator of any nonferrous smelter in El Paso County shall develop and implement a control program that utilizes chemical sealing, water sprays, or other effective methods to minimize visible emissions of fugitive dust from all open unpaved areas on the smelter site

except outdoor bulk material storage areas covered by the provisions of subsection (a)(2) of this section, slag dump area(s), and areas with surface slope greater than 45 degrees;

(B) The owner or operator shall obtain the executive director's approval of the control program plan before it is implemented;

(C) The executive director shall approve the plan if he determines that the applicant has submitted sufficient information to demonstrate that implementation of the plan will minimize fugitive emissions of lead from the affected areas of the smelter site; and

(D) The owner or operator shall carry out the plan as approved and shall maintain logs adequate to demonstrate that it is being carried out. He shall keep the logs at least three years and shall make them available for inspection during normal working hours by employees of the commission or local air pollution control agencies.

(b) The executive director shall approve an exemption from one or more requirements of subsection (a) of this section if he determines that the owner or operator has provided sufficient information to demonstrate that:

(1) compliance with the requirements is technically impracticable or economically unreasonable,

(2) controls that are technically practicable and economically reasonable are implemented to minimize emissions, and

(3) the emissions allowed by the exemption(s) will not prevent attainment or maintenance of the national ambient air quality standards for lead or cause or contribute to a condition of air pollution.

§113.34. Materials Handling and Transfer.

The owner or operator of any nonferrous smelter located in El Paso County shall comply with the following requirements:

(1) All lead sinter shall be transferred from storage bins to charge cars in an enclosed structure that is vented to the atmosphere only through air pollution control equipment. After such transfer, the contents of the charge cars shall be wet down sufficiently to minimize visible emissions during subsequent transport and charging into a lead blast furnace;

(2) All particulate matter containing more than 1.0% lead by weight collected by air pollution control equipment shall be transported in closed containers or shall be transported by enclosed conveying systems that are vented to the atmosphere only through particulate matter control equipment or shall be slurried with water and transported wet;

(3) There shall be no visible particulate emissions from the transport of collected particulate matter containing more than 1.0% lead by weight;

(4) All collected particulate matter from lead sinter machine electrostatic precipitators, lead sinter machine ventilation baghouses, lead blast furnace baghouses, copper roaster electrostatic precipitators, copper reverberatory furnace electrostatic precipitators, copper converter electrostatic precipitators, copper converter building ventilation baghouses, and zinc deleading baghouses shall be agglomerated by moisturizing with water, returned by enclosed conveyance to plant smelting processes, or equipped with an equivalent control system approved by the executive director;

(5) All moisturizing of collected particulate matter required by paragraph (4) of this section shall meet the following requirements:

(A) Moisturizing of collected particulate matter from lead sinter machine electrostatic precipitators, lead sinter machine ventilation baghouses, and lead blast furnace baghouses shall occur in an enclosed structure that is under negative pressure,

(B) Moisturizing of collected particulate matter from other sources identified in paragraph (4) of this section shall be controlled by local exhaust hoods approved by the executive director, and

(C) All emissions resulting from the controls required by subparagraphs (A) and (B) of this paragraph shall be vented to the atmosphere only through particulate matter control equipment;

(6) Collected particulate matter that contains more than 1.0% lead by weight and that has been agglomerated by moisturizing shall be handled in an enclosed structure that is under negative pressure and is vented to the atmosphere only through particulate matter control equipment; and

(7) The lead concentration in the gas streams exhausted to the atmosphere through control equipment required by paragraphs (1), (2), (5), and (6) of this section shall not exceed 0.005 grain per dry standard cubic foot, unless the control equipment consists of a baghouse fabricated prior to March 31, 1984. If the control equipment consists of a baghouse fabricated prior to March 31, 1984, the lead concentration in the gas stream exhausted to the atmosphere shall not exceed 0.010 grain per dry standard cubic foot.

§113.35. Smelting of Lead.

The owner or operator of any lead smelter located in El Paso County shall comply with the following requirements.

