REVISED 12/16

# Regulatory Analysis Form

(Completed by Promulgating Agency)

**(All Comments submitted on this regulation will appear on IRRC's website)**

***INDEPENDENT REGULATORY REVIEW COMMISSION***

**(1) Agency:**
Environmental Protection

**(2) Agency Number:** 7

Identification Number: 568

IRRC Number: 3329

**(3) PA Code Cite:** 25 Pa. Code Chapters 121 and 129

**(4) Short Title:** VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coatings, Synthetic Organic Chemical Manufacturing Industry Processes and Large Petroleum Dry Cleaners for the 2015 Ozone NAAQS; and General Provisions

**(5) Agency Contacts (List Telephone Number and Email Address):**

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**(6) Type of Rulemaking (check applicable box):**

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation
  - ☐ Certification by the Governor
  - ☐ Certification by the Attorney General

**(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)**

This final-form rulemaking amends Chapters 121 and 129 (relating to general provisions; and standards for sources) to establish presumptive volatile organic compound (VOC) reasonably available control technology (RACT) requirements and RACT emission limitations for shipbuilding and ship repair facility surface coating operations, synthetic organic chemical manufacturing industry (SOCMI) processes and large petroleum dry cleaning facilities, and adds definitions to § 121.1 (relating to definitions) to support the final-form amendments to Chapter 129. These final-form amendments are designed to implement requirements of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q) and to address the 2015 ozone National Ambient Air Quality Standards (NAAQS) in this Commonwealth.

**(8) State the statutory authority for the regulation. Include specific statutory citation.**

This final-form rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants the Environmental Quality Board (Board) the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth; and section 5(a)(8) of the APCA (35 P.S. § 4005(a)(8)), which grants the Board the authority to adopt rules and regulations designed to implement the provisions of the CAA.

**(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as any deadlines for action.**

*Federal mandates*

Yes. State RACT regulations to control VOC emissions from existing shipbuilding and ship repair surface coating operations, large petroleum dry cleaning facilities and SOCMI processes are required under Federal law. The State RACT regulations will be reviewed and approved by the Administrator of the United States Environmental Protection Agency (EPA) as revisions to the Commonwealth's State Implementation Plan (SIP) if the provisions satisfy the RACT requirements of the CAA and its implementing regulations. See *State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines)*, 44 FR 53761 (September 17, 1979). The EPA defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." Ibid, 53762.

In accordance with sections 110(a), 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7410(a), 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), this final-form rulemaking establishes presumptive VOC RACT standards, emission limitations and other requirements consistent with the EPA's recommendations in these Control Techniques Guidelines (CTGs): "Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities," EPA-453/R-94-032, April 1994 (1994 SB ACT) and the "CTG for the Control of VOC emissions from Shipbuilding and Ship Repair Facilities," 61 FR 44050 (August 27, 1996) (1996 SB CTG); "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners," EPA-450/3-82-009, September 1982 (1982 LPDC CTG); "Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry," EPA-450/3-84-015, December 1984 (1984 SOCMI CTG); and "Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry," EPA-450/4-91-031, August 1993 (1993 SOCMI CTG).

This final-form rulemaking will be submitted to the EPA for approval as a revision to the Commonwealth's SIP following publication of this final-form rulemaking in the *Pennsylvania Bulletin*.

*Obligations under the CAA*:

Section 109(b) of the CAA (42 U.S.C.A. § 7409(b)) provides that the Administrator of the EPA must establish permissible ambient air limits, or NAAQS, for certain "criteria" air pollutants at levels that protect public health and welfare and the environment. The criteria air pollutants are commonly found throughout the United States and currently include six air pollutants: ground-level ozone, particle pollution (often referred to as particulate matter), carbon monoxide, sulfur dioxide, oxides of nitrogen ($NO_x$) (with nitrogen dioxide ($NO_2$) as the indicator) and lead. These air pollutants, when present in sufficient concentration in the ambient air, can cause harm to public health and welfare as well as animal and plant health and welfare and to the environment.

The EPA regulates these criteria air pollutants by developing human health-based or environmentally based criteria (science-based guidelines) for setting permissible ambient air levels. The standards designed to protect human health are called primary standards. Standards intended to protect the public welfare and the environment are called secondary standards. High concentrations of ground-level ozone and particle

pollution provide the most widespread health and welfare threats of the six criteria pollutants. The EPA set the ground-level ozone NAAQS in July 1997 at 0.08 part per million (ppm) averaged over 8 hours. The EPA lowered the 8-hour ground-level ozone NAAQS in March 2008 to 0.075 ppm and then again in October 2015 to 0.070 ppm. See 62 FR 38855 (July 18, 1997); 73 FR 16436 (March 27, 2008); and 80 FR 65292 (October 26, 2015).

Section 110(a) of the CAA provides that each State shall adopt and submit to the EPA a plan (a SIP) to implement measures to enforce the NAAQS or revision to the NAAQS promulgated under section 109(b) of the CAA. A SIP includes the regulatory programs, actions and commitments a State will carry out to implement its responsibilities under the CAA. Once approved by the EPA as a revision to the SIP, the regulatory program, action or commitment is legally enforceable under both Federal and State law.

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include "reasonably available control measures," including RACT, for sources of emissions of $NO_x$ and VOC.

Section 184(b)(1)(B) of the CAA provides that States in the Ozone Transport Region (OTR), including this Commonwealth, submit a SIP revision requiring the implementation of RACT for all sources of VOC emissions in the Commonwealth covered by a specific CTG and not just those sources located in designated nonattainment areas. See 40 CFR 51.1316. CTG documents provide information about a source category and recommendations of what the EPA considers to be RACT for the source category.

Section 182(b)(2) of the CAA provides that for moderate ozone nonattainment areas, States must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued by the EPA prior to the area's date of attainment as well as sources of VOC emissions covered by a CTG issued prior to November 15, 1990. A State must reevaluate its SIP-approved CTG-based VOC emission RACT requirements each time the EPA establishes a revised ozone NAAQS to determine if additional VOC emission control measures are needed for the State to attain and maintain the revised ozone NAAQS.

Section 183(e) of the CAA (42 U.S.C.A. § 7511b(e)) directs the EPA to list for regulation those categories of products that account for at least 80% of the VOC emissions from consumer and commercial products in ozone nonattainment areas. Section 183(e)(3)(C) of the CAA (42 U.S.C.A. § 7511b(e)(3)(C)) further provides that the EPA may issue a CTG document in place of a National regulation for a product category where the EPA determines that the CTG will be "substantially as effective as regulations" in controlling emissions of VOC in ozone nonattainment areas.

