



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-R01-OAR-2020-0007; FRL-10498-02-R1]**

**Approval of the Clean Air Act, Authority for Hazardous Air Pollutants: Air Emissions Standards for Halogenated Solvent Cleaning Machines; State of Rhode Island Department of Environmental Management**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting the Rhode Island Department of Environmental Management (RI DEM) the authority to implement and enforce the amended Rhode Island Code of Regulations, Control of Emissions from Organic Solvent Cleaning (Organic Solvent Cleaning Rule), and the General Definitions Regulation (General Definitions Rule) in place of the National Emission Standard for Halogenated Solvent Cleaning (Halogenated Solvent NESHAP) as a partial rule substitution as it applies to organic solvent cleaning machines in Rhode Island. RI DEM's amended Organic Solvent Cleaning Rule and General Definitions Rule will apply to all sources that otherwise would be regulated by the Halogenated Solvent NESHAP, except for continuous web cleaning machines, for which the Halogenated Solvent NESHAP will continue to apply. This approval makes RI DEM's amended Organic Solvent Cleaning Rule and General Definitions Rule federally enforceable. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0007. All documents in the docket are listed on the

<https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at

<https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA.

EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Liam Numrich, Air Permits, Toxics, and Indoor Programs Branch, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code 5-MI), Boston, MA 02109-3912, telephone number 617-918-1307, [numrich.liam@epa.gov](mailto:numrich.liam@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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#### **I. Background and Purpose**

On January 22, 2022 (87 FR 78621), the EPA published a Notice of Proposed Rulemaking (NPRM) that proposed approval of RI DEM's amended rules in the Rhode Island Code of Regulations, Control of Emissions from Organic Solvent Cleaning (Organic Solvent Cleaning Rule), and the General Definitions Regulation (General Definitions Rule) in place of the National Emission Standard for Halogenated Solvent Cleaning (Halogenated Solvent

NESHAP) as a partial rule substitution as it applies to organic solvent cleaning machines in Rhode Island.

Under CAA section 112(l), the EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements for hazardous air pollutants (HAPs). The Federal regulations governing the EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (*see* 58 FR 62262 (November 26, 1993), as amended by 65 FR 55810 (September 14, 2000)). Under these regulations, a state air pollution control agency has the option to request EPA's approval to substitute a state rule for the applicable Federal rule (*e.g.*, the National Emission Standards for Hazardous Air Pollutants). Upon approval by EPA, the state agency is authorized to implement and enforce its rule in place of the Federal rule.

The EPA promulgated the Halogenated Solvent NESHAP on December 2, 1994. *See* 40 CFR part 63, subpart T. The EPA promulgated several amendments to the Halogenated Solvent NESHAP, with the latest amendments promulgated on May 3, 2007 (*see* 72 FR 25138).

On June 18, 2010, the EPA approved the Rhode Island Air Pollution Control Regulation No. 36, currently codified in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 36 Control of Emissions from Organic Solvent Cleaning (Organic Solvent Cleaning Rule), and Rhode Island Air Pollution Control General Definitions Regulation, currently codified in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 0 General Definitions Regulation (General Definitions Rule), as a partial rule substitution for the Halogenated Solvent NESHAP, applicable to all sources in Rhode Island, except for continuous web cleaning machines,<sup>1</sup> for which the Halogenated Solvent NESHAP continues to apply (*see* 75 FR 34647).

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<sup>1</sup> The regulatory text promulgated in 40 CFR 63.99(a)(40)(ii) on June 10, 2010 specifies that the EPA's approval applies to area sources. However, Rhode Island did not request that the rule substitution be limited to area sources. In addition, nothing in the June 10, 2010 Federal Register preamble describes the rule substitution as being limited

In a letter dated June 30, 2022, RI DEM requested approval of its amended rules pertaining to organic solvent cleaning in Rhode Island. Specifically, RI DEM requested approval of its amended rules in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 36 Control of Emissions from Organic Solvent Cleaning, effective June 13, 2022, excluding the provisions in Parts 36.2, 36.5.A.28, 36.6.D, and 36.17,<sup>2</sup> and in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 0 General Definitions Rule, effective January 4, 2022, excluding the provisions in Part 0.2.<sup>3</sup> In this Federal Register notice, the EPA is approving the amended Organic Solvent Cleaning Rule and General Definitions Rule under the rule substitution criteria in 40 CFR 63.93. No public comments were received on the NPRM.

