

NOTICE OF FINAL RULEMAKING
Title 25—ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 129]

**Control of Volatile Organic Compound Emissions from
Fiberglass Boat Manufacturing Materials**

The Environmental Quality Board (Board) amends Chapter 129 (relating to standards for sources) to read as set forth in Annex A. The final-form rulemaking adds § 129.74 (relating to control of VOC emissions from fiberglass boat manufacturing materials) to adopt reasonably available control technology (RACT) requirements and RACT emission limitations for stationary sources of volatile organic compound (VOC) emissions from fiberglass boat manufacturing materials including open molding resins, gel coats and cleaning materials. The final-form rulemaking also adds terms and definitions to § 129.74 to support the interpretation of the proposed measures.

This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) for approval as a revision to the Commonwealth's State Implementation Plan (SIP) following promulgation of the final-form regulation.

This order was adopted by the Board at its meeting of _____, 2015.

A. Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Kirit Dalal, Chief, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3436; or Kristen Furlan, Assistant Director, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.state.pa.us (select "Public Participation Center," then select "Environmental Quality Board").

C. Statutory Authority

The 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 Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. Section 5(a)(8) of the APCA also grants the Board the authority to adopt rules and regulations designed to implement the provisions of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

D. Background and Summary

The purpose of this final-form rulemaking is to implement control measures to reduce VOC emissions from fiberglass boat manufacturing materials including open molding resin, gel coat and cleaning materials. VOCs are precursors for ground-level ozone formation. Ground-level ozone, a public health and welfare hazard, is not emitted directly to the atmosphere by fiberglass boat manufacturing materials including open molding resin, gel coat and cleaning materials, but is formed by a photochemical reaction between VOCs and nitrogen oxides (NO_x) in the presence of sunlight. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA (42 U.S.C.A. §§ 7502(c)(1), 7511a(b)(2)(A) and 7511c(b)(1)(B)), the final-form rulemaking establishes VOC emission limitations and other requirements consistent with the recommendations of the EPA 2008 Fiberglass Boat Manufacturing Materials Control Techniques Guidelines (CTG) for these sources in this Commonwealth. See *Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives*, 73 FR 58481, 58483 (October 7, 2008).

The EPA is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and the environment: ground-level ozone; particulate matter; NO_x; carbon monoxide; sulfur dioxide; and lead. The CAA established two types of NAAQS: primary standards, which are limits set to protect public health; and secondary standards, which are limits set to protect public welfare and the environment, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ground-level ozone NAAQS to protect public health and welfare.

Ground-level ozone is a highly reactive gas, which at sufficiently high concentrations can produce a wide variety of harmful effects. At elevated concentrations, ground-level ozone can adversely affect human health, animal health, vegetation, materials, economic values, and personal comfort and well-being. It can cause damage to important food crops, forests, livestock and wildlife. Repeated exposure to ozone pollution may cause a variety of adverse health effects for both healthy people and those with existing conditions, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. It can worsen bronchitis, heart disease, emphysema and asthma, and reduce lung capacity. Asthma is a significant and growing threat to children and adults. High levels of ground-level ozone affect animals in ways similar to humans. 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. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health and welfare, animal and plant health and welfare and the environment.

In July 1997, the EPA promulgated primary and secondary ozone standards at a level of 0.08 part per million (ppm) (80 parts per billion (ppb)) averaged over 8 hours. See 62 FR 38856 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone

nonattainment areas for the 1997 8-hour ozone NAAQS. See 69 FR 23858, 23931 (April 30, 2004). Based on the ambient air monitoring data for the 2014 ozone season, all monitored areas of this Commonwealth are attaining the 1997 8-hour ozone NAAQS. The Department must ensure that the 1997 ozone standard is attained and maintained by implementing permanent and enforceable control measures to ensure violations of the standard do not occur for the next decade.

In March 2008, the EPA lowered the standard to 0.075 ppm (75 ppb) averaged over 8 hours to provide even greater protection for children, other at-risk populations and the environment against the array of ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). In April 2012, the EPA designated five areas in this Commonwealth as nonattainment for the 2008 ozone NAAQS. See 77 FR 30088, 30143 (May 21, 2012). These areas include all or a portion of Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington and Westmoreland Counties. The Commonwealth must ensure that these areas attain the 2008 ozone standard by July 20, 2015, and that they continue to maintain the standard thereafter. The U.S. Court of Appeals for the District of Columbia Circuit ruled in December 2014, that the EPA could not extend the attainment date for “marginal” nonattainment areas, for the 2008 ozone NAAQS, to December 2015. See *NRDC v. EPA*, 2014 U.S. App. LEXIS 24253 (D.C. Cir. Dec. 23, 2014).