CTGs provide States with the EPA's recommendations of what constitutes RACT for the covered source categories. States can use the Federal recommendations provided in the CTGs to inform their own determination as to what constitutes RACT for VOC emissions from the covered source categories for an applicable ozone NAAQS. State air pollution control agencies may also implement other technically-sound approaches as RACT for the applicable ozone NAAQS that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

*Implementation Plans and Reasonable Progress Goals*:
The EPA's past implementation of regulations for revised NAAQS 8-hour ozone standards have required OTR States to submit RACT SIP revisions based on the timeframe provided in section 184 of the CAA as measured from the effective date of designations made for the revised NAAQS, rather than from November 15, 1990. This requirement was first codified in 40 CFR 51.916 (relating to the requirements for an Ozone Transport Region under the 8-hour NAAQS) for the 1997 8-hour ozone NAAQS, later codified for the 2008 8-hour ozone NAAQS in 40 CFR 51.1116 (relating to requirements for an Ozone

Transport Region) and most recently codified for the 2015 8-hour ozone NAAQS in 40 CFR 51.1316 (relating to requirements for an Ozone Transport Region). Under these provisions, States in the OTR are required to submit SIP revisions addressing the RACT requirements of section 184 of the CAA for the 2015 8-hour ozone NAAQS not later than 2 years after the effective date of designations for nonattainment areas for the revised 2015 8-hour ozone NAAQS or by August 3, 2020.

The Commonwealth is therefore required to develop regulations that implements VOC emission control measures consistent with the EPA RACT recommendations found in CTGs for specific VOC emission source categories and implement these RACT requirements Commonwealth-wide for subject sources in the covered categories; the Commonwealth is also required to submit this final-form rulemaking to the EPA for review and approval as a revision to the Commonwealth's SIP for attaining the 2015 8-hour ozone NAAQS and maintaining the 1997 and 2008 8-hour ozone NAAQS. If the EPA finds that a State has failed to submit an acceptable SIP revision or has failed to implement the requirements of an approved SIP revision within the timeframe specified under the CAA and its implementing rules, the State may be subject to sanctions under section 179 of the CAA (42 U.S.C.A. § 7509). Sanctions cannot be imposed until 18 months after the EPA makes the determination of failure to submit or implement, and sanctions cannot be imposed if a deficiency has been corrected within the 18-month period.

**(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.**

This final-form rulemaking is designed to implement presumptive RACT VOC emission control measures to satisfy the Commonwealth's CAA RACT obligations for the 2015 8-hour ozone NAAQS for the control of VOC emissions Commonwealth-wide from shipbuilding and ship repair surface coating operations; large petroleum dry cleaning facilities; and SOCMI air oxidation, distillation and reactor processes.

VOCs are precursors for the formation of ground-level ozone, a public health and welfare hazard. Ground-level ozone is not emitted directly by these processes but rather is formed by a photochemical reaction between VOCs and $NO_x$ in the presence of sunlight.

Exposure to high levels of ground-level ozone air pollution correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced. Over a long time-period, lung tissue may become permanently scarred, resulting in permanent loss of lung function and a lower quality of life. When concentrations of ground-level ozone are high, more people with asthma have attacks that require a doctor's attention or use of medication. High concentrations of ground-level ozone also make people more sensitive to allergens including pet dander, pollen and dust mites, all of which can trigger asthma attacks. The EPA has concluded that there is an association between high levels of ground-level ozone and increased hospital admissions for respiratory ailments including asthma. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ground-level ozone while engaged in activities that involve physical exertion. High levels of ground-level ozone also affect animals, including pets, livestock and wildlife, in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that ground-level ozone adversely affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields by destroying chlorophyll; reduced growth and survivability of tree seedlings; and increased plant susceptibility to disease, pests and other environmental stresses, including harsh

weather. In long-lived species, these effects may become evident only after several years or even decades and have the potential for long-term adverse impacts on forest ecosystems. Ground-level ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. These effects can have adverse impacts including loss of species diversity and changes to habitat quality and water and nutrient cycles. High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas.

Improved ambient concentrations of ground-level ozone will lead to better social well-being through improved human and animal health as well as increased growth and yields of agricultural crops and commercial forest products and increased survival of healthy ornamental trees and shrubs used in residential and business-park landscaping.

The EPA regulates ground-level ozone as a criteria air pollutant because of its widespread adverse health and environmental effects. Exposure to high concentrations of ground-level ozone is a serious human and animal health and welfare threat, causing respiratory illnesses and decreased lung function, agricultural crop loss, visible foliar injury to sensitive plant species and damage to forests, ecosystems and infrastructure. Implementation of the VOC emission control measures established in this final-form rulemaking will benefit the health and welfare of this Commonwealth's 12.80 million residents as well as the animals, crops, vegetation and natural areas by controlling VOC emissions and the formation of ground-level ozone air pollution in this Commonwealth. Ground-level ozone can also be transported downwind via regional air currents and meteorological events. Improvement of ground-level ozone air quality in this Commonwealth also benefits the residents and ecosystems of downwind States and downwind environments.

This final-form rulemaking will be part of the Commonwealth's SIP demonstration to fulfill the CAA RACT requirements for the 2015 8-hour ground-level ozone NAAQS. Implementation of the VOC emission control measures established in this final-form rulemaking is reasonably necessary to attain and maintain the health-based and welfare-based 2015 8-hour ozone NAAQS in this Commonwealth.

In addition to maintaining, at a minimum, the current levels of VOC emission reductions from these covered sources, the owners and operators of both existing and new sources of VOC for the subject source categories will benefit both administratively and through cost savings by not needing to have individual operating permit conditions incorporated into the Commonwealth's SIP as Federally enforceable control measures to ensure that the Commonwealth satisfies its CAA RACT obligations. This will make addressing operating permit changes and source modifications administratively more efficient and less costly for the owners and operators of the affected sources, whether existing or new. The ability to incorporate SIP-approved presumptive RACT requirements into an operating permit will also reduce the Department's administrative burden and costs for amending applicable operating permit conditions for affected facility owners and operators.

**(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.**

No. The CTGs provide the EPA's recommendations for VOC RACT for the three source categories that are subject to this final-form rulemaking. The control measures established in this final-form rulemaking are not more stringent than the recommendations of the EPA in the applicable CTG for each source category.

The owners and operators of all affected facilities in this Commonwealth are currently subject to other regulatory or operating permit conditions including Best Available Technology (BAT), New Source Performance Standards (NSPS) or Department-issued general operating permit requirements. Compliance with their existing regulatory or operating permit conditions will ensure that the affected owners and operators comply with the CTG-based VOC RACT standards, emission limitations and other requirements in this final-form rulemaking.

This final-form rulemaking is designed to adopt the standards and recommendations in the applicable CTGs to meet the requirements of sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA and the implementation rule for the 2015 ground-level ozone NAAQS. See 83 FR 62988 at 63036 (December 6, 2018). This final-form rulemaking applies VOC emission control standards and requirements that are consistent with the recommendations of the CTGs to the owners and operators of affected sources across this Commonwealth, as required under section 184(b)(1)(B) of the CAA. The VOC content and emission rate limitations and other requirements of this final-form rulemaking are not more stringent than the recommendations of the EPA in the applicable CTGs. The ground-level ozone air pollution control measures in this final-form rulemaking are reasonably necessary to attain and maintain the health-based and welfare-based ozone NAAQS in this Commonwealth and to satisfy related CAA requirements.