(1) Each blast furnace shall be equipped with an automatic system to control tuyere air flow;

(2) Each lead blast furnace shall be equipped with a ventilation system approved by the executive director to minimize visible emissions from the tapping of lead and slag;

(3) Each lead dross reverberatory furnace shall be equipped with a ventilation system approved by the executive director to minimize visible emissions from the charging and tapping of the furnace;

(4) Each receiving lead kettle and final dross lead kettle shall be equipped with a ventilation system approved by the executive director to minimize visible emissions;

(5) Ventilation systems required by paragraphs (2) - (4) of this section shall be vented to the atmosphere only through particulate matter control equipment;

(6) The lead concentration in the gas streams exhausted to the atmosphere through control equipment required by paragraph (5) of this section shall not exceed 0.005 grain per dry standard cubic foot for new control equipment or 0.01 grain per dry standard cubic foot for existing control equipment; and

(7) Once the control equipment required by paragraphs (1) - (4) of this section is installed and operating:

(A) the control equipment shall be maintained and operated so as to minimize visible emissions from the process and equipment subject to such control;

(B) measurements, such as capture velocity, duct velocity, or static pressure, that demonstrate the effectiveness of the control equipment in controlling visible emissions and that are approved by the executive director shall be made at least quarterly or on a schedule approved by the executive director; and

(C) written logs describing all maintenance and measurements performed on the control equipment and recording the dynamite consumption for each lead blast furnace shall be compiled and the logs shall be maintained for a period of at least three years and shall be made available for inspection during normal working hours to employees of the commission or local air pollution control agencies.

§113.36. Smelting of Copper and Zinc.

The owner or operator of any copper or zinc smelter located in El Paso County shall comply with the following requirements:

(1) Secondary hoods of design approved by the executive director shall be installed on each copper converter;

(2) The emissions captured by the secondary hoods required by paragraph (1) of this section shall be exhausted through a duct system that is under negative pressure and through a system or device for the control of particulate matter; and

(3) The lead concentration in the gas leaving the system or device required by paragraph (2) of this section shall not exceed 0.001 grain per dry standard cubic foot if the system or device controls only the emissions from the secondary hoods. If the system or device also controls lead emissions from other sources, the system or device shall be at least 95% efficient in reducing lead emissions. The owner or operator shall submit a control plan including a method for verifying that the required performance is achieved. The control plan shall be subject to the executive director's approval. The vent gas from the system or device required by paragraph (2) of this section shall be vented to the atmosphere no less than 230 feet above grade.

§113.37. Lead Emissions Limits for Stacks.

No person may cause, suffer, or allow emissions in excess of any limit specified in the following table.

LEAD EMISSION LIMITS FOR CERTAIN VENT GAS STREAMS AT
NONFERROUS SMELTING OPERATIONS EXISTING IN EL PASO COUNTY
AS OF SEPTEMBER 9, 1983

<u>Vent Gas From</u>	<u>Lead Emission Limits, lb/hr</u>
Lead and Copper Ore Conveying Baghouse	0.2
Lead Ore Unloading Building Baghouse	0.5
Lead and Copper Ore Bedding Building Baghouses (Total)	1.0
Lead Sinter Plant Material Handling Baghouse	12.8
Lead Blast Furnace Baghouse Stacks (Total)	2.2
Copper Ore Unloading Building Baghouse	0.5
Copper Reverberatory Furnace Electrostatic Precipitator	1.5
Copper Converter Building Ventilation Baghouse - If Used Only To Control Building Ventilation Air - If Used To Control Emissions From Copper Converter Secondary Hoods in Addition to Building Ventilation Air	1.4
Zinc Fuming Furnace and Deleading Kilns Baghouse	4.3
Cadmium Plant Baghouse	0.4

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

LEAD SMELTERS IN DALLAS COUNTY

The new rules are 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.

§113.41. Maintenance and Operation of Control Equipment.

The owner or operator of any lead smelter in Dallas County shall maintain and operate all equipment used for the purpose of preventing emissions of particulate matter to the atmosphere in accordance with the best practices in routine use in the field of air pollution control and shall compile written logs documenting all maintenance and repair activities undertaken with respect to such equipment. The entries made in the maintenance and repair logs shall be retained for a period of at least three years and, upon request, shall be made available for inspection during normal working hours by employees of the commission or local air pollution control agencies.

§113.42. Storage of Lead-Containing Materials.

(a) No person may cause, suffer, or allow unenclosed storage at any lead smelter in Dallas County of material containing more than 1.0% lead by weight.

