

The commission proposes 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 of 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.

#### **EXPLANATION OF PROPOSED RULES**

The commission proposes to adopt 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 will be 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. 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 then 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.

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 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. The commission invites comment on this proposal and suggested solutions from the public and the regulated community.

#### **FISCAL NOTE**

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as proposed are in effect, there will be no significant fiscal implications for state or local government as a result of administration or enforcement of the sections. Enforcement of these federal standards will result in some increased workload for commission staff, particularly in the compliance inspection of affected facilities. These increases are not anticipated to significantly increase the number of facilities currently inspected and are anticipated to be managed within existing budgeted resources and appropriated levels of funds from the state Clean Air Fund.

### **PUBLIC BENEFIT**

Mr. Minick has also determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated from enforcement of and compliance with these sections will be a reduction in the emission of hazardous air pollutants, increased consistency between federal and state air quality regulations, and more cost effective implementation and enforcement of air quality standards. The economic impact of complying with the standards as they are promulgated will vary for each standard and for each industry subject to the standards; however, no additional economic impact to affected owners and operators is anticipated due to the state's adoption of the federal requirements or the delegation of enforcement to the state. There are no additional anticipated economic costs to persons or small businesses required to comply with the sections as proposed.

### **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. 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 PLAN**

The commission has determined that the proposed 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 proposed action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that the proposed 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 Title 40, Code of Federal Regulations, to protect and enhance air quality in the coastal area, (31 TAC §501.14(q)). This proposal will adopt by reference, without changes, six federal MACT standards contained in 40 CFR Part 63, and is therefore consistent with this policy. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

#### **PUBLIC HEARING**

A public hearing on this proposal will be held in Austin on August 14, 1997 at 10:30 a.m. in Building F, Room 2210 of the commission's central office, located at 12100 North IH-35, Park 35 Technical Center, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

### **SUBMITTAL OF COMMENTS**

Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 97125-113-AI. Comments must be received by 5:00 p.m., August 21, 1997. For further information or questions concerning this proposal, contact Ann Hammer, Office of Policy and Regulatory Development, (512) 239-6255.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

### **STATUTORY AUTHORITY**

The new rules are proposed 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.

These rules are being proposed to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(I).

**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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 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 rules are proposed 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.

These rules are being proposed to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(I).

**§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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 1997.

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

**ETHYLENE OXIDE STERILIZATION FACILITIES**

The new rules are proposed 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.

These rules are being proposed 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 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 rules are proposed 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.

These rules are being proposed 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 1997.

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

**(FCAA §112, 40 CFR 63)**

**PETROLEUM REFINERIES**

The new rules are proposed 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.

These rules are being proposed 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 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 rules are proposed 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.

These rules are being proposed 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 9, 1997.