*Shipbuilding and ship repair surface coating operations*

The EPA issued a CTG with RACT recommendations for the control of VOC emissions from surface coating operations at shipbuilding and ship repair facilities in 1996 that relied on recommendations provided in the 1994 SB ACT. See 61 FR 44050. The final-form surface coating VOC content standards for the shipbuilding and ship repair surface coating operations are consistent with the recommendations in the applicable CTG. The final-form requirements are not more stringent than the CTG recommendations. The City of Philadelphia has a SIP-approved RACT regulation for shipbuilding and ship repair facilities and has one subject facility. Outside of the City of Philadelphia, there are currently only two facilities under the Department's jurisdiction in this Commonwealth to which the shipbuilding and ship repair surface coating requirements of this final-form rulemaking will apply. The owners and operators of both facilities under the Department's jurisdiction are currently subject to BAT requirements in their existing operating permits which satisfy the CTG RACT recommendations. The Department historically has addressed the RACT status of these two existing shipbuilding and ship repair facilities under the Department's jurisdiction by submitting the amended facility operating permits to the EPA for review and approval as revisions to the SIP. This creates a burden on the owners and operators of these facilities because each time the owner or operator wants to modify the facility for business reasons or needs to modify the facility to implement RACT requirements for a revised ozone NAAQS, the change in the operating permit must be submitted to the EPA as a revision to the SIP for that operating permit to demonstrate that RACT is still satisfied. The owner or operator of the facility bears the administrative burden and costs of advertising the change and conducting the required SIP public hearing and public comment period before the Department can submit the changes to the EPA for review and approval as a revision to the SIP. The Department will not need to continue submitting these individual operating permits and changes to these operating permits to the EPA as SIP revisions for the 2015 8-hour ozone standard if the EPA approves this final-form rulemaking as a revision to the Commonwealth's SIP to establish presumptive RACT requirements for the 2015 8-hour ozone NAAQS. The owners and operators of these facilities will no longer bear the administrative burden or incur the requisite costs of the changes to the operating permits to satisfy the CAA SIP RACT requirements if the owners and operators incorporate the SIP-approved regulatory RACT requirements into the applicable operating permits.

*Large Petroleum Dry Cleaning Operations*

The final-form requirements for the owners and operators of petroleum dry cleaning facilities are consistent with and not more stringent than the example regulation in Appendix E of the 1982 CTG for large petroleum dry cleaners. There are no large petroleum dry cleaning facilities in this Commonwealth. The Department historically has addressed the RACT status of the small petroleum dry cleaning facilities in this Commonwealth by submitting the facility operating permits to the EPA as revisions to the SIP. This creates an administrative and financial burden on the owners and operators of these facilities because each time the owner or operator wants to modify the facility for business reasons or needs to modify the facility to implement RACT requirements for a revised ozone NAAQS, the change in the operating permit must be submitted to the EPA as a revision to the SIP for that operating permit. The owner or operator of the facility bears the administrative burden and costs of advertising the change and conducting the required SIP public hearing and public comment period before the Department can submit the changes to the EPA for review and approval as a revision to the SIP. This final-form rulemaking will establish regulatory presumptive RACT limits for the owners and operators of large petroleum dry cleaning facilities that use 32,493 gallons or more of petroleum solvent annually that are consistent with the recommendations in the applicable CTG. The owners and operators of small petroleum dry cleaning facilities use less than 32,493 gallons of petroleum solvent annually will thus be exempt from having to meet the RACT VOC emission limitations and other requirements applicable to the owners and operators of large petroleum dry cleaning facilities. These owners and operators will only be subject to the recordkeeping and reporting requirements to demonstrate that their usage of petroleum solvent is below the usage threshold of 32,493 gallons per year. The owners and operators of these small petroleum dry cleaning facilities will no longer have to submit changes to their operating permits to the EPA as revisions to the SIP to comply with RACT requirements applicable to large petroleum dry cleaning facilities.

*SOCMI air oxidation unit processes, distillation operations and reactor processes*

This final-form rulemaking adopts by reference the NSPS requirements at 40 CFR Part 60, Subparts III, NNN and RRR, which pertain to standards of performance for VOC emissions from SOCMI air oxidation unit processes, distillation operations, and reactor processes and applies these requirements to all the chemicals in the SOCMI-related CTGs. The incorporation by reference of these existing NSPS requirements into this final-form rulemaking will apply these requirements to the owners and operators of subject SOCMI facilities and processes to implement RACT requirements consistent with the recommendations provided in the SOCMI CTGs. Chemical processes regulated under the referenced NSPS overlap with the chemical processes addressed by the SOCMI CTG RACT recommendations, but there are some differences in the chemical processes covered under each set of requirements. The Department addressed these differences by adding a table of chemicals to this final-form rulemaking that combines all the chemicals from the CTGs and from the NSPS rules. This final-form rulemaking incorporates the NSPS requirements by reference for all existing sources in this Commonwealth and for the chemical processes covered by the SOCMI CTGs. The owners and operators of the existing SOCMI facilities in this Commonwealth that will be subject to the final-form SOCMI CTG RACT requirements are currently subject to the Federal NSPS requirements, which are incorporated into their operating permits. Compliance with their existing operating permit conditions will ensure compliance with the final-form VOC RACT requirements. Thus, this final-form rulemaking does not appear to impact the owners or operators of existing SOCMI facilities in this Commonwealth beyond the operating permit requirements to which they are currently subject. Since BAT applies to owners and operators that construct and operate future facilities, the Department does not anticipate adverse impact from this final-form rulemaking on the owners and operators of future SOCMI facilities. BAT, over time, tends to be more stringent than NSPS requirements or CTG-based RACT recommendations, but cannot be less stringent.

Establishing presumptive RACT VOC emission requirements in this final-form rulemaking for the owners and operators of subject SOCMI facilities will benefit these facility owners and operators that incorporate these presumptive RACT conditions into their operating permits. Including these presumptive RACT requirements in the operating permit will eliminate the need for the affected facility owners and operators to submit individual case-by-case operating permits and amendments to individual case-by-case operating permits to the EPA with applicable RACT requirements for review and approval as revisions to the SIP to enable the Commonwealth to satisfy its CAA RACT obligations for these sources for the 2015 8-hour ozone NAAQS.

**(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?**

Under the CAA, SIP-approved RACT requirements consistent with the recommendations of the applicable CTGs are required of all states in the OTR and in all similar ozone nonattainment areas in the United States. This final-form rulemaking will have no adverse effect on this Commonwealth's ability to compete with other states, since other states are also required to apply the same or equivalent requirements to the owners and operators of subject facilities within their jurisdiction.

