Mr. Peter D. Lopez  
Regional Administrator  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 26th Floor  
New York, NY 10007-1866  

Dear Administrator Lopez:  

On behalf of the Governor of the State of New York, I am submitting for approval by the United States Environmental Protection Agency (EPA) a revised State Implementation Plan (SIP) to incorporate revisions to Title 6 of New York Code, Rules and Regulations (NYCRR) Parts 226 and 201.

The New York State Department of Environmental Conservation (DEC) revised 6 NYCRR Part 226, “Solvent Metal Cleaning Processes” and 6 NYCRR Part 201, “Permits and Registrations.” The changes to Part 226, and attendant revisions to Part 201, incorporate the control technique guidelines for industrial cleaning solvents issued by EPA in September 2006 (EPA 453/R-06-001) and suggested changes made by the Ozone Transport Commission’s model rule for solvent degreasing issued in 2012. Part 226 is now “Solvent Cleaning Processes and Industrial Cleaning Solvents.”

A public review process was held for the revisions referenced above. On March 20, 2019 a “Public Notice - Notice of Proposed Rule Making” was published in the Environmental Notice Bulletin (ENB) and a “Proposed Rule Making – Hearing(s) Scheduled” was published in the New York State Register (State Register). Legislative public hearings on the rule revisions and their subsequent submittal as a SIP revision were held on May 22, 2019 in Avon, New York and on May 24, 2019 in Albany, New York. Public comments were accepted through May 29, 2019.

The following documents are enclosed with this SIP revision:

1. Express Terms for 6 NYCRR Part 226, “Solvent Cleaning Processes and Industrial Cleaning Solvents” and 6 NYCRR Part 201, “Permits and Registrations” as proposed on March 20, 2019;  
2. “Notice of Proposed Rule Making” as published in the ENB and “Proposed Rule Making – Hearing(s) Scheduled” as published in the State Register on March 20, 2019;  
3. “Notice of Public Hearing” as published in newspapers statewide;  
5. "Assessment of Public Comments" for all comments received by May 29, 2019;
7. Express Terms for 6 NYCRR Part 226, “Solvent Cleaning Processes and Industrial Cleaning Solvents” and 6 NYCRR Part 201, “Permits and Registrations” as adopted on October 1, 2019;
8. “Notice of Adoption” as published in the ENB and State Register on October 23, 2019.

Please call Mr. Robert Bielawa, Chief, SIP Planning at (518) 402-8396 if you have any questions regarding this SIP revision.

Sincerely,

J. Jared Snyder
Deputy Commissioner
Office of Climate, Air & Energy

Enclosures

c: R. Ruvo, EPA
R. Bielawa
AS PROPOSED
Express Terms

6 NYCRR PART 226
SOLVENT [METAL] CLEANING PROCESSES
AND INDUSTRIAL CLEANING SOLVENTS

Subpart 226-1 Solvent Cleaning Processes

Section 226-1.1 Applicability

(a) Applicability. This Subpart applies to all owners or operators of facilities who operate cold cleaners (including remote reservoir cold cleaning machines), open-top vapor degreasers, and all types of conveyorized degreasers that carry out solvent cleaning processes of metal objects using a solution containing volatile organic compounds (VOCs). After December 1, 2020, applicability is expanded to include such cleaning of non-metal objects.

[Section 226.1] Section 226-1.2 Definitions.

(a) To the extent that they are not inconsistent with the specific definitions in subdivision (b) of this [section] Subpart, the general definitions of Part 200 of this Title apply.

(b) For the purposes of this [Part] Subpart, the following specific definitions also apply:

(1) ‘Cold cleaning degreasing.’ Batch process of solvent [metal] cleaning, with liquid solvent, by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

(2) ‘Conveyorized degreasing.’ Continuous process of solvent [metal] cleaning by operating with either cold or vaporized solvents.

(3) ‘Degreaser.’ Any solvent [metal] cleaning machine used to perform cold cleaning degreasing, remote reservoir degreasing, conveyorized degreasing, or open-top vapor degreasing.

(4) ‘Freeboard height.’ Distance from the top of the vapor zone to the top of the degreaser tank. On cold cleaners, it is the distance from liquid level to lip of tank.

(5) ‘Freeboard ratio.’ Freeboard height divided by the interior width of the degreaser tank.


(7) ‘Remote reservoir degreasing.’ Cold cleaning degreasing performed in a device in which liquid solvent is pumped to a sink-like work area, where the [metal] parts are cleaned, and then drains back into an enclosed container allowing no solvent to pool in the work area.