On November 25, 2014, the EPA proposed a revised ozone NAAQS ranging from 65 to 70 ppb. The EPA is also seeking comment on a 60 ppb ozone standard and retention of the 2008 75 ppb standard. See 79 FR 75234 (December 17, 2014). Evaluation of Department air monitoring system 2012-2014 ozone monitoring data indicates that, if the EPA adopts a 65-ppb ozone NAAQS, approximately 88% of the ozone samplers in Pennsylvania would violate the revised standard; an estimated 33% of the samplers would be in violation of a 70-ppb ozone standard. If the EPA lowers the 2015 ozone NAAQS to 60 ppb, all monitors in this Commonwealth, except a single monitor in southeastern Pennsylvania, would be in violation of the standard. The EPA has been ordered by the Court to finalize the new standard by October 1, 2015.

With regard to the 2008 ozone standard of 75 ppb, the Department’s analysis of preliminary 2014 ambient air ozone concentrations shows that all ozone samplers in the Commonwealth, except the Harrison sampler in Allegheny County, are monitoring attainment. The Department will develop Redesignation Requests and Maintenance Plans for submission to the EPA seeking redesignation of the nonattainment areas to attainment of the 2008 ozone standard; maintenance plans have already been submitted to the EPA and approved for the 1997 ozone standard. The Federal Clean Air Act prescribes that the Maintenance Plans, including control measures, must provide for the maintenance of the ozone NAAQS for at least 10 years following the EPA’s redesignation of the areas to attainment. Eight years after the EPA redesignates an area to attainment, an additional Maintenance Plan approved by the EPA must also provide for the maintenance of the ozone standard for another 10 years following the expiration of the initial 10-year period.

Reductions in VOC emissions that are achieved following the adoption and implementation of VOC RACT emission control measures for source categories covered by CTGs, including fiberglass boats manufacturing materials, will allow the Commonwealth to make substantial

progress in achieving and maintaining the 1997 and 2008 8-hour ozone NAAQS; these reductions will also be necessary for the attainment and maintenance of the new ozone NAAQS that the Department anticipates will be promulgated by the EPA in October 2015.

This final-form rulemaking, which is consistent with the RACT recommendations in the EPA's 2008 Fiberglass Boat Manufacturing Materials CTG, will reduce VOC emissions from the fiberglass boats manufacturing materials category in ozone nonattainment and maintenance areas in this Commonwealth for those affected sources that do not already comply with the control measures. Adoption of the final-form VOC emission reduction control measures will assist the Commonwealth in achieving and maintaining the 1997 and 2008 ozone standards Statewide; compliance with the measures will also allow the Commonwealth to make progress in reducing ozone precursor emissions that will contribute to nonattainment of the pending 2015 ozone standard.

There are no Federal statutory or regulatory RACT limits for VOC emissions from fiberglass boat manufacturing materials. In 2001, however, the EPA promulgated 40 CFR Part 63, Subpart VVVV (relating to National emission standards for hazardous air pollutants for boat manufacturing) (2001 NESHAP). The 2001 NESHAP established organic hazardous air pollutant (HAP) emissions limits based on low HAP-content resins and gel coats and low-emitting resin application technology. Many HAPs are VOCs, but not all VOCs are HAPs. The 2001 NESHAP data, however, indicate that styrene and methyl methacrylate, which are both organic HAP and VOC, account for nearly all the VOC emissions, as well as HAP emissions, from fiberglass boat manufacturing facilities. Therefore, total HAP and VOC emissions from fiberglass boat manufacturing facilities are nearly equal.

When developing the recommendations for the VOC emission reduction RACT measures included in its Fiberglass Boat Manufacturing Materials CTG, the EPA took into account the HAP emission reduction measures of the 2001 NESHAP for the boat manufacturing industry. The requirements of the 2001 NESHAP apply to "major sources" of HAP from boat manufacturing operations. For the purpose of regulating HAPs, a "major source" is considered to be a stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any single listed HAP or 25 tpy or more of any combination of HAPs. See section 112(a)(1) of the CAA (42 U.S.C.A. § 7412(a)(1)). See 66 FR 44218, 44219 (August 22, 2001).

