

ENCLOSURE

EPA Comments for Rhode Island Proposed Air Pollution Control Regulation No. 36, “Control of Emissions from Organic Solvent Cleaning.”

- 1) 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.
- 2) 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.
- 3) 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.