(9) ‘Special and extreme solvent [metal] cleaning.’ The use of degreasers:

(i) to clean [metal] parts in the manufacturing and rework of electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors used in aerospace service;

(ii) to clean [metal] parts used in the manufacturing of ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds, or oxygen in concentrations greater than 23 percent; or

(iii) to clean [metal] parts exposed to ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds, or oxygen in concentrations greater than 23 percent.

[Section 226.2] Section 226-1.3 General requirements.

[A person] Owners or operators conducting solvent [metal] cleaning processes must:

(a) store solvent in covered containers and transfer or dispose of waste solvent in such a manner that less than 20 percent of the waste solvent (by weight) can evaporate into the atmosphere;

(b) maintain equipment to minimize leaks and fugitive emissions;

(c) display at the equipment location a conspicuous summary of proper operating procedures consistent with minimizing emissions of VOCs;

(d) keep the degreaser cover closed except when parts are being placed into or being removed from the degreaser, the cover needs to be open in order to add or remove solvent from the degreaser, no solvent is in the degreaser, or manually cleaning metal parts in a cold cleaning degreaser;

(e) create and maintain a record of solvent consumption for five years. This record must be retained for five years and made available to the department upon request.

(f) not clean sponges, fabric, wood, leather, paper products and other absorbent materials in a degreaser; and

(g) if using a cold cleaning degreaser that is subject to section 226[.3]-1.3(a)(4) of this Part, retain a record of the following three items for five years and provide these records to the department upon request. An invoice, a bill of sale, a certificate covering multiple sales, a material safety data sheet (MSDS), or other appropriate documentation acceptable to the department may be used to comply with this requirement:

(1) the name and address of the solvent supplier;
AS PROPOSED

(2) the type of solvent including the product or vendor identification number; and

(3) the VOC content of the cleaning solution in grams per liter (gm/l) or the vapor pressure of the solvent measured in mm Hg at 20°C (68°F) as appropriate to verify compliance.

[Section 226.3] Section 226-1.4 Equipment specifications and control requirements.

Except as otherwise permitted by the department pursuant to section 226-1.5 of this Part, the following types of control [equipment] requirements must be used by a [person] owner or operator conducting solvent [metal] cleaning:

(a) ‘Cold cleaning degreasing when the internal volume of the machine is greater than two gallons.’

(1) A cover which can be operated easily.

(2) An internal drainage facility (under cover), if practical.

(3) A control system that limits VOC emissions to those achievable with equipment having a freeboard ratio greater than or equal to 0.5, or a water cover when the solvent is insoluble in and heavier than water. Remote reservoir degreasers are exempt from this requirement.

(4) [Solvent with] Cleaning solution with a maximum VOC content of 25 grams per liter at 20°C; prior to December 1, 2020 a cleaning solution with a vapor pressure of 1.0 mm Hg, or less, at 20°C may be used to demonstrate compliance with this subdivision. [Prior to January 1, 2004, compliance with this requirement is not mandatory if compliant solvents are not readily available. On or after January 1, 2004, the person conducting solvent metal cleaning covered by this subdivision must use compliant solvents or have submitted a process specific RACT demonstration pursuant to section 226.5 of this Part.] This paragraph does not apply to degreasers:

(i) used in special and extreme solvent metal cleaning;

(ii) for which the owner or operator has received department approval of a demonstration that compliance with the requirement of a cleaning solution with a maximum VOC content of 25 grams per liter at 20°C, or [solvent] with a vapor pressure of 1.0 mm Hg, or less, at 20°C will result in unsafe operating conditions; or

(iii) that are located in a permanent total enclosure having control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater.

(b) ‘Open-top vapor degreasing.’

(1) A cover which can be operated easily without disturbing the vapor zone.
(2) Safety switches which shut off the sump heat if the condenser malfunctions and shall shut off the pump if the vapor level drops excessively.

(3) One of the following:

   (i) a freeboard ratio that is greater than or equal to 0.75, and a powered or mechanically assisted cover if the top opening is greater than 10 square feet;

   (ii) a refrigerated chiller; or

   (iii) local exhaust ventilation and a carbon adsorption unit, or an equivalent system, for collection of VOCs.

(c) ‘Conveyorized degreasing.’

   (1) One of the following:

       (i) a refrigerated chiller; or

       (ii) local exhaust ventilation and a carbon adsorption unit, or an equivalent system, for collection of VOCs.

   (2) A drying tunnel, rotating basket or other device acceptable to the department which prevents carry-out of VOCs.