**(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

No other regulations promulgated by this agency or other State agencies are affected by this final-form rulemaking.

**(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)**

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) and the Small Business Compliance Advisory Committee (SBCAC) on the proposed rulemaking on October 15, 2020, and October 28, 2020, respectively. Other than two abstentions in the AQTAC vote, both committees voted unanimously to concur with the Department's recommendation to move the proposed rulemaking forward to the Board for consideration. The proposed rulemaking was discussed with the Citizens Advisory Council (CAC) Policy and Regulatory Oversight (PRO) Committee on November 9, 2020. On the recommendation of the PRO Committee, on November 17, 2020, the CAC concurred with the Department's recommendation to move the proposed rulemaking forward to the Board. The AQTAC, SBCAC and CAC meetings are advertised and open to the public.

The Board adopted the proposed rulemaking at its September 21, 2021, meeting. The proposed rulemaking was published in the *Pennsylvania Bulletin* on January 29, 2022. See 52 Pa.B. 689 (January 29, 2022). Three public hearings were held on March 1, 3 and 4, 2022, in Harrisburg, Pittsburgh and Norristown, respectively. The 66-day public comment period closed on April 4, 2022. The Department received one public comment. No one testified during the public hearings. The Independent Regulatory Review Commission (IRRC) separately submitted comments on the proposed rulemaking to the Board on May 4, 2022. The comments received on the proposed rulemaking are summarized in the Preamble to this final-form rulemaking and are also addressed in a separate Comment and Response Document that accompanies this final-form rulemaking. All comments on the proposed rulemaking were considered and addressed.

The Department presented the draft final-form Annex A to AQTAC on August 18, 2022, and to the SBCAC on August 24, 2022, and briefed the committees on the comments received on the proposed rulemaking. The Department presented the draft final-form Annex A to the CAC PRO on June 27, 2022. On the recommendation of the PRO Committee, on July 19, 2022, the CAC concurred with the Department's recommendation to present this final-form rulemaking to the Board for consideration.

**(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?**

The owner and operator of a shipbuilding and ship repair facility that builds, repairs, repaints, converts or alters a ship will be subject to the final-form VOC RACT requirements for shipbuilding and ship repair surface coating operations. The final-form surface coating VOC limitation requirements will apply to the owner or operator of a shipbuilding or ship repair facility that has a surface coating operation that uses or applies more than 264 gallons of one or a combination of coatings listed in Table I, category 12, beginning on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*. For purposes of these applicable requirements, a ship is a commercial or military marine or fresh-water vessel that is 20 meters or more in length. The City of Philadelphia has a SIP-approved RACT regulation for shipbuilding and ship repair facilities and has one subject facility. There are two facilities under the Department's jurisdiction in this Commonwealth that will be subject to these final-form rulemaking requirements: Donjon Shipbuilding and Repair, LLC and Heartland Fabrication. The Department determined the applicable small business-size standard for these affected facilities based on the Small Business Administration's North American Industry Classification System (NAICS) codes. The applicable NAICS code is 336611 and the small business-size standard is 1250 employees or fewer. Donjon Shipbuilding and Repair, LLC has 70 employees. Heartland Fabrication has 200 employees. Both facilities are considered to be small businesses under 13 CFR Ch. 1 Part 121 (relating to Small Business Size Regulations) or its successor regulation (Def. added June 29, 2012, P.L.657, No.76), hereafter referred to as the small business regulation. The owners and operators of both facilities are already subject to and comply with existing operating permit conditions that will ensure compliance with the applicable VOC emission limitations established in this final-form rulemaking.

The Department historically has addressed the RACT status of these two existing shipbuilding and ship repair facilities under the Department's jurisdiction by submitting the amended facility operating permits to the EPA for review and approval as revisions to the SIP. This creates a burden on the owners and operators of these facilities because each time the owner or operator wants to modify the facility for business reasons or needs to modify the facility to implement RACT requirements for a revised ozone NAAQS, the change in the operating permit must be submitted to the EPA as a revision to the SIP for that operating permit to demonstrate that RACT is still satisfied. The owner or operator of the facility bears the administrative burden and costs of advertising the change and conducting the required SIP public hearing and public comment period before the Department can submit the changes to the EPA for review and approval as a revision to the SIP. The Department will not need to continue submitting these individual operating permits and changes to these operating permits to the EPA as SIP revisions for the 2015 8-hour ozone standard if the EPA approves this final-form rulemaking as a revision to the Commonwealth's SIP to establish presumptive RACT requirements for the 2015 8-hour ozone NAAQS. The owners and operators of these facilities will no longer bear the administrative burden or incur the requisite costs of the changes to the operating permits to satisfy the CAA SIP RACT requirements if the owners and operators incorporate the SIP-approved regulatory RACT requirements into the applicable operating permits.

The owner and operator of a petroleum dry cleaning facility that uses 32,493 gallons (123,000 liters) or more of petroleum solvent annually will be subject to the final-form VOC RACT requirements for petroleum dry cleaning facilities. There currently are no petroleum dry cleaning facilities in this Commonwealth that use 32,493 gallons or more of petroleum solvent annually (referred to as "large petroleum dry cleaning facilities"). However, there are several petroleum dry cleaners in this Commonwealth that fall into this source category but use less than 32,493 gallons of petroleum solvent annually (referred to as "small petroleum dry cleaning facilities"). The Department determined the applicable small-business-size standard for these potentially affected facilities based on the Small Business Administration's NAICS codes. The applicable NAICS code is 812320 and the small business-size standard is $6M or less of revenue. None of the potentially affected petroleum dry cleaning facilities had revenues exceeding $6M and thus meet the definition of small business in the small business regulation.

This final-form rulemaking will benefit the owners and operators of these small business-sized small petroleum dry cleaning facilities, of which there are fewer than 20 currently operating in this Commonwealth, by reducing their administrative burden and costs for amending their applicable operating permits if they wish to make changes to their processes or expand their facilities. The Department historically has addressed the RACT status of the small petroleum dry cleaning facilities in this Commonwealth by limiting the allowed petroleum usage in the applicable operating permit to quantities below the CTG-recommended usage threshold of 32,493 gallons liters and submitting the operating permits to the EPA for review and approval as revisions to the SIP. Without this final-form rulemaking, the Department will continue to need to submit future changes to applicable operating permit requirements to the EPA as SIP revisions to demonstrate that the permitted small petroleum dry cleaning facilities fall below the petroleum usage threshold for implementing RACT control measures. This creates a burden on the owners and operators of these facilities because each time the owner or operator wants to modify the facility, the change in the operating permit must be submitted to the EPA for review and approval as a revision to the SIP for that operating permit. The owner or operator of the facility bears the administrative burden and costs of advertising the change and conducting the required SIP public hearing and public comment period before the Department can submit the permit changes to the EPA as a revision to the SIP. This final-form rulemaking, if approved as a revision to the Commonwealth's SIP, will establish the petroleum solvent usage limit of 32,493 gallons or more annually for large petroleum dry cleaning facilities for the 2015 8-hour ozone NAAQS. The owners and operators of small petroleum dry cleaning facilities that do not meet the SIP-approved final-form petroleum solvent usage applicability threshold will therefore be exempted from having to meet the final-form RACT control measure requirements for large petroleum dry cleaning facilities for the 2015 8-hour ozone NAAQS. These owners and operators will be subject to the recordkeeping and reporting requirements to demonstrate that they remain below the petroleum solvent usage applicability threshold. The owners and operators of these small petroleum dry cleaning facilities will no longer need to submit changes to their operating permits to the EPA as revisions to the SIP.