(b) All particulate matter containing more than 1.0% lead by weight collected by air pollution control equipment at any lead smelter in Dallas County shall be stored in closed containers or in a structure under sufficient negative pressure to prevent emissions to the atmosphere.

(c) The following items are exempt from the requirement of subsection (a) of this section:

- (1) lead and lead alloy in ingot form,
- (2) fabricated lead and lead alloy materials,
- (3) lead shot,
- (4) lead bearing material in enclosed containers, and
- (5) whole, unbroken batteries.

§113.43. Transport of Materials.

The owner or operator of any lead smelter in Dallas County shall comply with the following requirements.

(1) All transport vehicles carrying materials containing more than 1.0% lead by weight shall have their cargo compartments covered at all times when on plant property except when actually loading or unloading such material, when being washed, or when located inside a plant building. Transport vehicles that carry only the materials listed in §113.42(c) of this title (relating to Storage of Lead-Containing Materials) are exempt from the requirements of this paragraph; and

(2) Each time a vehicle leaves a structure required by §113.44(1) of this title (relating to Fugitive Emissions from Lead Processes) or by §113.45(1) of this title (relating to Battery or Lead Reclaiming Operations), all material containing more than 1.0% lead by weight shall be removed from the wheels of the vehicle by a procedure approved by the executive director. If water is used in the procedure required by this paragraph, the cleaning may be suspended during freezing weather.

§113.44. Fugitive Emissions from Lead Processes.

The owner or operator of any lead smelter in Dallas County shall comply with the following requirements.

(1) Each batch mixing operation, reverberatory furnace, blast furnace, refining kettle, and casting machine shall be contained in a structure that is under sufficient negative pressure to maintain airflow of at least 100 feet per minute into the structure at all openings and doorways at all times except:

(A) when all openings and doorways are closed with solid doors, solid shutters, or tarpaulins, or

(B) when all operations in the structure have been discontinued for a period of eight hours or longer;

(2) After approval of system specifications by the executive director, a recording airflow monitoring system and warning alarms shall be installed and operated at all times to monitor airflow into any structure required by paragraph (1) of this section;

(3) Approval shall be obtained from the executive director for the location and method of closure for all openings and doorways in any structure required by paragraph (1) of this section;

(4) All air exhausted to maintain airflow into any structure required by paragraph (1) of this section shall be vented through a system or device for the control of particulate matter;

(5) Except for the vent gas from any reverberatory furnace or blast furnace, the lead concentration in the gas leaving the system or device required by paragraph (4) of this section shall not exceed 0.001 grain per dry standard cubic foot; and

(6) There shall be no visible emissions other than condensed water vapor from any structure required by paragraph (1) of this section.

§113.45. Battery or Lead Reclaiming Operations.

The owner or operator of any lead smelter in Dallas County shall comply with the following requirements:

(1) Any battery wrecking or lead reclaiming operation shall be contained in a structure totally enclosed on the top and all sides except as provided in paragraph (2) of this section;

(2) Emissions from openings and doorways in the building required by paragraph (1) of this section shall be minimized. Approval shall be obtained from the executive director for the location, size, and method of closure for all such openings and doorways;

(3) A plan for an effective program to minimize emissions of particulate matter from floors and work areas in any structure required by paragraph (1) of this section shall be submitted to the executive director, and his approval shall be obtained by the final compliance date for this section; the approved plan shall be carried out as specified; and

(4) The lead concentration in the vent gas stream vented to the atmosphere from any kiln used to process shredded battery material shall not exceed 0.005 grain per dry standard cubic foot.

§113.46. Lead Emission Limits for Reverberatory Furnaces and Blast Furnaces.

No person may cause, suffer, or allow the lead concentration in the vent gas vented to the air from any lead reverberatory furnace or blast furnace in Dallas County to exceed 0.015 grain per dry standard cubic foot.

§113.47. Control of Fugitive Dust.

The owner or operator of any lead smelter in Dallas County shall comply with the following requirements.