   (3) Safety switches which shut off the system when the degreaser malfunctions.

   (4) Minimize openings at the entrance and exit of the degreaser.

[Section 226.4] Section 226-1.5 Operating requirements.

   Except as otherwise allowed by the department pursuant to section 226.5 of this Part, the following operating practices are required by a person conducting solvent metal cleaning:

   (a) ‘Cold cleaning degreasing.’ Clean parts shall be drained at least 15 seconds or until dripping ceases.

   (b) ‘Open-top vapor degreasing.’ (1) Minimize solvent carry-out by the following measures:

       (i) rack parts to allow full drainage;

       (ii) move parts in and out of degreaser tank at less than 11 ft/min;

       (iii) degrease the work load in the vapor zone at least 30 seconds or until condensation ceases;
(iv) tip out any pools of solvent before removal; and

(v) dry parts for at least 15 seconds before removal.

(2) Work loads shall not occupy more than half the open-top area of the degreaser tank.

(3) Spray only below the vapor level.

(c) ‘Conveyorized degreasing.’ (1) Exhaust ventilation rate shall not exceed 125 percent of the minimum ventilation rate required for the protection of workers in the vicinity of the degreaser.

(2) Minimize carry-out emissions by:

(i) proper racking for best drainage; and

(ii) maintaining a conveyor speed at less than 11 ft/min.

(3) Water must not be visibly detectable in the solvent leaving the water separator.

[Section 226.5] Section 226-1.6 Reasonably available control technology.

Where it can be demonstrated that a solvent metal cleaning process cannot be controlled to comply with sections [226.2] 226-1.3, [226.3] 226-1.4 and [226.4] 226-1.5 of this [Part]Subpart for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of satisfactory evidence that the person engaging in solvent metal cleaning is applying reasonably available control technology (RACT) and has a plan to develop the technologies necessary to comply with the aforementioned sections. [Process specific RACT demonstrations shall be submitted with the application for a Title V facility permit or a State facility permit for an existing source under the provisions of Part 201 of this Title.] Process specific RACT demonstrations shall be submitted with the application for a Title V or State Facility permit or as a permit modification for existing sources under the provisions of Part 201 of this Title. Such process specific RACT demonstrations must be submitted to the United States Environmental Protection Agency for approval as a revision to the State Implementation Plan.

[Section 226.6] Section 226-1.7 Exemptions.

(a) This [Part] Subpart shall not apply to:

(1) conveyorized degreasers with an air/vapor interface smaller than 22 square feet (2.0 m²);

(2) open-top vapor degreasers with an open-top area smaller than 11 square feet (1.0 m²);

(3) conveyorized and open-top vapor degreasers subject to the requirements in 40 CFR 63, Subpart T; and
(4) cold cleaning degreasers that use a solvent with a VOC content of five percent or less by weight.

Section 226-1.8 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any provision of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.

A new Subpart 226-2 is added to read as follows:

Subpart 226-2 Industrial Cleaning Solvents

Section 226-2.1 Applicability, Schedule and Exceptions.

(a) Applicability. This Subpart applies to the owner or operator of a facility which has actual emissions of three (3) tons or more of volatile organic compounds (VOCs) from industrial cleaning solvents, on a twelve-month rolling total basis. Once subject to this Subpart, a facility will remain subject even if the use of VOCs from industrial cleaning solvents drops below the three tons per year criteria. This Subpart specifically applies to the cleaning of foreign materials from surfaces of unit operations such as large and small manufactured components, parts, equipment, floors, tanks, and vessels. Emissions from all methods of cleaning, including by hand, will be considered toward the applicability criteria.

(b) Schedule. The owner or operator of a facility with an initial start-up after the effective date of this Subpart must be in compliance with its requirements upon start-up. The owner or operator of an existing facility must be in compliance with this Subpart within one year of the effective date of this Subpart or within one year of reaching the applicability criteria of emitting three (3) tons of VOC’s from industrial cleaning solvents on a twelve (12) month rolling total basis.

