

The commission adopts new Subchapter C, §§113.180, 113.190, 113.200, 113.280, 113.340, and 113.380, concerning National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. These requirements are contained in 40 Code of Federal Regulations (CFR) Part 63. The United States Environmental Protection Agency (EPA) is developing these national standards to regulate emissions of hazardous air pollutants under the Federal Clean Air Act (FCAA) Amendments, Section 112. These NESHAPs for source categories are technology based standards and commonly referred to as Maximum Achievable Control Technology (MACT) Standards. These rules are adopted without changes to the proposed text as published in the July 22, 1997, issue of the *Texas Register* (22 TexReg 6834) and will not be republished.

EXPLANATION OF ADOPTED RULES

The commission adopts by reference, without changes, six of the federal MACT Standards. These rules are being adopted by the commission in order to relieve industry of the burden of duplicative and/or conflicting federal and state regulations that may address related emissions control, reporting, recordkeeping, monitoring, and testing requirements. Under federal law, the affected industries will be required to implement these MACT standards regardless of whether the commission or the EPA is the agency responsible for implementation of the standards. With delegation, the commission will be responsible for administration and enforcement of the MACT requirements.

These six federal rules, each of which are under their own undesignated head of the same name, are Perchloroethylene Dry Cleaning Facilities, 40 CFR 63, Subpart M; Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 CFR 63, Subpart N; Ethylene Oxide Sterilization Facilities, 40 CFR 63, Subpart O; Epoxy Resins Production and Non-

Nylon Polyamides Production, 40 CFR 63, Subpart W; Petroleum Refineries, 40 CFR 63, Subpart CC, and Aerospace Manufacturing and Rework Facilities, 40 CFR 63, Subpart GG. The commission is seeking formal delegation from the EPA, for these six rules, under 40 CFR 63, Subpart E, which implements the FCAA Amendments, Section 112(l).

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 and request formal delegation from the EPA. 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.

There may be overlapping requirements between these federal rules and existing state rules for the control of volatile organic compound (VOC) emissions contained in 30 TAC Chapter 115. The commission anticipates that the VOC reduction rules will be modified due to EPA revisions to 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 will be in conjunction with future revisions to Chapter 115 required for implementation of the new NAAQS.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to facilitate implementation and enforcement of the MACT standards by the state

and to prevent any duplicate requirements. While the MACT standards will result in a significant expense to the regulated industries, they do not constitute a taking of private real property.

Additionally, the exemptions in Senate Bill 14 allow for the promulgation of rules mandated by federal actions.

COASTAL MANAGEMENT PLAN

The commission has determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resource Code, §§33.201 et. seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that this action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at 40 CFR, to protect and enhance air quality in the coastal area, (31 TAC §501.14(q)). This rulemaking will adopt by reference, without changes, six federal MACT standards contained in 40 CFR Part 63, and is therefore consistent with this policy.

HEARING AND COMMENTERS

A public hearing was held in Austin on August 14, 1997. The comment period closed August 21, 1997. No oral comments were received at the public hearing. One written comment was received from the Southwest Drycleaners Association, in favor of the adoption.

The commission appreciates the support.

STATUTORY AUTHORITY

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

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

PERCHLOROETHYLENE DRY CLEANING FACILITIES

§113.180. Perchloroethylene Dry Cleaning Facilities (40 CFR 63, Subpart M).

The Perchloroethylene Dry Cleaning Facilities Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart M, as amended through September 19, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.

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

**CHROMIUM EMISSIONS FROM HARD AND DECORATIVE CHROMIUM
ELECTROPLATING AND CHROMIUM ANODIZING TANKS**

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

**§113.190. Chromium Emissions from Hard and Decorative Chromium Electroplating and
Chromium Anodizing Tanks (40 CFR 63, Subpart N).**

The Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart N, as amended through January 30, 1997, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.

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

ETHYLENE OXIDE STERILIZATION FACILITIES

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

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

The Ethylene Oxide Sterilization Facilities Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart O, as amended through June 3, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.

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

EPOXY RESINS PRODUCTION AND NON-NYLON POLYAMIDES PRODUCTION

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 CFR 63, Subpart W, as amended through March 8, 1995, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.

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

PETROLEUM REFINERIES

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§113.340. Petroleum Refineries (40 CFR 63, Subpart CC).

The Petroleum Refinery Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart CC, as amended through February 21, 1997, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.

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

AEROSPACE MANUFACTURING AND REWORK FACILITIES

The new rule is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.011, which provides the commission the authority to establish the level of quality to be maintained in the state's air; §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. This rule is being adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 CFR 63, Subpart GG, as amended through December 17, 1996, is incorporated by reference.

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

Issued in Austin, Texas, on October 15, 1997.