- (1) All plant roads shall be paved;
- (2) Parking areas and storage areas for materials containing more than 1 % lead by weight shall be paved; and
- (3) All other open unpaved areas of the property at which the smelter is located shall have complete vegetational cover or shall be covered with rock or crushed aggregate at least three inches deep. The executive director shall establish an alternate requirement or alternate requirements for certain areas of a plant if he determines that the owner or operator has provided sufficient information to demonstrate that:

(A) it is technically impracticable or economically unreasonable to meet the requirement for complete vegetational or rock or aggregate cover,

(B) the alternate requirement(s) will achieve the maximum emission reduction that is technically practicable and economically reasonable, and

(C) the emissions allowed by the alternate requirement(s) will not prevent the attainment or maintenance of the national ambient air quality standards for lead or cause or contribute to a condition of air pollution.

§113.48. Additional Measures to Reduce Lead Emissions.

The owner or operator of any lead smelter in Dallas County shall comply with the following requirements.

(1) If they occur outside buildings, spills of dust containing more than 1.0% lead by weight shall be dampened and cleaned up immediately.

(2) The floors of the work areas in any structures required by §113.44(1) of this title (relating to Fugitive Emissions from Lead Processes) or by §113.45(1) of this title (relating to Battery or Lead Reclaiming Operations) shall be cleaned at least once every week that the plant is in operation.

(3) Floors in the work areas regulated by §113.45(1) of this title shall be kept wet to minimize air emissions of materials containing lead.

(4) The motors of any blowers or fans needed to maintain the airflow required by §113.44(1) of this title:

(A) shall automatically restart following power interruptions of less than 20 seconds, and

(B) shall be on a circuit or circuits that are separate from those serving the rest of the plant so that problems with process equipment do not interrupt electrical service to air pollution control equipment.

(5) No visible emissions shall result from the use of roads except for visible emissions from the street cleaning equipment during the cleaning process.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

ALTERNATE CONTROLS

The new rules are 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.

§113.51. Alternate Means of Control in El Paso County.

Any person affected by any emission control requirement of the undesignated head concerning Nonferrous Smelters in El Paso County of this subchapter (relating to Lead from Stationary Sources) may request the executive director to approve an alternate means of control of the source affected by the specific control requirement. The executive director shall approve such alternate means of control if the applicant demonstrates that the alternate control will yield emission reductions for the same air contaminant that are at least equivalent to the emission reductions that would otherwise be required in terms of their quantity and their impact on air quality, including health and welfare effects.

§113.52. Alternate Emission Reductions in El Paso County.

The executive director shall not approve, pursuant to §101.23 of this title (relating to Alternate Emission Reduction (“Bubble”) Policy) controls in lieu of those required by the provisions of

§§113.31-113.37 of this subchapter (relating to Nonferrous Smelters in El Paso County) if such proposed alternate controls were implemented prior to the effective date of §§113.31-113.37.

§113.53. Alternate Means of Control in Dallas County.

Any person affected by any emission control requirement of the undesignated head concerning Lead Smelters in Dallas County of this subchapter (relating to Lead from Stationary Sources) may request the executive director to approve an alternate means of control of the source affected by the specific control requirement. The executive director shall approve such alternate means of control if the applicant demonstrates that the alternate control will yield emission reductions for the same air contaminant that are at least equivalent to the emission reductions that would otherwise be required in terms of their quantity and their impact on air quality including health and welfare effects.

§113.54. Alternate Emission Reductions in Dallas County.

The executive director shall not approve, pursuant to §101.23 of this title (relating to Alternate Emission Reduction (“Bubble”) Policy), controls in lieu of those required by the provisions of §§113.41-113.48 of this subchapter (relating to Lead Smelters in Dallas County) if such proposed alternate controls were implemented prior to the effective date of §§113.41-113.48 of this subchapter.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

COMPLIANCE AND CONTROL PLAN REQUIREMENTS

The new rules are 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.

§113.61. Compliance with Other Rules in El Paso County.

The rules in this subchapter (relating to lead from Stationary Sources) apply independently to affected persons in El Paso County. They do not supersede any other regulatory requirements. If more than one requirement applies, the stricter requirement must be met.

§113.62. Dates for Control Plan Submission and for Final Compliance in El Paso County.