(c) Exceptions. The requirements of this Subpart do not apply to the following:

(1) The use of cleaning solvents in cold cleaning degreasers (including remote reservoir degreasers), open-top vapor degreasing and conveyorized degreasers; and including cleaning items defined as ‘special and extreme solvent cleaning’ subject in Subpart 226-1, and cleaning processes that specifically do not apply to Subpart 226-1 under 226-1.6(a);
(2) The use of cleaning solvents in surface coating processes to clean spray guns subject to Subpart 228-1; and for surface preparation, clean-up and coating removal subject to Subpart 228-1;

(3) The use of cleaning solvents for surface preparation and clean-up of adhesives, sealants and primers subject to Subpart 228-2;

(4) The use of cleaning solvents for offset lithographic, flexographic, rotogravure, screen printing or letterpress printing processes subject to Part 234;

(5) The use of cleaning solvents used in Aircraft de-icing operations exempt from permitting under Subpart 201-3;

(6) Cleaning solvents given an “A” rating by the Department subject to Part 212; and

(7) The use of any cleaning solvent specified or regulated under any Federal or State statute or regulation. This exception is conditioned on Departmental approval which shall at a minimum include a permit special condition.

Section 226-2.2 Definitions.

(a) To the extent that they are not inconsistent with the specific definitions in this section, the general definitions of Part 200 of this Title apply. For the purposes of this Subpart, the following specific definitions apply:

1) ‘Cleaning Tool.’ An item used to aid cleaning, such as wiping rags, brushes, mops, scrapers, or water jets.

2) ‘Industrial Cleaning Solvent.’ Any liquid containing a volatile organic compound used to facilitate the removal of foreign materials from a surface.

3) ‘Unit Operation.’ An industrial operation, classified or grouped according to its function in an operating environment, such as mixing or holding vessels, tanks, reactors, floors or other surfaces to be cleaned.

4) ‘Unit Operation Systems.’ The ensemble of equipment around which a material balance is performed. It includes all possible points/sources that could result in the losses to the atmosphere as a result of the equipment being cleaned, including losses during dispensing of cleaning materials, losses from residual cleaning materials on or in cleaning tools, and losses from storing cleaning materials.

Section 226-2.3 Control Requirements.
The owner or operator of a facility subject to this Subpart shall not conduct any cleaning, with industrial cleaning solvents containing VOC’s, unless the following control measures are used:

(a) Work Practice
   (1) use closed, non-leaking containers to store or dispose of cloth or other absorbent cleaning tools impregnated with industrial cleaning solvents when not in use;
   (2) minimize air circulation around cleaning operations;
   (3) properly dispose of used cleaning solvents and tools;
   (4) implement equipment practices that minimize emissions, such as maintaining of cleaning equipment and repair of solvent leaks; and

(b) an industrial cleaning solvent with a maximum VOC content of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material must be used for cleaning the following: large and small manufactured components, parts, equipment, floors, tanks, and vessels; or

(c) as an alternative to the maximum VOC content specified above, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used; or

(d) emissions are controlled by an emission control system with an overall control efficiency of at least 85 percent or equivalent control.

Section 226-2.4 Compliance.

Reasonably available control technology.

(a) Where it can be demonstrated by the owner or operator of a facility that the requirements of section 226-2.2 of this Subpart cannot be met, for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of satisfactory evidence that the person(s) engaging in cleaning with industrial cleaning solvents is applying reasonably available control technology (RACT) and has a plan to develop the technologies necessary to comply with the aforementioned section. Process specific RACT demonstrations shall be submitted with the application for a Title V or State Facility permit, or as a permit modification for existing sources under the provisions of Part 201 of this Title. The Department will submit such process specific RACT demonstration to the United States Environmental Protection Agency as a revision to the State Implementation Plan.

Record Keeping.

(b) The owner or operator of a facility must retain a record of the quantity and type of industrial cleaning solvents used at the facility. This record must be maintained for a period of five years and be provided to the department upon request. An invoice, a bill of sale, a certificate covering multiple sales, a material safety data sheet, or other documentation
suitable for establishing compliance, acceptable to the department, may be used to comply with this requirement.

Section 226-2.5 Severability.

Each provision of this Subpart shall be deemed severable, and in the event that any provision of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
Sections 201-1 through 201-3.2(c)(38) remain unchanged.

Section 201-3.2(c)(39) is amended to read as follows:

(39) Solvent [metal] cleaning processes:

(i) Cold cleaning degreasers with an open surface area of 11 square feet or less and an internal volume of 93 gallons or less or, having an organic solvent loss of 3 gallons per day or less.

[(ii) Cold cleaning degreasers that use a solvent with a VOC content of five percent or less by weight, unless subject to the requirements in 40 CFR 63, subpart T.]

[(iii)] (ii) Conveyorized degreasers with an air/vapor interface smaller than 22 square feet (2.0 m²), unless subject to the requirements in 40 CFR 63, subpart T.

[(iv)] (iii) Open-top vapor degreasers with an open-top area smaller than 11 square feet (1.0 m²), unless subject to the requirements in 40 CFR 63, subpart T.