State regulations to control VOC emissions from fiberglass boat manufacturing materials are required under Federal law and will be reviewed and approved by the EPA if the provisions meet the RACT requirements of the CAA and its implementing regulations. See 73 FR 58481, 58483. 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." 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).

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. 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. More importantly, section 184(b)(1)(B) of the CAA requires that states in the Ozone Transport Region (OTR), including the Commonwealth, submit a SIP revision requiring implementation of RACT for all sources of VOC emissions in the state covered by a specific CTG.

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 further provides that the EPA may issue a CTG document in place of a National regulation for a product category when the EPA determines that the CTG will be "substantially as effective as regulations" in reducing emissions of VOC in ozone nonattainment areas. In 1995, the EPA listed fiberglass boat manufacturing on its section 183(e) list and, in 2008, the EPA issued a CTG for this product category. See 60 FR 15264, 15267 (March 23, 1995) and 73 FR 58481. See Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials, EPA 453/R-08-004, Office of Air Quality Planning and Standards, EPA, September 2008. The Fiberglass Boat Manufacturing Materials CTG is available on the EPA web site at www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html.

In the 2008 notice of final determination and availability of final CTGs, the EPA determined that the recommendations of the Fiberglass Boat Manufacturing Materials CTG would be substantially as effective as National regulations in reducing VOC emissions from the fiberglass boat manufacturing materials product category in ozone nonattainment areas. See 73 FR 58481. The CTG provides states with the EPA's recommendation of what constitutes RACT for the covered category. States can use the Federal recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered category. State air pollution control agencies may implement other technically-sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines. The Department reviewed the RACT recommendations included in the 2008 Fiberglass Boat Manufacturing Materials CTG for their applicability to the ground-level ozone reduction measures necessary for this Commonwealth. The Bureau of Air Quality determined that the measures provided in the Fiberglass Boat Manufacturing Materials CTG are appropriate to be implemented in this Commonwealth as RACT for this category.

This final-form rulemaking affects the owner and operator of one known Title V major facility in this Commonwealth. The Board anticipates that the affected owner of the facility will demonstrate compliance with the final-form rulemaking measures to reduce VOC emissions because this facility is already subject to the 2001 NESHAP emission control requirements. These NESHAP provisions are applicable requirements in the Federally-enforceable Title V permit issued by the Department to the owner and operator on January 23, 2008. It is possible that the final-form rulemaking may also affect owners and operators of other fiberglass boat manufacturing facilities that have not yet been identified, because the 2001 NESHAP does not apply to area sources (that is, sources that emit less than 10 tpy of any single listed HAP or less than 25 tpy of any combination of HAPs). Owners and operators of area source fiberglass boat manufacturing facilities are, therefore, not currently required to implement the HAP-reduction measures provided in the 2001 NESHAP, which are also included in the 2008 Fiberglass Boat

Manufacturing Materials CTG as measures for reducing emissions of VOCs from sources that meet the applicability threshold recommended by the EPA in the CTG.

The ground-level ozone reduction measures included in this final-form rulemaking may achieve VOC emission reductions locally and may also reduce the transport of VOC emissions and ground-level ozone to downwind states, if implemented for potentially unidentified existing sources of VOC emissions from fiberglass boat manufacturing operations including open molding resin and gel coat materials that are not currently controlled in this Commonwealth. Adoption of VOC emission requirements for fiberglass boat manufacturing materials is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ozone NAAQS.

The final-form rulemaking is required under the CAA and, in accordance with Section 4.2 of the APCA, 35 P.S. §4004.2(a), is reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS and to satisfy related CAA requirements in this Commonwealth. If published as a final-form regulation in the *Pennsylvania Bulletin*, this final-form rulemaking will be submitted to the EPA as a revision to the Commonwealth's SIP.

