

State of Rhode Island
Department of Environmental Management
Office of Air Resources

**In re: Proposed revisions to Air Pollution Control Regulation
No. 36 – “Control of Emissions from Organic Solvent Cleaning”**

DECISION

Introduction

On October 30, 2018 a notice was posted on the websites of the Rhode Island Department of Environmental Management (RI DEM) and the Rhode Island Office of Secretary of State and was sent to interested parties announcing a public comment period to accept comments on the adoption of proposed revisions to Air Pollution Control Regulation No. 36 – “Control of Emissions from Organic Solvent Cleaning” (250-RICR-120-05-36). Although R.I. Gen. Laws § 42352.8, require that an oral hearing be granted if requested by twenty-five persons, by an agency or by an association having at least twenty-five members, the notice stated that an oral hearing would be granted if requested by one or more persons during the public comment period. No requests for a public hearing were received. The public comment period ended at 4:00 PM on November 30, 2018.

The purpose of this regulation is to limit volatile organic compound emissions from solvent cleaning operations. The regulation is being amended to incorporate requirements for industrial cleaning solvents used at facilities whose emissions of volatile organic compounds (VOC) from industrial cleaning operations are greater than 2.7 tons in any twelve-month period. The rule exempts cleaning activities associated with several source categories already regulated in existing air pollution control regulations. The amendments include work practice requirements, limitations on the VOC content of solvents used for industrial solvent cleaning and recordkeeping requirements.

Rhode Island is required to adopt these standards as EPA issued a finding of failure to submit to Rhode Island for failure to submit required State Implementation Plan (SIP) components to address Clean Air Act requirements for the 2008 Ozone National Ambient Air Quality Standard on March 6, 2017. The finding establishes deadlines by which states either must submit complete SIP revisions or become subject to sanctions. The offset sanction is currently in place.

Specifically, 40 CFR § 51.1116 required RI to submit a SIP revision that meets the requirements of Section 184(b) of the Clean Air Act. Section 184(b) requires states in the ozone transport region to implement or update reasonably available control technology (RACT) controls on all major VOC and NO_x emission sources and on source categories covered by a Control Technique Guideline (CTG) document. In 2006, EPA published a CTG recommending VOC controls for industrial solvent cleaning activities. The Department is proposing to incorporate this CTG into

Part 36, "Control of Emissions from Organic Solvent Cleaning," which will be submitted to the U.S. Environmental Protection Agency for approval in Rhode Island's State Implementation Plan. RI must make a complete SIP submission by March 6, 2019, or further sanctions may be imposed.

Additionally, in 2016, the state revised the Administrative Procedures Act to require that every state regulation be rewritten into the new RICR format by December 31, 2018, or it will no longer be enforceable. In order to meet this requirement, Part 36 is being revised to the required RICR format which included the addition of an incorporated materials section.

Written comments were received from Immunex Rhode Island Corporation, a subsidiary of Amgen (Immunex) and the United States Environmental Protection Agency (USEPA). The following are the Office of Air Resources' responses to the comments received:

Response to Comments

Comment: Immunex is proposing that 36.6(D)(6) be updated to include biological product manufacturing in the pharmaceutical manufacturing exemptions. Biological product manufacturing is similar to pharmaceutical but the NAICS codes are different. (Immunex)

Response: 40 CFR § 51.1116 required RI to submit a SIP revision that meets the requirements of Section 184(b) of the Clean Air Act. Section 184(b) requires states in the ozone transport region to implement or update reasonably available control technology (RACT) controls on all major VOC and NOx emission sources and on source categories covered by a Control Technique Guideline (CTG) document. In 2006, EPA published a CTG recommending VOC controls for industrial solvent cleaning activities. The Department is proposing to incorporate this CTG into Part 36, "Control of Emissions from Organic Solvent Cleaning," which will be submitted to the U.S. Environmental Protection Agency for approval in Rhode Island's State Implementation Plan. EPA was consulted about adding the biological product manufacturing exemption to the pharmaceutical manufacturing exemption and agreed that biological product manufacturing can be added to the pharmaceutical manufacturing exemption in 36.6(D)(6).

Comment: Immunex would like to add a new exemption to section 36.6(D)(17), exempting organic solvent emissions which are already permitted through Part 9, Air Pollution Control Permits. Permitted emissions have already gone through the rigorous requirements to minimize and control emissions by completing a RACT/BACT analysis and permitted emissions sources have demonstrated that fence-line emissions will not exceed the Acceptable Ambient Levels listed in Air Pollution Control Regulation 22, Air Toxics. Immunex has an existing permit which included a BACT analysis. (Immunex)

Response: With the revised exemption for biological product manufacturing above, Immunex will not be subject to the industrial solvent cleaning requirements in §36.17. Sources that currently have permits for industrial solvent cleaning

operations would not be required to meet the new emissions standards in §36.17 unless they were making a change in their process which required reopening of the permit. At such time a permit is re-evaluated, the source would be subject to the rule/requirements currently in place. As Part 36 will be incorporated into the Rhode Island State Implementation Plan it must be approvable by EPA. EPA was consulted on this matter and agreed that a source should not be exempted from compliance because they have an existing permit. No change will be made to the rule as a result of this comment.