Section 201-3.2(c)(40) through 201-3.3(c)(95) remain unchanged.

Section 201-3.3(c)(96) is amended to read as follows:

(96) Solvent cleaning of parts and equipment performed exclusively by hand wiping or hand cleaning[.] unless such cleaning is subject to Subpart 226-2 of this Title.
The remainder of Part 201 is unchanged.
Notice of Proposed Rule Making

6 NYCRR Part 208, Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills
6 NYCRR Part 200, General Provisions

Pursuant to Environmental Conservation Law (ECL) Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105; and Clean Air Act (CAA) Section 182; the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

NYS DEC proposes to revise 6 NYCRR Subpart 208, and attendant revisions to Part 200, to incorporate the new federal Emission Guideline (EG) for MSW Landfills codified under 40 CFR Part 60, Subpart Cf. The new federal EG is designed to reduce emissions of landfill gas containing non-methane organic compounds and methane by lowering the emission threshold at which a landfill must install and operate a landfill gas collection and control system. Once this proposal is adopted, NYS DEC is required to revise its State Plan to reflect the new EG and submit the State Plan to the United States Environmental Protection Agency (US EPA) for review and approval.

Written comments on the proposed rule may be submitted until 5:00 p.m. on May 29, 2019. For further information, contact: Dan Brinsko, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3250, Phone (518) 402-8403, E-mail: air.regs@dec.ny.gov

Requests for information and comments related to the "Section 111(d) State Plan for MSW Landfills" revision may be obtained from Robert D. Bielawa, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, Phone: (518) 402-8396, E-mail: air.regs@dec.ny.gov. Written statements may be submitted until 5:00 p.m. May 29, 2019.

Hearings for the proposed rule and attendant revisions to existing rules described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

Date: 5/22/2019
Time: 1:00 p.m.
Location: NYS DEC - Region 8 Office
6274 Avon-Lima Road (Rtes. 5 and 20), Conference Room
Avon, NY 14414-9516

Date: 5/24/2019
Time: 1:00 p.m.
Location: NYS DEC
625 Broadway, Public Assembly Room 129A/B
Albany, NY 12233

NYS DEC will provide interpreter services for deaf persons at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to: Richard McAuley, NYS DEC, 625 Broadway, Albany NY 12233-3250, Phone: (518) 402-8438, E-mail: air.regs@dec.ny.gov.
Notice of Proposed Rulemaking

6 NYCRR Part 226, Solvent Metal Cleaning Processes

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105 of the Environmental Conservation Law (ECL), the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

NYS DEC is proposing to amend existing Part 226, entitled: "Solvent Metal Cleaning Processes," of Title 6 of the Official Compilation of Codes, Rules and Regulation of the State of New York (6 NYCRR) and attendant revisions to Part 201.

Under the proposed changes, the current Part 226 will be re-designated Subpart 226-1 and renamed "Solvent Cleaning Processes". Additionally, the proposed amendments will add a new Subpart 226-2, entitled "Industrial Cleaning Solvents".

Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the proposed subpart 226-1. Currently, Part 226 only applies to the cleaning of "metal". This proposal removes this distinction, opening the applicability to any material cleaned by solvent cleaning processes. If your solvent cleaning process was not subject to Part 226 because you were cleaning something other than metal, you will now be subject to Subpart 226-1.

Consistent with the Ozone Transport Commission's (OTC) 2012 updated model rule, a new/replacement VOC requirement is being proposed for Part 226 cold cleaners, including remote reservoir cleaners. Proposed Subpart 226-1 will change the current requirement of using a solvent with a maximum vapor pressure of 1.0 mm Hg, or less, at 20°C- to using a cleaner with no more than 25 grams of VOC per liter (25g/l) of cleaning solution. No changes are being proposed for the other Part 226 solvent cleaning processes (open top vapor or conveyorized).

The proposed Subpart 226-2 'Industrial Cleaning Solvents' will be a new regulation consistent with the United States Environmental Protection Agency's (US EPA's) Industrial Cleaning Solvents Control Technique Guidelines (CTG) (2006). Any owner or operator of a facility that emits to the atmosphere three (3) tons or more of volatile organic compounds (VOCs) from industrial cleaning solvents, on an annual basis, may be subject. Specifically, the provisions apply to the cleaning of foreign materials from surfaces of unit operations, including large and small manufactured components, parts, equipment, floors, tanks, and vessels. Such cleaning may be done by wiping, brushing, mopping, flushing or spraying, either by hand or mechanical means. The use of cleaning solvents that are already subject to (or exempt from) other regulatory provisions are not subject to any new requirements under proposed 226-2. The proposed Subpart 226-2 will have work practice, recordkeeping and storage requirements for their cleaners that contain VOCs. Cleaning solutions will also have a maximum VOC content limit of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material or, as an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used. Further, the Department proposes to submit the Part 226 as well as the revisions to Part 201 to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP) for New York State.