The final-form rulemaking was discussed with the Air Quality Technical Advisory Committee (AQTAC) on November 7, 2014. The AQTAC voted 13-0-1 (yes; no; abstain) to concur with the Department's recommendation to forward the final-form rulemaking to the Board for consideration. The final-form rulemaking was discussed with the Small Business Compliance Advisory Committee (SBCAC) on January 28, 2015. The SBCAC voted 8-0-0 to concur with the Department's recommendation to forward the final-form rulemaking to the EQB. The final-form rulemaking was discussed with the Citizens Advisory Council (CAC) Policy and Regulatory Oversight (PRO) Committee on February 20, 2015. Upon the recommendation of the PRO Committee of the CAC, on March 17, 2015, the CAC concurred with the Department's recommendation to forward the final-form rulemaking to the Board. The AQTAC, SBCAC and CAC meetings are advertised and open to the public.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

§ 129.74. Control of VOC emissions from fiberglass boat manufacturing materials

Under subsection (a)(1), the final-form rulemaking applies Statewide to the owner and operator of a facility that manufactures a hull or a deck of a boat or a related part from fiberglass, builds a mold or plug to make a fiberglass boat hull or deck or related part, or makes polyester resin putties for assembling fiberglass boat parts when the total actual VOC emissions from fiberglass boat manufacturing operations identified in Table I are equal to or greater than 15 pounds (6.8 kilograms) per day or 2.7 tons per 12-month rolling period, before consideration of controls. The total actual VOC emissions include the actual VOC emissions from the manufacture of hulls or decks from fiberglass, fiberglass boat parts (including small parts such as hatches, seats and lockers), molds or plugs for fiberglass hulls, decks or boat parts, resin and gel coat mixing operations, resin and gel coat application equipment and related cleaning activities at the facility. As with all RACT regulations, an owner or operator remains subject to the regulation even if the throughput or VOC emissions fall below the applicability threshold.

Subsection (a)(2) specifies that the final-form rulemaking does not apply to the owner and operator of a facility that manufactures boat trailers or parts of boats, such as hatches, seats and lockers, but does not manufacture hulls or decks of boats from fiberglass or build molds to make fiberglass boat hulls or decks. Subsection (a) also establishes monomer VOC content limits for open molding resin and gel coat materials. There are no changes to subsection (a) from the proposed rulemaking.

Subsection (b) establishes 39 definitions to support the final-form rulemaking. There are no changes to subsection (b) from the proposed rulemaking.

Subsection (c) establishes exceptions for certain operating circumstances: when a resin application is used in a closed molding operation, when a surface coating is applied to a fiberglass boat, and when a surface coating is applied to a fiberglass and metal recreational boat. There are no changes to subsection (c) from the proposed rulemaking.

Subsection (d) specifies that the requirements of § 129.74 supersede the requirements of a RACT permit issued under §§ 129.91—129.95 prior to ____ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*), to the owner or operator of a source subject to § 129.74, except to the extent the RACT permit contains more stringent requirements. There are no changes to subsection (d) from the proposed rulemaking.

Subsection (e) establishes a compliance deadline of ____ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*). There are no changes to subsection (e) from the proposed rulemaking.

Subsection (f) establishes that the owner and operator of a facility subject to this section may not cause or permit the emission into the outdoor atmosphere of monomer VOCs from an open molding resin or gel coat fiberglass boat manufacturing operation, a resin or gel coat mixing operation, or a resin or gel coat application equipment cleaning operation unless one or more of the specified limitations is met. The subsection also provides three options for meeting the emission limits: use of compliant materials as listed in Table I; monomer VOC emissions averaging; or installation of a VOC emissions capture system and add-on air pollution control device. There are no changes to subsection (f) from the proposed rulemaking.

Subsection (g) specifies that the owner and operator of a facility subject to this section opting to install a VOC emissions capture system and add-on air pollution control device must obtain a plan approval prior to installation and operation of the VOC emissions capture system and add-on air pollution control device. To improve clarity in subsection (g), the final-form rulemaking is amended to specify that the owner or operator shall submit an “application” for a plan approval to the appropriate regional office instead of a submitting a plan approval.

Subsection (h) specifies that the owner and operator of a facility subject to this section may use an adjusted monomer VOC emission rate for filled production resins and filled tooling resins in each of the options specified in subsection (f). There are no changes to subsection (h) from the proposed rulemaking.