Any person affected by the requirements of this undesignated head relating to Nonferrous Smelters in El Paso County and whose facility was in existence on or before the effective date of this section should already be in compliance with the applicable sections or paragraphs. Any person affected by the requirements of the undesignated head relating to Nonferrous Smelters in El Paso County and whose facility was not in existence on or before the effective date of this section shall submit a control plan to the executive director and shall be in compliance with the applicable sections or

paragraphs no later than the date specified by the executive director. All affected persons shall remain in continuous compliance with the applicable sections or paragraphs.

§113.63. Control Plan Procedure in El Paso County.

A control plan for compliance with the requirements of this subchapter (relating to Lead from Stationary Sources) shall be submitted to the executive director detailing the compliance status of all emissions controls required by this subchapter and describing in detail the method to be followed to achieve and maintain compliance. The plan shall specify the exact dates by which specific steps will be taken to achieve compliance. The plan shall include all the following:

(1) The dates by which contracts for emission control systems or process modifications will be awarded, or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) The date of initiation of on-site construction or installation of emission control equipment or of process change;

(3) The date by which process modification or on-site construction or installation of emission control equipment is to be completed;

(4) The date by which final compliance is to be achieved.

§113.64. Reporting Procedure in El Paso County.

After a control plan for compliance with the requirements of this subchapter (relating to Lead from Stationary Sources) has been submitted to the executive director, progress reports shall be submitted every 90 days for all control plans specified in §113.63 of this title (relating to Control Plan Procedure in El Paso County). The executive director shall also be notified of the completion of each separate step in the control plan within five days after completion. All reports and notifications shall be submitted in writing by the person submitting the compliance control plan.

§113.65. Compliance with Other Rules in Dallas County.

The rules in this subchapter (relating to Lead from Stationary Sources) apply independently to affected persons in Dallas County. They do not supersede any other regulatory requirements. If more than one requirement applies, the stricter requirement shall be met.

§113.66. Dates for Control Plan Submission and for Final Compliance in Dallas County.

Any person affected by the requirements of the undesignated head relating to Lead Smelters in Dallas County and whose facility was in existence on or before the effective date of this section should already be in compliance with the applicable sections or paragraphs. Any person affected by the requirements of the undesignated head relating to Lead Smelters in Dallas County and whose facility was not in existence on or before the effective date of this section shall submit a control plan to the

executive director and shall be in compliance with the applicable sections or paragraphs no later than the date specified by the executive director. All affected persons shall remain in continuous compliance with the applicable sections or paragraphs.

§113.67. Control Plan Procedure in Dallas County.

A control plan for compliance with the requirements of this subchapter (relating to Lead from Stationary Sources) shall be submitted to the executive director detailing the compliance status of all emission controls required by this subchapter and describing in detail the method to be followed to achieve and maintain compliance. The plan shall specify the exact dates by which specific steps will be taken to achieve compliance. The plan shall include all the following:

(1) The dates by which contracts for emission control systems or process modifications will be awarded, or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) The date of initiation of on-site construction or installation of emission control equipment or of process change;

(3) The date by which process modification or on-site construction or installation of emission control equipment is to be completed; and

- (4) The date by which final compliance is to be achieved.

§113.68. Reporting Procedure in Dallas County.

After a control plan for compliance with the requirements of this subchapter (relating to Lead from Stationary Sources) has been submitted to the executive director, progress reports shall be submitted every 90 days for all control plans specified in §113.67 of this title (relating to Control Plan Procedure in Dallas County). The executive director shall also be notified of the completion of each separate step in the control plan within five days after completion. All reports and notifications shall be submitted in writing by the person submitting the compliance control plan.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER C : NATIONAL EMISSION STANDARDS
FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)

GENERAL PROVISIONS

The new rules are 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.

§113.100. General Provisions (40 CFR 63, Subpart A).

The General Provisions for the National Emission Standards for Hazardous Air Pollutants for Source Categories as specified in 40 CFR 63, Subpart A, as amended through December 15, 1995, are incorporated by reference with the following exceptions:

(1) The language of §63.5(e)(2)(i) is amended to read as follows: The executive director will notify the owner or operator in writing of approval or intention to deny approval of construction or reconstruction within 180 calendar days after receipt of sufficient information to evaluate an application submitted under paragraph (d) of this section. The 180 day approval or denial period will begin after the owner or operator has been notified in writing that his/her application is complete. The executive director will notify the owner or operator in writing of the status of his/her

application, that is, whether the application contains sufficient information to make a determination, within 90 calendar days after receipt of the original application and within 60 calendar days after receipt of any supplementary information that is submitted.