Written comments on the proposed rule may be submitted until 5:00 p.m. on May 29, 2019. For further information, contact: John Henkes, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3250, Phone (518) 402-8403, E-mail: airregs@dec.ny.gov

Requests for information and comments related to the SIP revision to incorporate Part 226, Solvent Cleaning Processes and Industrial Cleaning Solvents, may be obtained from: Robert D. Bielawa, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, Phone: (518) 402-8396, E-mail: airregs@dec.ny.gov. Written statements may be submitted until 5:00 p.m. May 29, 2019.
Hearings for the proposed rule and attendant revisions to existing rules described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

**Date:** 5/22/2019  
**Time:** 1:00 p.m.  
**Location:** NYS DEC - Region 8 Office  
6274 Avon-Lima Road (Rtes. 5 and 20), Conference Room  
Avon, NY 14414-9516

**Date:** 5/24/2019  
**Time:** 1:00 p.m.  
**Location:** NYS DEC  
625 Broadway, Public Assembly Room 129A/B  
Albany, NY 12233

NYS DEC will provide interpreter services for deaf persons at no charge. **Written requests for interpreter services are required and should be submitted by May 15, 2019,** to: Richard McAuley, NYS DEC, 625 Broadway, Albany NY 12233-3250, Phone: (518) 402-8438, E-mail: air.regs@dec.ny.gov.

**Contact:** John Henkes, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3250, Phone (518) 402-8403, E-mail: air.regs@dec.ny.gov

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New York State Department of Environmental Conservation (NYS DEC) Announces 16th Annual Environmental Excellence Awards - Applications accepted through April 17, 2019

NYS DEC is now accepting applications for the 2019 NYS Environmental Excellence Awards program ([Press Release](https://www.dec.ny.gov/press/116310.html)). The awards program recognizes businesses, institutions, governments, and organizations for their outstanding commitment to environmental sustainability, social responsibility, and economic viability.


The awards are given annually in recognition of outstanding, innovative and sustainable projects or programs and unique partnerships. Since the program began in 2004, 92 committed organizations have been honored with this outstanding award. Award winners are leading by example and serving as models of excellence within their industry and community. Benefits of receiving an award include statewide recognition and visibility for environmental leadership, and increased marketing, promotional and networking opportunities.

**Eligible applicants include:**

- Businesses (small, medium and large businesses, manufacturing, retail, agri-business, renewable energy, hospitality, sports, etc.)
- Not-for-profit organizations;
- Education, health care and recreational facilities; and
- Local, state, federal and Indian Nation government agencies.

To be eligible, a project must be in New York State; result in measurable environmental and economic benefits beyond what could have been achieved by using standard techniques or complying with regulatory requirements; be initiated within the past three years and be fully operational for at least 12 months. Applicants must be in compliance with New York Environmental Conservation Law and all applicable permits and local laws.

Review criteria will include an assessment of: environmental benefits; economic benefits; innovative approaches; advancement of sustainability; employment or continuation of creative partnerships; demonstration of
commitment, leadership and environmental excellence; demonstration of transferability and the demonstration that practices go beyond standard techniques or compliance requirements.

Competitive applications will focus on innovative and cutting-edge projects or programs that are achieving significant environmental benefits through:

- greenhouse gas emissions reductions;
- manufacturing process improvements;
- climate change adaptations;
- food waste reduction efforts;
- recycling and composting programs;
- "green tech" solutions;
- initiatives to "green" businesses, farms, schools, recreational, sports, health care and hospitality facilities;
- clean energy projects and energy efficiency improvements;
- green infrastructure projects;
- natural resource/habitat protection or restoration efforts;
- urban forestry or farming practices;
- programs advancing locally grown and "farm to table; and
- education and training programs.

Completed applications must be submitted no later than Wednesday, April 17, 2019. Award winners will be honored at an awards ceremony in November, 2019. At that time, winners will have an opportunity to present and display information about their award-winning project or program.

For more information about the award program and the 2019 application materials, contact: Marna Poslusny, NYS DEC - Pollution Prevention Unit, 625 Broadway, Albany, NY 12233-7253, Phone: (518) 402-9469, E-mail: awards@dec.ny.gov.
PROPOSED RULE MAKING

HEARING(S) SCHEDULED

Air Emissions Regulation of Cleaning Solutions Containing Volatile Organic Compounds

I.D. No. ENV-12-19-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 201 and 226 of Title 6 NYCRR.