Subsection (i) establishes that the monomer VOC content of an open molding resin, gel coat, filled production resin or filled tooling resin material not included in an emissions averaging option in subsection (f)(2) must meet the monomer VOC content requirements of subsection (f)(1) or the add-on air pollution control requirements of subsection (f)(3). There are no changes to subsection (i) from the proposed rulemaking.

Subsection (j) establishes alternative requirements for control of monomer VOC content for certain resin and gel coat materials. There are no changes to subsection (j) from the proposed rulemaking.

Subsection (k) establishes work practices for resin and gel coat materials. There are no changes to subsection (k) from the proposed rulemaking.

Subsection (l) establishes VOC content limits and work practices for cleaning materials. There are no changes to subsection (l) from the proposed rulemaking.

Subsection (m) establishes compliance and monitoring requirements. In the final-form rulemaking, the Board added subsection (m)(2) to specify that the owner and operator of a facility subject to this section shall demonstrate compliance of the monomer VOC content of the resin and gel coat material within 90 days of receipt of a written request from the Department in accordance with subsection (n). Proposed subsection (m)(2) is renumbered as subsection (m)(3) in the final-form rulemaking. The Board also added subsection (m)(4) to specify that the owner and operator of a facility subject to this section shall conduct testing of a VOC emissions capture system and add-on air pollution control device installed in accordance with subsection (f)(3) one time every 5 years starting from completion of the initial testing specified in the plan approval application required in subsection (g).

Subsection (n) establishes sampling and testing standards. There are no changes to subsection (n) from the proposed rulemaking.

Subsection (o) establishes recordkeeping requirements. There are no changes to subsection (o) from the proposed rulemaking.

Subsection (p) establishes reporting requirements. There are no changes to subsection (p) from the proposed rulemaking.

F. Summary of Major Comments and Responses

The Board approved publication of the proposed rulemaking at its meeting of May 21, 2014. The proposed rulemaking was published at 44 Pa.B.4502 (July 19, 2014). The public comment period opened July 19, 2014. Three public hearings were held on August 19, 20 and 21, 2014, in Pittsburgh, Norristown and Harrisburg, PA, respectively. The public comment period closed on September 22, 2014, for a 66-day public comment period. The Board did not receive any comments from the general public on the proposed rulemaking. However, the Independent Regulatory Review Commission (IRRC) forwarded to the Board via e-mail a comment it received from the Pennsylvania State Association of Township Supervisors (PSATS). PSATS stated that the proposed rulemaking would benefit PSATS members by controlling and limiting

VOC emissions from the air, but further stated that the organization would not take a position on the regulation as it did not impact its members. The Board thanks the commentator for the comment and IRRC for forwarding this comment. No changes were made to the final-form rulemaking in response to this comment.

IRRC also submitted comments on the proposed rulemaking. IRRC recommended that the Board clarify the requirements in subsection (n) to provide for how often sampling and testing are to be conducted. The Board agreed with the comment. Language clarifying the timing and frequency of testing or sampling was added into final-form subsection (m) to address IRRC's comment. Compliance of the monomer VOC content of the resin and gel coat materials must be demonstrated within 90 days of receipt of the Department's written request. Testing of a VOC emissions capture system and add-on air pollution control device must be conducted one time every 5 years starting from completion of the initial testing specified in the plan approval application.

All comments received on the proposed rulemaking and related issues have been addressed in the final-form rulemaking.

G. Benefits, Costs and Compliance

Benefits

Implementation of the VOC emission control measures in the final-form rulemaking will benefit the health and welfare of the approximately 12.7 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing emissions of VOCs, which are precursors to the formation of ground-level ozone air pollution. 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. Reduced ambient concentrations of ground-level ozone may reduce the incidences of hospital admissions for respiratory ailments including asthma and improve the quality of life for citizens overall. 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.

This final-form rulemaking is designed to adopt standards and requirements consistent with the recommendations in the 2008 Fiberglass Boat Manufacturing Materials CTG to meet the requirements of sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA. The final-form rulemaking applies the standards and requirements across this Commonwealth, as required under section 184(b)(1)(B) of the CAA. In accordance with Section 4.2 of the APCA, the measures in the final-form rulemaking are reasonably necessary to attain and maintain the health-based and welfare-based 8-hour ozone NAAQS in this Commonwealth.

