

The commission proposes 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.

The proposed 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 commission proposes to correct the federal promulgation dates for §113.220 and §113.360, which contained incorrect dates as adopted.

The proposed new sections concern requirements that 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 Federal Clean Air Act (FCAA) Amendments, §112. These NESHAPs for source categories are technology based standards and commonly referred to as MACT Standards.

#### EXPLANATION OF PROPOSED RULES

The commission proposes to adopt 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 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 five federal rules, each of which will be 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).

#### FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period 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.

#### DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed 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 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.

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 the EPA is the agency responsible for implementation of the standards.

#### 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, commission 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, five 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 13, 1998 at 10:00 a.m. in Building F, Room 5108 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 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 98014-113-AI. Comments must be received by 5:00 p.m., August 17, 1998. 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 amendment is 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.

The amendment is being proposed 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)**

**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 [December 15, 1995], are incorporated by reference with the following exceptions:

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

## **2. HAZARDOUS ORGANIC NESHAP**

### **§§113.110, 113.120, 113.130, 113.140**

These amendments 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 amendments are being proposed 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 [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 January 17, 1997 [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 17, 1997 [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, 1997 [January 17, 1996], is incorporated by reference.

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

This amendment is 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.

This amendment is being proposed 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 [January 30, 1997], is incorporated by reference.

## 6. INDUSTRIAL PROCESS COOLING TOWERS

This amendment is 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.

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

### **§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 [1996], is incorporated by reference.

## 7. GASOLINE DISTRIBUTION FACILITIES

This amendment is 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.

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

### **§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 [February 28, 1997], is incorporated by reference.

## **8. HALOGENATED SOLVENT CLEANING**

This amendment is 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.

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

### **§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 [June 6, 1996], is incorporated by reference.

## 9. GROUP I POLYMERS AND RESINS

The new rule is 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.

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

### **§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.

## 11. SECONDARY LEAD SMELTING

This amendment is 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.

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

### **§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 [December 12, 1996], is incorporated by reference.

#### 14. OFFSITE WASTE AND RECOVERY OPERATIONS

The new rule is 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.

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

##### **§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.

## 15. MAGNETIC TAPE MANUFACTURING OPERATIONS

This amendment is 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.

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

### **§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 [September] 15, 1994, is incorporated by reference.

## **16. AEROSPACE MANUFACTURING AND REWORK FACILITIES**

This amendment is 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.

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

### **§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 [December 17, 1996], is incorporated by reference.

### **17. SHIPBUILDING AND SHIP REPAIR (SURFACE COATING)**

The new rule is 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.

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

#### **§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.

## 18. PRINTING AND PUBLISHING

The new rule is 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.

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

### **§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.

## 19. GROUP IV POLYMERS AND RESINS

The new rule is 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.

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

### **§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.