The owner and operator of a SOCMI facility with an air oxidation, distillation or reactor process will be subject to the final-form SOCMI VOC RACT requirements. The Department has identified five potentially affected facilities operating in this Commonwealth as identified in the next paragraph. The Department determined the applicable small business-size standard for these potentially affected facility owners and operators based on the Small Business Administration's NAICS codes. The applicable NAICS codes are 325199, 424690, 325995 and 325120. The small business-size standard for NAICS code 325199 is 1250 employees or fewer. The small business-size standard for NAICS code 424690 is 150 employees or fewer. The small business-size standard for NAICS code 325995 is 500 employees or fewer. NAICS code 325120 was not found on the small business regulation list.

Interstate Chemical (NAICS code 325995) has 335 employees and is a small business. Lake Erie Biofuels LLC (NAICS code 325199) has 91 employees and is a small business. Matheson Tri Gas (NAICS code 325120) has 9,000 employees and is presumed to not be a small business. Shell Chemical Appalachia (NAICS code 424690) has 49 employees and is a small business. Geospecialty Chemicals (NAICS code 325199) has 390 employees and is a small business. The owners and operators of these five SOCMI facilities are already subject to VOC emission control measures through their applicable operating permits. These applicable operating permits incorporate the NSPS requirements and standards and BAT requirements that provide VOC emission control measures that are equivalent to and consistent with the RACT recommendations of the SOCMI CTGs. Compliance with their existing operating permit conditions will ensure that the affected owners and operators comply with the applicable CTG-based VOC RACT standards, emission limitations and other requirements established in this final-form rulemaking.

Implementation of the VOC RACT emission limitations established in this final-form rulemaking will not require the submission of applications for amendments to existing operating permits to incorporate these regulatory requirements. These regulatory requirements will be incorporated as applicable requirements at the time of operating permit renewal, if less than 3 years remain in the operating permit term, as specified under § 127.463(c). If 3 years or more remain in the operating permit term, the regulatory requirements will be incorporated as applicable requirements in the operating permit within 18 months of the promulgation of this final-form rulemaking, as required under § 127.463(b). Most importantly, § 127.463(e) specifies that "[r]egardless of whether a revision is required under this section, the permittee shall meet the applicable standards or regulations promulgated under the Clean Air Act within the time frame required by standards or regulations." Therefore, upon adoption, the applicable requirements of this final-form rulemaking will apply to affected owners and operators irrespective of a modification to the operating permit.

Consequently, the owner and operator of a facility subject to this final-form rulemaking may realize cost savings for reduced administrative activities and the elimination of SIP public notice and public hearing requirements as well as a savings equal to the fee for submitting an application for an amendment to an existing operating permit, if an amendment to the operating permit is not required.

**(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.**

The Department has identified two shipbuilding and ship repair facilities, five SOCMI facilities and fewer than 20 small petroleum dry cleaning facilities under the Department's jurisdiction that will potentially be subject to the final-form VOC emission control RACT requirements.

The owners and operators of the two shipbuilding and ship repair facilities are permitted with applicable requirements that are consistent with the VOC content limit recommendations in the CTG for shipbuilding and ship repair surface coating operations. Compliance with the requirements incorporated into their operating permits will ensure compliance with the applicable RACT requirements of this final-form rulemaking. One other facility in the City of Philadelphia is operating under a SIP-approved Philadelphia Air Management Services regulation.

The presumptive VOC emission control RACT requirements established in this final-form rulemaking for the owners and operators of large petroleum dry cleaning facilities are consistent with the example regulation provided in the CTG for large petroleum dry cleaners. The presumptive VOC emission control measures of this final-form rulemaking will apply to the owner or operator of a large petroleum dry cleaning facility that uses 32,493 gallons (123,000 liters) or more of petroleum solvent annually. This

Commonwealth does not currently have petroleum dry cleaning facility owners and operators that use this much petroleum solvent annually; therefore, the owners and operators of the existing petroleum dry cleaning facilities are not expected to be impacted by the VOC emission control requirements of this final-form rulemaking. These owners and operators will be subject to the recordkeeping and reporting requirements to demonstrate that they remain below the petroleum solvent usage threshold of 32,493 gallons annually. Once this final-form rulemaking is published in the *Pennsylvania Bulletin*, the final-form regulation will be submitted to the EPA for review and approval as a revision to the Commonwealth's SIP. Once approved, the owners and operators of these small petroleum dry cleaning facilities will be below the applicable petroleum solvent usage threshold for implementing the regulatory presumptive VOC emission control RACT requirements. These owners and operators will no longer need to review and potentially amend their operating permits to address facility modifications and then submit their amended operating permits as revisions to the SIP for the 2015 8-hour ground-level ozone NAAQS.

The presumptive SOCMI VOC emission control RACT requirements of this final-form rulemaking are based on the City of Philadelphia's existing SIP-approved SOCMI RACT regulation. See Philadelphia Air Management Services (AMS) Regulation V (Control of Emissions from Stationary Sources), XVI. Like the AMS regulation, this final-form rulemaking will incorporate by reference the existing NSPS requirements at 40 CFR Part 60, Subparts III, NNN and RRR for the SOCMI source category as presumptive RACT to satisfy the SOCMI CTG recommendations. The owners and operators of the potentially affected SOCMI facilities have operating permits that currently incorporate the applicable NSPS requirements. Compliance with the requirements established in their operating permits will ensure compliance with the final-form presumptive RACT requirements without implementing additional measures. The owner and operator of one existing air oxidation facility already satisfies the final-form presumptive RACT requirements with SIP-approved operating permit obligations.

Implementation of this final-form rulemaking will not reduce employment or eliminate jobs at the affected shipbuilding and ship repair surface coating operations, petroleum dry cleaning facilities or facilities with SOCMI processes. The owners and operators of these facilities have prior experience with regulatory programs and are technically capable of implementing the final-form requirements.

Please also see the response to Question 15.