The Statewide implementation of the final-form rulemaking control measures will assist the Department in reducing VOC emissions from fiberglass boat manufacturing operations locally and reducing the resultant local formation of ground-level ozone and transport of VOC emissions

and ground-level ozone to downwind states and will facilitate implementation and enforcement of the final-form rulemaking in this Commonwealth.

The Board anticipates that this final-form rulemaking will affect the owner and operator of one known Title V major facility in this Commonwealth. The Board anticipates that the affected owner of the facility will demonstrate compliance with the final-form rulemaking measures to reduce VOC emissions because this facility is already subject to the 2001 NESHAP emission control requirements. These NESHAP provisions are applicable requirements in the Federally-enforceable Title V permit issued by the Department to the owner and operator on January 23, 2008. Consequently, the Board does not expect additional VOC emission reductions from this facility. It is possible that the final-form rulemaking may also affect owners and operators of other fiberglass boat manufacturing facilities that have not yet been identified, because the 2001 NESHAP does not apply to area sources (that is, sources that emit less than 10 tpy of any single listed HAP or less than 25 tpy of any combination of HAPs). Owners and operators of area source fiberglass boat manufacturing facilities are, therefore, not currently required to implement the HAP-reduction measures provided in the 2001 NESHAP, which are also included in the 2008 Fiberglass Boat Manufacturing Materials CTG as measures for reducing emissions of VOCs from sources that meet the applicability threshold recommended by the EPA in the CTG. If there are other owners and operators affected by the final-form rulemaking, they may already be using complying materials, which are readily available to the owners and operators of facilities of all sizes, and no further VOC emission reductions would be achieved.

The final-form rulemaking may create economic opportunities for VOC emission control technology innovators, manufacturers and distributors through an increased demand for new or improved equipment. In addition, the owners and operators of affected facilities may elect to install and operate an emissions monitoring system or equipment necessary for an emissions monitoring method to comply with the final-form rulemaking, thereby creating an economic opportunity for the emissions monitoring industry.

Although the final-form rulemaking is designed primarily to reduce ozone precursor emissions, the reformulation of noncomplying open molding resin, gel coat and cleaning materials or substitution of complying open molding resin, gel coat and cleaning materials to meet the VOC content limits applicable to users may also result in reduction of indoor and outdoor HAP emissions, which are also a serious health threat.

Compliance costs

The Board does not anticipate additional costs from these final-form VOC emission reduction measures for the owner and operator of this Title V facility which is already subject to the 2001 NESHAP emission control requirements. These applicable requirements are incorporated in the Federally-enforceable Title V permit issued by the Department to the owner and operator on January 23, 2008. Therefore, there are no additional compliance costs to the owner and operator of this source from implementation of this final-form rulemaking. It is possible that the final-form rulemaking may also affect owners and operators of other fiberglass boat manufacturing facilities that have not yet been identified, because the HAP emission reduction measures of the 2001 NESHAP do not apply to the owners and operators of area sources (that is, sources that emit less than 10 tpy of any single listed HAP or less than 25 tpy of any combination of HAPs).

Owners and operators of area source fiberglass boat manufacturing facilities are, therefore, not currently required to implement the HAP emission reduction measures provided in the 2001 NESHAP, which are also included in the 2008 Fiberglass Boat Manufacturing Materials CTG as measures for reducing emissions of VOCs from sources that meet the applicability threshold recommended by the EPA in the CTG.

The owner and operator of a facility that is not subject to the 2001 NESHAP that may be subject to the final-form rulemaking is expected to incur little, if any, cost to implement the requirements of the final-form rulemaking. The final-form rulemaking provides as one compliance option the use of individually-compliant resin and gel coat materials in subsection (f)(1), and requires the use of compliant cleaning solvents in subsection (l). Open molding resin, gel coat and cleaning materials that are compliant with the HAP content limits in the 2001 NESHAP and with the final-form rulemaking VOC content limits in subsection (a) are readily available to the owners and operators of all sizes of facilities. Further, the industry has experienced a shift to non-atomizing resin application methods that are required to comply with the HAP emission reduction requirements in the 2001 NESHAP and which are included in the final-form rulemaking. This shift has occurred at all sizes of facilities across the United States because of the productivity and economic benefits of using non-atomizing methods over conventional atomizing methods.