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

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

within 30 calendar days after receipt of the original application and within 30 calendar days after receipt of any supplementary information that is submitted.

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

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

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

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

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

HAZARDOUS ORGANIC NESHAP

The new rules are 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.

§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 CFR 63, Subpart F, as amended through June 20, 1996 is incorporated by reference.

§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 CFR 63, Subpart G, as amended through February 29, 1996, is incorporated by reference.

§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 CFR 63, Subpart H, as amended through January 1, 1996, is incorporated by reference.

§113.140. Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (40 CFR 63, Subpart I).

The Certain Processes Subject to the Negotiated Regulations for Equipment Leaks Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart I, as amended through January 17, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

INDUSTRIAL PROCESS COOLING TOWERS

The new rule 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.

§113.220. Industrial Process Cooling Towers (40 CFR 63, Subpart Q).

The Industrial Process Cooling Towers Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart Q, September 8, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

GASOLINE DISTRIBUTION FACILITIES

The new rule 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.

§113.230. Gasoline Distribution Facilities (40 CFR 63, Subpart R).

The Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart R, as amended through February 28, 1997, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

HALOGENATED SOLVENT CLEANING

The new rule 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.

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

The Halogenated Solvent Cleaning Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart T, as amended through June 6, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

SECONDARY LEAD SMELTING

The new rule 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.

§113.290. Secondary Lead Smelting (40 CFR 63, Subpart X).

The Secondary Lead Smelting Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart X, as amended through December 12, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

MARINE VESSEL LOADING

The new rule 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.

§113.300. Marine Vessel Loading (40 CFR 63, Subpart Y).

The Marine Vessel Loading Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart Y, September 19, 1995, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

**SUBCHAPTER C : NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES
(FCAA §112, 40 CFR 63)**

MAGNETIC TAPE MANUFACTURING OPERATIONS

The new rule 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.

§113.360. Magnetic Tape Manufacturing Operations (40 CFR 63, Subpart EE).

The Magnetic Tape Manufacturing Operations Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart EE, September 15, 1994, is incorporated by reference.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

NONFERROUS SMELTERS IN EL PASO COUNTY

The repeals are 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.

§113.41. Maintenance and Operation of Control Equipment.

§113.42. Areas Accessible to the General Public.

§113.43. Control of Fugitive Dust.

§113.51. Materials Handling and Transfer.

§113.52. Smelting of Lead.

§113.53. Smelting of Copper and Zinc.

§113.71. Lead Emissions Limits for Stacks.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

LEAD SMELTERS IN DALLAS COUNTY

The repeals are 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.

§113.81. Maintenance and Operation of Control Equipment.

§113.83. Storage of Lead-Containing Materials.

§113.84. Transport of Materials.

§113.85. Fugitive Emissions from Lead Processes.

§113.87. Battery or Lead Reclaiming Operations.

§113.88. Lead Emission Limits for Reverberatory Furnaces and Blast Furnaces

§113.91. Control of Fugitive Dust.

§113.92. Additional Measures to Reduce Lead Emissions.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

ALTERNATE CONTROLS

The repeals are 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.

§113.111. Alternate Means of Control in El Paso County.

§113.112. Alternate Emission Reductions in El Paso County.

§113.113. Alternate Means of Control in Dallas County.

§113.114. Alternate Emission Reductions in Dallas County.

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

Issued in Austin, Texas, on June 25, 1997.

SUBCHAPTER B : LEAD FROM STATIONARY SOURCES

COMPLIANCE AND CONTROL PLAN REQUIREMENTS

The repeals are 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.

§113.121. Compliance with Other Rules in El Paso County.

§113.122. Dates for Control Plan Submission and for Final Compliance in El Paso County.

§113.123. Control Plan Procedure in El Paso County.

§113.124. Reporting Procedure in El Paso County.

§113.125. Compliance with Other Rules in Dallas County.

§113.126. Dates for Control Plan Submission and for Final Compliance in Dallas County.

§113.127. Control Plan Procedure in Dallas County.

§113.128. Reporting Procedure in Dallas County.

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

Issued in Austin, Texas, on June 25, 1997.