**(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.**

This final-form rulemaking is expected to have little to no adverse financial, economic or social impact on the regulated community, public and small business. Rather, the implementation of this final-form rulemaking will likely have positive impacts on the regulated community and affected small businesses, as well of the public. The final-form presumptive RACT VOC emission control measures will establish a regulatory basis for RACT for the covered source categories. Presumptive RACT control measures are emission limitations and requirements established by regulation for a source category that the Department has determined will provide sufficient emission reductions from the source category to assist the Commonwealth in attaining and maintaining the applicable NAAQS. The Department submits the promulgated regulation to the EPA for review and approval as a revision to the Commonwealth's SIP to satisfy the Commonwealth's obligation under the CAA to implement RACT for the source category. An affected facility owner or operator that implements SIP-approved presumptive RACT control measures is presumed by the Department and the EPA to satisfy its applicable RACT requirements under the CAA.

Implementation of the final-form presumptive RACT control measures will remove the administrative burden and costs incurred by affected owners and operators to submit their individual operating permits and changes in their operating permits to the EPA as revisions to the SIP to satisfy RACT requirements under the CAA. The Department and the EPA will also both benefit from reduced administrative costs associated with processing changes to operating permits as revisions to the Commonwealth's SIP for those affected owners and operators that incorporate the Federally enforceable presumptive RACT provisions established by regulations into their operating permits.

The cost savings realized by the affected owners and operators may benefit the public through expanded operations and increased hiring if owners and operators use the cost savings from not having to submit individual operating permits and operating permit changes to the EPA to grow their businesses.

High concentrations of ground-level ozone can cause and exacerbate respiratory ailments and allergies. While the Department does not anticipate additional reductions of VOC emissions as a result of promulgating this final-form rulemaking, implementation of the final-form control measures will contribute to attaining and maintaining the applicable NAAQS for ground-level ozone and sustaining the improvements that have been achieved in social well-being and public health in this Commonwealth through decreased incidences of respiratory ailments and allergies. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ground-level ozone while engaged in activities that involve physical exertion.

Maintaining the reduced ambient concentrations of ground-level ozone will also lead to better social well-being through sustaining the improved growth and yields of agricultural crop and commercial forest products as well as increased survival of ornamental trees and shrubs used in residential and business-park landscaping.

**(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.**

This final-form rulemaking is expected to have very low to no costs or adverse effects on the regulated community and the public. This final-form rulemaking establishes presumptive RACT VOC emission control measures by regulation for these source categories. Once approved by the EPA as a revision to the Commonwealth's SIP, implementation of this final-form rulemaking will reduce or eliminate the administrative burden and costs incurred by affected owners and operators to submit their individual operating permits and changes in their operating permits to the EPA as revisions to the SIP to satisfy the CAA RACT requirements if the affected owners and operators incorporate the SIP-approved regulatory presumptive RACT requirements into their applicable operating permits. The Department and the EPA will also benefit from reduced administrative burdens in processing revisions to the SIP and changes to operating permits that will now be covered by SIP-approved regulatory presumptive RACT requirements.

Please also see the response to Question 17.

**(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

There are no anticipated costs to the regulated community associated with this final-form rulemaking. This final-form rulemaking is designed to address administrative issues associated with not having presumptive RACT VOC emission control measures established in regulations that are approved as part of the

Commonwealth's SIP. The Department anticipates cost savings for the Department as well as the affected facility owners and operators as there will be no need to submit individual operating permits and changes in individual operating permits to the EPA as revisions to the SIP to satisfy CAA RACT requirements. The cost savings in terms of time and resources to owners and operators for eliminating the need to submit SIP revisions of new or amended operating permits to the EPA for approval into the Commonwealth's SIP will vary by type of facility and type of operating permit change.

Compliance costs for the owners and operators of affected shipbuilding and ship repair surface coating operations, large petroleum dry cleaning facilities and SOCMI processes are projected to be negligible. The owners and operators of the affected facilities are already subject to BAT and NSPS requirements or other operating permit conditions that are at least as stringent as the final-form RACT VOC coating standards, emission limitations and other requirements. Compliance with the conditions in their operating permits will ensure compliance with the final-form VOC emission control measures.

New legal, accounting or consulting procedures will not be required.

**(20) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.**

No local government currently owns or operates a shipbuilding and ship repair surface coating facility, a large petroleum dry cleaning facility or a SOCMI process facility. If a local government did, however, own or operate any of these subject facilities in the future, the additional costs or savings are anticipated to be commensurate with those for the private sector.

**(21) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.**

No Commonwealth agency currently owns or operates a shipbuilding and ship repair surface coating facility, a large petroleum dry cleaning facility or a SOCMI process facility. If a Commonwealth agency did, however, own or operate any of these subject facilities in the future, the additional costs or savings are anticipated to be commensurate with those for the private sector.

As noted in the response to Question 19, the Department anticipates cost savings for the Department as there will be no need to submit individual operating permits or changes in individual operating permits to the EPA as revisions to the SIP to satisfy CAA RACT requirements. However, the Department is unable to estimate the cost savings in terms of time and resources because permitting review varies by type of facility and type of operating permit change.

**(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.**

No additional legal, accounting, or consulting procedures are expected for the groups identified in items (19)-(21) above.

**(22a) Are forms required for implementation of the regulation?**

There are no forms required for implementation of the regulation.

**(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation**.

No forms are required.

**(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.**

No measurable costs or savings are anticipated from the implementation of this final-form rulemaking; hence the table contains zeros.

| | Current FY 21/22 | FY+1 22/23 | FY+2 23/24 | FY+3 24/25 | FY+4 25/26 | FY+5 26/27 |
|---|---|---|---|---|---|---|
| **SAVINGS:** | **$** | **$** | **$** | **$** | **$** | **$** |
| **Regulated Community** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Local Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **State Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total Savings** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **COSTS:** | **$** | **$** | **$** | **$** | **$** | **$** |
| **Regulated Community** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Local Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **State Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total Costs** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **REVENUE LOSSES:** | **$** | **$** | **$** | **$** | **$** | **$** |
| **Regulated Community** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Local Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **State Government** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total Revenue Losses** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**(23a) Provide the past three-year expenditure history for programs affected by the regulation.**

| Program | FY-3 (19/20) | FY-2 (20/21) | FY-1 (21/22) | Current FY (22/23) |
|---|---|---|---|---|
| Environmental Program Management (161-10382) | $27,920,000 | $32,041,000 | $34,160,000 | $35,739,000 |
| Clean Air Fund Major Emission Facilities (215-20077) | $18,759,000 | $20,801,000 | $18,976,000 | $19,869,000 |
| Clean Air Fund Mobile and Area Facilities (233-20084) | $9,900,000 | $11,290,000 | $8,191,000 | $10,299,000 |

**(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:**

**(a) An identification and estimate of the number of small businesses subject to the regulation.**

This final-form rulemaking applies to the owner and operator of a shipbuilding and ship repair surface coating operation, a large petroleum dry cleaning facility or a SOCMI air oxidation, distillation or reactor process. The Department reviewed its databases and list of issued operating permits and identified two shipbuilding and ship repair surface coating operations, one SOCMI air oxidation process operation and several SOCMI distillation and reactor process facilities under the Department's jurisdiction that will potentially be affected by this final-form rulemaking. The Department also identified less than 20 small petroleum dry cleaning facilities that fit the petroleum dry cleaning source category for RACT purposes but do not meet the petroleum solvent usage applicability threshold to be considered a large petroleum dry cleaning facility.