Subject: Air emissions regulation of cleaning solutions containing volatile organic compounds.

Purpose: Update existing regulation with latest emission control requirements and add requirements recently issued by EPA.

Public hearing(s) will be held at:

1:00 p.m., May 22, 2019 at Department of Environmental Conservation, 6274 Avon – Lima Rd. (Rtes. 5 and 20), Conference Rm., Avon, NY; and 1:00 p.m., May 24, 2019 at Department of Environmental Conservation, 625 Broadway, Public Assembly Rm., 129A/B, Albany, NY.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule (Full text is posted at the following State website: http://www.dec.ny.gov/regulations/propregulations.html#public):

The New York State Department of Environmental Conservation (Department) proposes to: amend the current Part 226 entitled “Solvent Metal Cleaning Processes” by re-designating it Subpart 226-1 and renaming it “Solvent Cleaning Processes”; add a new Subpart 226-2, entitled “Industrial Cleaning Solvents and make attendant changes to Part 201, ‘Permits and Registrations’ of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (6 NYCRR).

The proposed changes to Part 226 are intended to reflect changes to the Ozone Transport Commission’s (OTC’s) model rule for solvent degreasing and incorporate Federal Control Techniques Guidelines (CTGs) establishing Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by industrial cleaning solvents.

Consistent with the OTC’s model rule, the proposed changes to Part 226 include expanding applicability to the cleaning of all materials, not just metal; and changing the current ‘cold cleaning’ requirement of using a solvent with a maximum vapor pressure of 1.0 mmHg, to less than 20 degrees Celsius, to using a cleaner with no more than twenty-five (25) grams of VOC per liter (25 g/l) of cleaning solution. No changes are being proposed for the other Part 226 solvent cleaning processes (open top vapor or convective degreasing).

Based on the US Environmental Protection Agency’s ‘Industrial Cleaning Solvents’ CTG (2006), owners or operators subject to the proposed Subparts 226-1 and 226-2 ‘Industrial Cleaning Solvents’ will have work practice, recordkeeping and storage requirements for their cleaners that contain VOCs. Cleaning solutions will also have a maximum VOC content limit of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material or, as an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used. Using an emission control system with an overall control efficiency of at least 85 percent or equivalent control is also an acceptable form of compliance.

Where it can be demonstrated by the owner or operator of a facility that the requirements of proposed Subparts 226-1 or 226-2 cannot be met, for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of a satisfactory process specific RACT demonstration.

Proposed revisions to Part 201 include removing an exemption for cold cleaning degreasers that use a solvent with a VOC content of five percent or less, or 600 grams VOC/liter for cold cleaners in the proposed rule. Also, a caveat will be added to a trivial exemption for solvent cleaning by hand, as hand washing is specifically subject to the industrial cleaning solvent regulation being proposed (Subpart 226-2).

Text of proposed rule and all changes and amendments and analyses may be obtained from: John Henkes, NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: airregs@dec.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: May 29, 2019.

Additional matter required by statute: Pursuant to Article 5 of the State Environmental Quality Review Act, the following Environmental Assessment Form, a Negative Declaration, and a Coastal Assessment Form have been prepared and are on file.

Summary of Regulatory Impact Statement (Full text is posted at the following State website: http://www.dec.ny.gov/regulations/propregulations.html#public):

STATUTORY AUTHORITY:
The New York State (NYS) statutory authority for these regulations is found in the Environmental Conservation Law (ECL) Sections 1-0101, 1-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105. Descriptions of these referenced ECL sections are contained in the Regulatory Impact Statement.

LEGISLATIVE OBJECTIVES:

In enacting the Title I ozone control requirements of the 1990 Clean Air Act (CAA) amendments, Congress recognized the hazards of ground-level ozone pollution and mandated that States implement stringent regulatory programs in order to meet the National Ambient Air Quality Standard (NAAQS) for ozone. The Department is undertaking this rulemaking to satisfy New York’s obligations under the CAA and in a manner consistent with CAA Article 19.