## **II. Final Action**

EPA is approving RI DEM's amended rules in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 36 Control of Emissions from Organic Solvent Cleaning, effective as of June 13, 2022, excluding the provisions in Parts 36.2, 36.5.A.28, 36.6.D, and 36.17, and in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 0 General Definitions Regulation, effective as of January 4, 2022, excluding the provisions in Part 0.2, as a partial rule substitution for the Halogenated Solvent NESHAP, for all sources in Rhode Island, except for continuous web cleaning machines.

## **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by

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to area sources. We believe the rule substitution was intended to apply to both major and area sources and that the term area source is erroneously included in the regulatory text in 63.99(a)(40)(ii). We proposed to remove the reference to area sources through this rulemaking and intend to finalize this regulatory change in our final action.

<sup>2</sup> The excluded provisions at Parts 36.A.5.28, 36.6.D, and 36.17 apply to industrial solvent cleaning not regulated by the Halogenated Solvent NESHAP. We are not proposing to approve these provisions.

<sup>3</sup> The excluded provisions at Parts 36.2 and 0.2 state that the State's regulation shall be liberally construed to permit RI DEM to effectuate the purposes of state laws, goals and policies. We are not approving these provisions.

reference of Rhode Island's rules in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 36 Control of Emissions from Organic Solvent Cleaning, effective as of June 13, 2022, which limits emissions from organic solvent cleaning machines and industrial solvent cleaning operations, excluding the provisions in Parts 36.2, 36.5.A.28, 36.6.D, 36.17, and in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, Part 0 General Definitions Regulation, effective as of January 4, 2022, which provides a consistent set of definitions and abbreviations for terms used in Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control, excluding the provisions in Part 0.2. The EPA has made, and will continue to make, these documents generally available through at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator has the authority to approve CAA section 112(l) submissions that comply with the provisions of the Act and applicable Federal regulations. In reviewing section 112(l) submissions, the EPA's role is to approve state choices, provided that they meet the criteria and objectives of the CAA and of the EPA's implementing regulations. Accordingly, this action approves the State's request as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001).
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the 112(l) submission is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### **List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 24, 2023.

David Cash,  
Regional Administrator,  
EPA Region 1.

For the reasons stated in the preamble, EPA amends 40 CFR part 63 as follows:

**PART 63-NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR  
POLLUTANTS FOR SOURCE CATEGORIES**

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart A – General Provisions**

2. Section 63.14 is amended by:

- a. Revising paragraph (n)(10); and
- b. Removing and reserving paragraph (n)(11).

The revision read as follows:

**§ 63.14 Incorporation by reference.**

\* \* \* \* \*

(n)\* \* \*

(10) Rhode Island Regulations at Title 250 Department of Environmental Management, Chapter 120 Air Resources, Subchapter 05 Air Pollution Control:

(i) 250-RICR-120-05-0. Part 0 General Definitions Regulation, effective as of January 4, 2022, excluding 0.2 “Application”; IBR approved for § 63.99(a).

(ii) 250-RICR-120-05-36. Part 36 Control of Emissions from Organic Solvent Cleaning, effective as of June 13, 2022, excluding 36.2 “Application”, 36.5.A.28, “Industrial solvent cleaning”, 36.6.D, and 36.17 “Requirements for Industrial Cleaning Solvents”; IBR approved for § 63.99(a).

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### **Subpart E—Approval of State Programs and Delegation of Federal Authorities**

3. Section 63.99 is amended by revising paragraph (a)(40)(ii) to read as follows:

#### **§ 63.99 Delegated Federal authorities.**

\* \* \* \* \*

(a) \* \* \*

(40) \* \* \*

(ii) Affected organic solvent cleaning sources within Rhode Island must comply with the Rhode Island regulations applicable to hazardous air pollutants, 250-RICR-120-05-0 and 250-RICR-120-05-36 (incorporated by reference as specified in § 63.14), as described in paragraph

(a)(40)(ii)(A) of this section:

(A) 250-RICR-120-05-0 and 250-RICR-120-05-36 pertain to organic solvent cleaning facilities in the State of Rhode Island's jurisdiction, and have been approved under the procedures in § 63.93 to be implemented and enforced in place of the Federal Halogenated Solvent NESHAP found at 40 CFR part 63, subpart T (except for those provisions listed under paragraphs

(a)(40)(ii)(A)(*I*)(*i*).

(*I*) Authorities not delegated.

(*i*) Rhode Island is not delegated the Administrator's authority to implement and enforce Rhode Island regulations at 250-RICR-120-05-0 and 250-RICR-120-05-36 in lieu of those provisions of subpart T of this part which apply to continuous web cleaning machines as defined in 40 CFR. §63.461.

(*ii*) [Reserved]

(2) [Reserved]

(B) [Reserved]

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