Based on the Department's review of its databases, all of the potentially affected facilities, including small business-sized facilities, have been identified since the owners and operators are required to report emissions to the Department's emission inventory system, apply for plan approvals or have been issued operating permits that include requirements that are at least as stringent as the presumptive RACT requirements and limitations established in this final-form rulemaking.

There are no large petroleum dry cleaning facilities in this Commonwealth that will be impacted by this final-form rulemaking; the owners and operators of the existing small petroleum dry cleaners with petroleum solvent usage below the final-form petroleum solvent usage applicability threshold are only subject to recordkeeping and reporting requirements, which are existing obligations under the applicable NSPS requirements and permitting regulations. See 40 CFR Part 60, Subpart JJJ (relating to Standards of Performance for Petroleum Dry Cleaners). The owners and operators of the two shipbuilding and ship repair surface coating operations under the Department's jurisdiction that will be subject to this final-form rulemaking have operating permits which contain requirements at least as stringent as the applicable final-form presumptive RACT requirements. Therefore, compliance with their existing operating permits ensures compliance with the applicable final-form RACT requirements. Another facility in the City of Philadelphia is subject to a Philadelphia AMS regulation that has been approved as a revision to the Commonwealth's SIP. The owners and operators of the SOCMI facilities are subject to requirements and limitations through equivalent Federal requirements (40 CFR Part 60, Subparts III, NNN and RRR) or through existing permit conditions that are at least as stringent as the applicable final-form presumptive RACT requirements. Compliance with these existing operating permit requirements ensures compliance

with the applicable final-form presumptive RACT requirements. Therefore, the owners and operators of existing facilities in this Commonwealth that will be subject to this final-form rulemaking are already able to comply with the applicable final-form presumptive RACT requirements and emission limitations.

Please also see the response to Question 15.

**(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.**

The recordkeeping and reporting requirements for owners and operators of the potentially affected facilities are expected to be minimal because the records required by this final-form rulemaking are in line with what the regulated industry currently tracks for inventory purposes or in existing operating permits. The owner or operator of a facility subject to this final-form rulemaking will be required to maintain records sufficient to demonstrate compliance with the applicable requirements. The records must be maintained on site for 5 years, unless a longer period is required by an order, plan approval or operating permit issued under 25 Pa. Code Chapter 127. Records maintained for compliance demonstrations may include purchase, use, production and other records. There are no further legal, accounting or consulting procedures established in this final-form rulemaking.

**(c) A statement of probable effect on impacted small businesses.**

The owners and operators of the affected facilities are subject to NSPS requirements and standards and BAT requirements in their operating permits that provide control measures at least as stringent as the presumptive RACT emission limitations and RACT requirements established in this final-form rulemaking. Compliance with their existing operating permit conditions will ensure compliance with the applicable CTG-based presumptive VOC emission RACT standards, emission limitations and other requirements in this final-form rulemaking. Please also see the response to Question 15.

The owners and operators of sources subject to this final-form rulemaking that were installed after the 1997 ozone NAAQS was issued are subject to BAT operating permit requirements. Thus, the owners and operators of all potentially affected sources that comply with their existing operating permit conditions are expected to comply with the presumptive VOC emission RACT standards, emission limitations and other requirements of this final-form rulemaking and will have no additional applicable RACT requirements.

**(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.**

There are no less intrusive or less costly alternative regulatory provisions available. The Department included flexibilities within this final-form rulemaking, specifically with respect to compliance options for the owners and operators of affected shipbuilding and ship repair facilities. The compliance options included in the final-form amendments to § 129.52 will allow the owners and operators of subject shipbuilding and ship repair surface coating operations to use the equivalency requirements in the equivalency provisions of § 129.51. Implementation of the control measures established in this final-form rulemaking is a requirement under the CAA. These final-form requirements apply to the owners and operators of all subject sources that meet the applicable VOC emission thresholds regardless of business size. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA, this final-form rulemaking establishes VOC RACT emission limitations and other requirements consistent with the recommendations of the EPA in the applicable CTGs for these sources in this Commonwealth.

**(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.**

Minorities, the elderly, small businesses and farmers who are not owners or operators of a shipbuilding and ship repair surface coating operation, a large petroleum dry cleaning facility or a SOCMI process will not be affected by this final-form rulemaking. For those that might be owners or operators of a subject facility, no special provisions are necessary.

**(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.**

This final-form rulemaking is considered the least burdensome acceptable method of ensuring compliance with the Federal CTG-based RACT mandate. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA, this final-form rulemaking establishes the VOC RACT standards, emission limitations and other requirements consistent with the recommendations of the EPA in the applicable CTGs for these sources in in this Commonwealth.

**(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:**

**(a) The establishment of less stringent compliance or reporting requirements for small businesses.**

Minimal adverse impact is expected for the owners and operators of small business-sized shipbuilding and ship repair surface coating operations because compliant VOC content coating materials are readily available and the potentially affected facility owners and operators already use those coatings. The owners and operators of these potentially affected shipbuilding and ship repair surface coating operations also already have requirements incorporated into their existing operating permits that are consistent with the RACT recommendations of the applicable CTG. Compliance with their existing operating permit conditions will ensure compliance with the final-form VOC RACT standards, emission limitations and other requirements.

There are no large petroleum dry cleaning facilities in this Commonwealth that will potentially be subject to the applicable requirements of this final-form rulemaking.

The owners and operators of the potentially affected SOCMI facilities already have incorporated into their operating permits the NSPS 40 CFR Part 60, Subparts III, NNN and RRR requirements that are incorporated by reference in this final-form rulemaking as presumptive RACT for the control of VOC emissions from these sources. Compliance with their existing operating permit conditions will ensure compliance with the applicable final-form VOC emission RACT standards, emission limitations and other requirements.

Less stringent compliance requirements for the owners and operators of facilities that will be subject to the final-form requirements are not available, as the Department is required under the CAA to implement Federally approvable RACT requirements in this final-form rulemaking to attain and maintain the 2015 8-hour ground-level ozone NAAQS. The Department establishes minimal recordkeeping and reporting requirements in this final-form rulemaking that are consistent with current obligations incorporated into applicable operating permits. Compliance with the applicable operating permit conditions will ensure

compliance with the applicable final-form VOC emission control RACT recordkeeping and reporting requirements.

