

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** March 7, 2016

Thru: Richard A. Hyde, P.E., Executive Director

Thru: Steve Hagle, P.E., Deputy Director
Office of Air

From: Michael Wilson, P.E., Division Director
Air Permits Division

Subject: Rulemaking Draft Concept and Initiation Memo
Chapter 113, Standards of Performance for Hazardous Air Pollutants and
for Designated Facilities and Pollutants

Suggested short title: Maximum Achievable Control Technology (MACT) and Generally Available Control Technology (GACT) Standards Update

Introduction and reason(s) for the rulemaking:

The TCEQ administers federal regulations establishing National Emission Standards for Hazardous Air Pollutants by incorporating these regulations by reference into Chapter 113, Subchapter C. The United States Environmental Protection Agency (EPA) has amended a number of MACT and GACT standards since Chapter 113 was last amended in 2013. Most of the standards covered in this rulemaking were amended by the EPA as a result of Federal Clean Air Act requirements that the EPA periodically conduct risk assessments on each source category and determine if changes are needed to reduce residual risks or address developments in applicable control technology. Some standards were revised by EPA in order to remove affirmative defense provisions which were vacated in *Natural Resources Defense Council v. Environmental Protection Agency*, No. 10-1371 (D.C. Cir. April 18, 2014). In addition, EPA finalized new standards for brick and clay manufacturing to replace the 2003 standards vacated in *Sierra Club v. Environmental Protection Agency*, No. 03-1202 (D.C. Cir. March 13, 2007).

The amended and new standards need to be incorporated by reference into Chapter 113, Subchapter C in order to avoid inconsistency between federal and state requirements; to allow the commission to enforce the most current MACT and GACT standards prior to receiving formal delegation of the amended standards; to facilitate delegation of the amended MACT standards from the EPA; and to maintain existing delegation. Similar updates and amendments to Chapter 113 were adopted in 2013, 2007, 2005, 2003, 2000, 1999, 1998, and 1997.

Scope of the proposed rule:

Since Chapter 113 was last updated, the EPA has promulgated amendments to 35 MACT or GACT standards. A table showing the amended and new standards which are expected

Re: Rulemaking Draft Concept and Initiation Memo

to be covered in this rulemaking is attached. This rule package would incorporate the amended MACT or GACT standards by reference into Chapter 113, Subchapter C.

Potential controversial concerns and legislative interest:

Staff does not expect controversy related to the revisions to Chapter 113. The commission received no oral or written public comments during the incorporation of MACT and GACT standards in 2007 and 2013.

Potential alternatives:

The alternative is to not revise Chapter 113 to incorporate the amendments to the MACT and GACT standards. However, if this rulemaking is not completed, the TCEQ will not receive formal delegation of the amended standards, and the EPA will be the implementing authority for those regulations. Furthermore, failure to incorporate the amended standards may create potential issues with approval of Texas' Title V Operating Permit Program. Regardless of whether TCEQ incorporates these regulations by reference into Chapter 113, affected facilities are required to comply.

Effect on the:

A) Regulated community: Many industries are subject to MACT or GACT standards. However, the proposed changes to Chapter 113 do not impose an additional burden on those industries because they are required to comply with the standards regardless of whether the commission or the EPA is the implementing authority. Sources that are subject to the new sections of Chapter 113 and have a Title V operating permit will need to revise their permit to include the applicable rule citations.

B) Public: This rulemaking will allow Texas to enforce the most current MACT and GACT standards, resulting in greater compliance and continued protection of human health and the environment.

C) Agency programs: The Air Permits Division will need to incorporate some of the new and amended MACT and GACT standards into new and revised Title V operating permits.

Proposed schedule and constraints:

Proposal – July 6, 2016

Adoption – December 7, 2016

Planned stakeholder involvement:

These national standards apply to affected sources regardless of whether or not TCEQ incorporates them into Chapter 113. Additionally, this rulemaking is not expected to be controversial. Therefore, no stakeholder meetings are planned.

Statutory authority:

The amended and new sections would be proposed under Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.002, Policy and Purpose; §382.011, General Powers

New or Amended MACT/GACT Standards and Corresponding Chapter 113 Section

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
A (§113.100)	General Provisions
G (§113.120)	Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
N (§113.190)	Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
O (§113.200)	Ethylene Oxide Emissions Standards for Sterilization Facilities
X (§113.290)	Secondary Lead Smelting
Y (§113.300)	Marine Vessel Loading
AA (§113.320)	Phosphoric Acid Manufacturing Plants
BB (§113.330)	Phosphate Fertilizers Production Plants
CC (§113.340)	Petroleum Refineries
DD (§113.350)	Off-Site Waste and Recovery Operations
GG (§113.380)	Aerospace Manufacturing and Rework Facilities
LL (§113.430)	Primary Aluminum Reduction Plants
NN (§113.450)	Wool Fiberglass Manufacturing at Area Sources
YY (§113.560)	Generic Maximum Achievable Control Technology Standards
DDD (§113.610)	Mineral Wool Production
GGG (§113.640)	Pharmaceuticals Production
III (§113.660)	Flexible Polyurethane Foam Production
JJJ (§113.670)	Group IV Polymers and Resins
LLL (§113.690)	Portland Cement Manufacturing Industry
MMM (§113.700)	Pesticide Active Ingredient Production
NNN (§113.710)	Wool Fiberglass Manufacturing
OOO (§113.720)	Manufacture of Amino/Phenolic Resins
PPP (§113.730)	Polyether Polyols Production
RRR (§113.750)	Secondary Aluminum Production
UUU (§113.780)	Petroleum Refineries: Catalytic Cracking Units, Reforming Units, and Sulfur Recovery Units
XXX (§113.810)	Ferroalloys Production: Ferromanganese and Silicomanganese
CCCC (§113.860)	Manufacturing of Nutritional Yeast
UUUU (§113.1040)	Cellulose Products Manufacturing
ZZZZ (§113.1090)	Reciprocating Internal Combustion Engines

Commissioners

Page 5

March 7, 2016

Re: Rulemaking Draft Concept and Initiation Memo

40 CFR Part 63 Subpart (Chapter 113 Section)	Section Title
DDDDD (§113.1130)	Industrial, Commercial, and Institutional Boilers and Process Heaters Major Sources
JJJJJ (§113.1190)	Brick and Structural Clay Products Manufacturing
KKKKK (§113.1200)	Clay Ceramics Manufacturing
UUUUU (§113.1300)	Coal- and Oil-Fired Electric Utility Steam Generating Units
DDDDDD (§113.1390)	Polyvinyl Chloride and Copolymers Production Area Sources
HHHHHHH (§113.1555)	Polyvinyl Chloride and Copolymers Production Major Sources