

The commission adopts amendments to §§113.100, 113.110, 113.120, 113.130, 113.140, 113.190, 113.220, 113.230, 113.250, 113.290, 113.360, and 113.380, and new §§113.260, 113.350, 113.400, 113.420, and 113.670, concerning National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. These rules are adopted without changes to the proposed text as published in the July 17, 1998, issue of the *Texas Register* (23 TexReg 7355).

The amendments incorporate changes that the United States Environmental Protection Agency (EPA) has made to Maximum Achievable Control Technology (MACT) standards by updating the federal promulgation dates cited in the commission rules that were previously adopted by reference. Sections 113.100, 113.110, 113.120, 113.130, 113.140, 113.230, 113.250, and 113.290 were adopted by the commission on June 25, 1997. Section 113.190 and §113.380 were adopted by the commission on October 15, 1997. In addition, the amendments correct the federal promulgation dates for §113.220 and §113.360, which contained incorrect dates as adopted.

The new sections concern requirements that are contained in 40 Code of Federal Regulations (CFR) Part 63. EPA is developing these national standards to regulate emissions of hazardous air pollutants under the Federal Clean Air Act (FCAA) Amendments, §112. These NESHAPs for source categories are technology-based standards and are commonly referred to as MACT Standards.

EXPLANATION OF ADOPTED RULES

The commission adopts by reference, without changes, five of the federal MACT Standards. 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. With delegation, the commission will be responsible for administration and enforcement of the MACT requirements.

These five federal rules, each of which are under their own division of the same name, are Group I Polymers and Resins, 40 CFR 63, Subpart U; Offsite Waste and Recovery Operations, 40 CFR 63, Subpart DD; Shipbuilding and Ship Repair (Surface Coating), 40 CFR 63, Subpart II; Printing and Publishing, 40 CFR 63, Subpart KK; and Group IV Polymers and Resins, 40 CFR 63, Subpart JJJ. 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, §112(l).

FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed this rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a major environmental rule as defined in the Code. This rulemaking does not establish any new requirements beyond those already established by federal law. Affected sources are required to comply with these federal standards whether or not the commission adopts them.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this rulemaking 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. This rulemaking 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.

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, commission 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, federal MACT standards contained in 40 CFR Part 63, and is therefore consistent with this policy.

PUBLIC HEARING

A public hearing was held in Austin on August 13, 1998. No oral comments were received at this hearing. No written comments were received during the comment period, which closed August 17, 1998.

STATUTORY AUTHORITY

The amendment 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. These amendments and new rules are 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)

DIVISION 1: GENERAL PROVISIONS

§113.100

§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 May 4, 1998, are incorporated by reference with the following exceptions:

(1) - (7) (No change.)

DIVISION 2: HAZARDOUS ORGANIC NESHAP

§§113.110, 113.120, 113.130, 113.140

STATUTORY AUTHORITY

These amendments are 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. These amendments are adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 May 12, 1998 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 January 17, 1997, 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 17, 1997, 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, 1997, is incorporated by reference.

**DIVISION 4: CHROMIUM EMISSIONS FROM HARD AND DECORATIVE CHROMIUM
ELECTROPLATING AND CHROMIUM ANODIZING TANKS**

§113.190

STATUTORY AUTHORITY

This amendment 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 amendment is 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 August 11, 1997, is incorporated by reference.

DIVISION 6: INDUSTRIAL PROCESS COOLING TOWERS

§113.220

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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, 1994, is incorporated by reference.

DIVISION 7: GASOLINE DISTRIBUTION FACILITIES

§113.230

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 January 16, 1998, is incorporated by reference.

DIVISION 8: HALOGENATED SOLVENT CLEANING

§113.250

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 May 5, 1998, is incorporated by reference.

DIVISION 9: GROUP I POLYMERS AND RESINS

§113.260

STATUTORY AUTHORITY

This 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 CFR 63, Subpart U, as amended through July 15, 1997, is incorporated by reference.

DIVISION 11: SECONDARY LEAD SMELTING

§113.290

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 June 13, 1997, is incorporated by reference.

DIVISION 14: OFFSITE WASTE AND RECOVERY OPERATIONS

§113.350

STATUTORY AUTHORITY

This 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§113.350. Offsite Waste and Recovery Operations (40 CFR 63, Subpart DD).

The Offsite Waste and Recovery Operations Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart DD, as amended through July 1, 1996, is incorporated by reference.

DIVISION 15: MAGNETIC TAPE MANUFACTURING OPERATIONS

§113.360

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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, December 15, 1994, is incorporated by reference.

DIVISION 16: AEROSPACE MANUFACTURING AND REWORK FACILITIES

§113.380

STATUTORY AUTHORITY

This amendment 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 amendment is adopted to obtain delegation from the 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 March 27, 1998, is incorporated by reference.

DIVISION 17: SHIPBUILDING AND SHIP REPAIR (SURFACE COATING)

§113.400

STATUTORY AUTHORITY

This 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

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

DIVISION 18: PRINTING AND PUBLISHING

§113.420

STATUTORY AUTHORITY

This 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§113.420. Printing and Publishing (40 CFR 63, Subpart KK).

The Printing and Publishing Maximum Achievable Control Technology standard as specified in 40 CFR 63, Subpart KK, as amended through May 30, 1996, is incorporated by reference.

DIVISION 19: GROUP IV POLYMERS AND RESINS

§113.670

STATUTORY AUTHORITY

This 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 amendment is adopted to obtain delegation from EPA under 40 CFR 63, Subpart E, which implements the FCAA Amendments, §112(l).

§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 CFR 63, Subpart JJJ, as amended through March 31, 1998, is incorporated by reference.