**(b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.**

Minimal adverse impact is expected for the owners and operators of small business-sized facilities to meet compliance deadlines or to implement the reporting and recordkeeping requirements. The owners and operators of affected shipbuilding and ship repair surface coating operations shall comply beginning on the date of promulgation of this final-form rulemaking. These facility owners and operators are already subject to existing operating permit conditions and compliance with these operating permit conditions will ensure compliance with the final-form recordkeeping and reporting requirements and VOC content standards and emission limitations, so no additional time is needed for these facility owners and operators to achieve compliance.

The requirements for the owners and operators of large petroleum dry cleaning facilities apply beginning on the date of promulgation of this final-form rulemaking. Currently there are no large petroleum dry cleaning facility owners and operators in this Commonwealth that will be impacted by these final-form requirements. An owner and operator of a new large petroleum dry cleaner that is installed after the effective date of this final-form rulemaking will be subject to BAT in addition to the applicable final-form requirements. BAT is usually more stringent than RACT. The owners and operators of the existing small petroleum dry cleaning facilities do not use enough petroleum solvent to meet the final-form petroleum usage applicability threshold and will not be subject to the final-form VOC emission control RACT standards, emission limitations and other requirements.

The owners and operators of the potentially affected SOCMI processes shall comply with the applicable final-form requirements no later than 2 years after the effective date of this final-form rulemaking. The owners and operators of the facilities affected by this final-form rulemaking are already subject to requirements in their operating permits that are at least as stringent as the final-form requirements and will be subject to the applicable final-form requirements on the effective date of this final-form rulemaking. If the owner and operator of a facility is found that does not comply with the applicable requirements of this final-form rulemaking, 2 years is ample time for the owner and operator of a subject non-complying facility to come into compliance with the requirements of this final-form rulemaking.

**(c) The consolidation or simplification of compliance or reporting requirements for small businesses.**

Minimal adverse impact is expected for the owners and operators of small business-sized facilities. The compliance options established in this final-form rulemaking allow the owners and operators of small business-sized facilities to find an acceptable method of compliance appropriate to their operations. The compliance options in this final-form rulemaking for the owners and operators of shipbuilding and ship repair surface coating operations in § 129.52 will allow them to demonstrate compliance using the equivalency provisions in § 129.51.

**(d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation.**

Minimal adverse impact is expected for the owners and operators of small business-sized facilities. This final-form rulemaking includes performance standards. If an owner or operator of an affected shipbuilding

and ship repair surface coating operation, including a small business-sized operation, is not able to or chooses not to comply solely by using low-VOC content coating materials, the owner or operator may comply by installing and operating a VOC emission capture system and add-on air pollution control device, or a combination of both low-VOC content coating materials and a capture system and control device, that meet a specified emission rate. In other words, this final-form rulemaking provides flexibility to achieve the desired emission levels. Similar options for installation of a VOC emission capture system and add-on air pollution control device also exist for the owners and operators of large petroleum dry cleaning facilities. The owners and operators of the potentially affected SOCMI facilities already use thermal devices to control VOC emissions from their vent streams to comply with their existing applicable operating permit conditions. Compliance with the existing applicable operating permit conditions will ensure compliance with the final-form VOC emission control RACT standards, emission limitations and other requirements. Please also see the response to Question 15.

**(e) The exemption of small businesses from all or any part of the requirements contained in the regulation.**

Promulgating CTG-based VOC RACT regulations for specific categories of sources is a Federal CAA requirement. These VOC RACT regulations apply to the owners and operators of the specific sources that meet the applicable VOC emission thresholds regardless of business size. The owner and operator of a subject facility may be classified as a small business under the Federal Small Business Size Regulations under 13 CFR Chapter 1, Part 121, while still emitting sufficient emissions of VOC to be subject to regulations designed to implement measures for the control of those VOC emissions to assist the Commonwealth in attaining and maintaining the applicable ground-level ozone NAAQS.

The owners and operators of small businesses may not be exempted from the applicable final-form RACT requirements by State regulation.

**(28) If data is the basis for this regulation, please provide a description of the data, explain <u>in detail</u> how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.**

As explained above in the responses to Questions 9 and 10, the Commonwealth's SIP must include CTG-based RACT regulations to control VOC emissions from shipbuilding and ship repair surface coating operations, large petroleum dry cleaning facilities and SOCMI processes. Section 183(e) of the CAA directed the EPA to conduct a study of VOC emissions from the use of consumer and commercial products to assess their potential to contribute to violations of the NAAQS for ozone and to list for regulation those categories of products that account for at least 80% of the VOC emissions, on a reactivity-adjusted basis, from consumer and commercial products in areas that violate the NAAQS for ozone (namely, ozone nonattainment areas). The EPA published the initial list at 60 FR 15264 (March 23, 1995).

The following list provides more complete citations for the data and information referenced in this Regulatory Analysis Form:

*State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Control Techniques Guidelines)*, 44 FR 53761 (September 17, 1979). https://www.federalregister.gov/citation/44-FR-53761

*Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities*, EPA-453/R-94-032. U.S. Environmental Protection Agency, Research Triangle Park, NC, April 1994. https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques; scroll down to EPA 453/R-94-032 and click on link.

*Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating)*, 61 FR-44050 (August 27, 1996). https://www.epa.gov/sites/production/files/2020-09/documents/61_fr_1996-08-27_44050.pdf

*Guideline Series, Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Process in Synthetic Organic Chemical Manufacturing Industry*, EPA 450/4-91-031. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA, August 1993. https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques; scroll down to EPA-450/4-91-031 and click on link.

*Guideline Series, Control of Volatile Organic Compound Emissions from Air Oxidation Process in Synthetic Organic Chemical Manufacturing Industry*, EPA-450/3-84-015. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA, December 1984. https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques; scroll down to EPA-450/3-84-015 and click on link.

*Guideline Series, Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners*, EPA 450/3-82-009. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, EPA, September 1982. https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques; scroll down to EPA-450/3-82-009 and click on link.

**(29) Include a schedule for review of the regulation including:**

| | |
|---|---|
| A. The length of the public comment period: | 66 days |
| B. The date or dates on which public meetings or hearings will be held: | March 1, 3 and 4, 2022 |
| C. The expected date of delivery of the final-form regulation: | 4th Quarter 2022 |
| D. The expected effective date of the final-form regulation: | 4th Quarter 2022 |
| E. The expected date by which compliance with the final form regulation will be required: | Upon publication of this final-form rulemaking |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | Not Applicable |

**(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.**

The Board is not establishing a sunset date for this final-form rulemaking since it is needed for the Department to carry out its statutory authority. The Department will closely monitor this final-form rulemaking after promulgation as a final-form regulation in the *Pennsylvania Bulletin* for its effectiveness and recommend updates to the Board as necessary.