The final-form rulemaking provides flexibility by allowing compliance through averaging the VOC emission rates of open molding resin and gel coat materials in subsection (f)(2) in addition to choice of application technology. A third compliance option, the use of a VOC emissions capture system and add-on air pollution control device, is provided in subsection (f)(3). However, because of the wide availability and lower cost (compared to add-on controls) of compliant VOC content materials and alternative application methods, compliant materials and methods are generally used to reduce VOC emissions from fiberglass boat manufacturing facilities.

Emission limitations established by this final-form rulemaking do not require the submission of applications for amendments to existing operating permits. These requirements will be incorporated as applicable requirements at the time of permit renewal, if less than 3 years remain in the permit term, as specified under § 127.463(c) (relating to operating permit revisions to incorporate applicable standards). If 3 years or more remain in the permit term, the requirements will be incorporated as applicable requirements in the permit within 18 months of the promulgation of the final-form rulemaking, as required under § 127.463(b).

New legal, accounting or consulting procedures are not required.

Compliance assistance plan

The known affected facility is already subject to the 2001 NESHAP emission control requirements and is expected to continue to comply. The Department plans to educate and assist the public and regulated community in understanding the final-form rulemaking requirements and how to comply with them. This will be accomplished through the Department's ongoing compliance assistance program. The Department will also work with the Pennsylvania Small

Business Development Center's Environmental Management Assistance Program to aid the facilities less able to handle permitting matters with in-house staff.

Paperwork requirements

The owner and operator of an affected fiberglass boat manufacturing source is required to keep records of information for open molding resin and gel coat materials and cleaning materials, as applicable, sufficient to demonstrate compliance with the requirements of this section. The final-form rulemaking requires monthly records of certain VOC content information or composite vapor pressure, as applicable. Records of calculations performed for each applicable requirement under subsections (f), (h) and (j) are required, as well as records of the sampling and testing performed in accordance with subsection (n). The owner and operator of an affected fiberglass boat manufacturing source shall demonstrate compliance of the monomer VOC content of resin and gel coat material within 90 days of receipt of a written request from the Department. The records required in the final-form rulemaking must be maintained for 2 years unless a longer period is specified by a plan approval or operating permit issued under Chapter 127 (relating to construction, modification, reactivation and operation of sources) and submitted to the Department in an acceptable format upon receipt of a written request.

H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This final-form rulemaking will help ensure that the citizens and the environment of this Commonwealth experience the benefits of reduced emissions of VOCs and HAPs from fiberglass boat manufacturing open molding resin, gel coat and cleaning materials. Although the final-form rulemaking is designed primarily to address ozone air quality, the reformulation or substitution of low VOC-content open molding resin and gel coat materials, and low VOC-content or low vapor pressure cleaning materials, to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The reduced levels of high VOC-content and HAP-content solvents will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of high VOC-content and HAP-content solvents leaching into the ground.

The final-form rulemaking provides as one compliance option that open molding resin and gel coat materials used in fiberglass boat manufacturing processes in this Commonwealth meet specified limits for VOC content, usually through substitution of low VOC-content solvents or water for the high VOC-content solvents, and that they be applied using specified application methods. Further, the final-form rulemaking requires the owner and operator of a source subject to this section to ensure that resin and gel coat containers with a capacity equal to or greater than

55 gallons (208 liters), including those used for onsite mixing of putties and polyputties, have a cover in place at all times with no visible gaps, except when materials are being manually added or removed from a container or when mixing equipment is being placed in or removed from a container.

The final-form rulemaking additionally requires the use of low VOC-content or low vapor pressure cleaning materials, and work practice standards for the storage and handling of cleaning materials. The final-form rulemaking requires the owner and operator of a source subject to this section to ensure that the VOC content of cleaning materials used for routine application equipment cleaning is equal to or less than 5% by weight or has a composite vapor pressure equal to or less than 0.50 mmHg at 68°F and use only non-VOC-containing solvent to remove cured resin or gel coat residue from application equipment.

I. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 8, 2014, the Department submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 4502 (July 19, 2014), to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on **DATE**, 2015, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on **DATE**, 2015, and approved the final-form rulemaking.

K. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 44 Pa.B. 4502.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.

(5) These regulations are reasonably necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. *Order*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 129, are amended by adding § 129.74, to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

(f) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

John Quigley
Acting Chairperson
Environmental Quality Board