Comment: On June 18, 2010, EPA approved Rhode Island's APCR 36 and Rhode Island's General Definitions Rule in place of the Halogenated Solvent NESHAP, Part 63 Subpart T, for all sources in Rhode Island except for continuous web degreasers. Under Part 63, Subpart E, Section 63.91(e), within 90 days of any rule amendments, Rhode Island must provide EPA with a demonstration of legal authority to implement and enforce the previous approved version of the rule, or Rhode Island must request that EPA approve the revised APCR 36. We request that when you submit the revised APCR 36 for approval, you include an updated side by side comparison of Rhode Island's rule and the federal Halogenated Solvent NESHAP. (USEPA)

Response: The Department intends to submit the revised Part 36 to EPA for approval after the rule is filed with the RI Secretary of State. When the Department submits Part 36 for approval an updated side by side comparison of Rhode Island's rule to the federal Halogenated Solvent NESHAP will be included.

Comment: Rhode Island proposed to remove the compliance dates in the current APCR 36, section 36.7.A(1)-(2). For EPA to approve the revised APCR 36 as a substitute for the Halogenated Solvent NESHAP, Rhode Island must demonstrate APCR 36 has a compliance schedule consistent with the Halogenated Solvent NESHAP (see approval criteria in Part 63, Subpart E, Section 63.93(b)). Therefore, we request that Rhode Island continue to include compliance dates for new and existing halogenated solvent cleaning machines consistent with the NESHAP in APCR 36. In addition, Rhode Island incorporated facility-wide emission limits from Section 63.471 into current section 36.8.Q (proposed section 36.7.Q), effective October 9, 2008. We request Rhode Island's rule also specify a compliance dates consistent with the NESHAP for both new and existing sources for the facility-wide emission limits in proposed Section 36.7.Q. (USEPA36.7 (Q))

Response: Section 36.7 will be retained in the final rule consistent with the NESHAP requirement. To address the compliance schedule for the facility wide emissions standards the following section will be added to 36.7:

36.7 *Compliance Schedule*

- A. *Unless otherwise specified compliance with the provisions of this regulation shall be achieved by the following dates:*
1. *Solvent cleaning machines that commenced construction or reconstruction before November 29, 1993, shall achieve compliance with this regulation by January 1, 1997.*
 2. *Solvent cleaning machines that commenced construction or reconstruction on or after November 29, 1993, shall achieve compliance with this regulation immediately upon startup or by April 8, 1996, whichever is later.*
 3. *Any batch vapor cleaning machine with a solvent/air interface that uses trans 1,2-dichloroethene or n-propyl bromide shall achieve compliance with §§ 36.10(C), 36.10(F), and 36.10(G) of this Part immediately upon first use of that solvent or by April 9, 2009, whichever is later.*
- B. *Facilities complying with the facility wide emissions limits for Hazardous Air Pollutants in 36.8(Q) of this Part, shall achieve compliance by the following dates:*
1. *Solvent cleaning machines that commenced construction or reconstruction on or before August 17, 2006, shall achieve compliance with the facility wide emissions standards for hazardous air pollutants in §36.8(Q) of this Part, by May 3, 2010.*
 2. *Solvent cleaning machines that commenced construction or reconstruction on or after August 17, 2006, shall achieve compliance with the facility wide emissions standards for hazardous air pollutants in §36.8(Q) of this Part, by May 3, 2007 or immediately upon startup, whichever is later.*

Comment: The “Application” section in paragraph 36.2 is problematic for EPA to approve because it states that “this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.” While this provision may be appropriate as a matter of state law, it provides Rhode Island with broad discretion, akin to a Director’s discretion provision, which is problematic to approve into the SIP or as a rule substitution for the Halogenated Solvent NESHAP. For example, EPA would be approving language that is not sufficiently defined in a way that EPA or the public could know what the “purposes of state law, goals and policies” are for the individual regulation in question. Therefore, when Rhode Island submits APCR to be approved as part of

a SIP revision and as a revised rule substitution, the "Application" section should be omitted. (USEPA)

Response: When DEM submits this regulation to EPA, as a revision to the RI SIP, the "Application" section in the regulation will be stricken.

Decision

It is the decision of the Department to amend the draft Air Pollution Control Regulation No. 36, "Control of Emissions from Organic Solvent Cleaning" as indicated in the response to comments above. The final amended regulation is appended to this Decision.

Date

12/20/18



Laurie A. Grandchamp, P.E.
Administrator, Environmental Protection