Articles 1 and 3 of the ECL establish the overall State policy goal of reducing air pollution and providing clean air for the citizens of New York and provide general authority to adopt and enforce measures to do so. In addition to the general powers and duties of the Department and the Commissioner to prevent and control air pollution found in Articles 1 and 3, Article 19 of the ECL was specifically adopted to safeguard the air quality of New York from pollution. Under Article 19, the Department is authorized to formulate, adopt, promulgate, amend and repeal regulations for preventing, controlling and prohibiting air pollution. This Department is also authorized to promulgate rules and regulations for preventing, controlling or prohibiting air pollution in such areas of the State as shall or may be affected by air pollution. In addition, this authority also includes the preparation of a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution recognizing various requirements for different areas of the State.

In 1970, Congress amended the CAA “to provide for a more effective program to improve the quality of the Nation’s air.” The statute directed EPA to adopt National Ambient Air Quality Standards (NAAQS) and required states to develop implementation plans known as State Implementation Plans (SIPs) which prescribed the measures needed to attain the NAAQS. In 1977 the Act was amended to require states to identify areas that did not meet the NAAQS; these areas would then be designated as “nonattainment” areas. States with these “nonattainment” areas were then required to include specific requirements in their SIPs, including requirements relating to new sources, additions to existing sources, and controls to reduce emissions.

Under the Clean Air Act Amendments of 1990 (CAA ’90), states were required to take reasonable steps to meet standards for criteria pollutants, and were given flexibility to develop and implement regional strategies, including regional SIPs and regional conformity analysis. The EPA also required States to submit SIPs by May 5, 1992.

The New York State (NYS) Ozone Control Program was established in response to the Clean Air Act Amendments of 1990 (CAA ’90) to address ozone levels in the ozone nonattainment areas and to reduce VOC emissions to minimize ozone formation.

In the Memorandum of Understanding between the New York State Department of Environmental Conservation and the New York City Economic Development Corporation, to achieve the State’s ozone control objectives, the New York State Department of Environmental Conservation is responsible for ensuring that states in the Northeastern United States develop a Regional emission reduction program to meet ozone pollution control objectives consistent with the National Ambient Air Quality Standards (NAAQS) for ozone.

In 2014 the New York State Legislative办事 NYS Register/March 20, 2019

Rule Making Activities

NYS Register/March 20, 2019
There are two types of ozone, stratospheric and ground level ozone. Ozone in the stratosphere is a natural filter that shields the earth from carcinogenic ultraviolet radiation. In contrast, ground level ozone, or smog, results from the mixing of VOCs and NOx on hot, sunny, summer days, and can harm humans and plants. As a result, EPA established the ozone NAAQS to protect public health.


Children and outdoor workers are especially at risk for damaging effects caused by ozone exposure. A child’s developing respiratory system is more susceptible than an adult’s. Additionally, ozone is a summer phenomenon. Children outside playing and exercising more often during the summer which results in greater exposure to ozone than many adults. Outdoor workers are also more susceptible to lung damage because of their increased exposure to ozone during the summer months.

In 2006, EPA recognized a number of epidemiological and controlled human health exposure studies that: suggest that children and other vulnerable individuals are at greater risk for a variety of ozone-related effects including increased respiratory symptoms, increased medication usage, increased doctor and emergency room visits, and hospital admissions; provide highly suggestive evidence that short-term ambient ozone exposure contributes to mortality; and report health effects at ozone concentrations lower than the level of the current standards, as low as 0.04 parts per million (ppm) for some highly sensitive individuals. See ‘Fact Sheet: Review of National Ambient Air Quality Standards for Ozone Second Draft Staff Paper, Hu- man Exposure and Risks Assessment and Revisions to First Draft Environmental Report’. U.S. Environmental Protection Agency, July 2006.

Ground level ozone also interferes with the ability of plants to produce and store food, which compromises growth, reproduction and overall plant health. By weakening sensitive vegetation, ozone makes plants more susceptible to disease, pests and environmental stresses. Ozone has been shown to reduce yields for many economically important crops (e.g., corn, kidney beans, soybeans). Also, ozone damage to long-lived species such as trees (by killing or damaging leaves) can significantly decrease the natural beauty of an area, such as the Adirondacks.

As discussed above, the proposed revisions to Part 226 will also allow the state to satisfy state and federal legislative objectives by imposing RACT to control VOC emissions from solvent cleaning processes and industrial cleaning solvents in New York, thus furthering the goal of containing the federally-mandated ozone NAAQS. A discussion of CAA and regulatory needs and benefits are further detailed in the “Regulatory Impact Statement” (RIS) and other rulemaking documents.

Costs to State and Local Governments

As discussed above, this requirement flows from the State’s obligations under the CAA. This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source; applying statewide to all solvent cleaning processes and industrial cleaning solvents located in the State. State and local entities are not expected to be affected by the proposed revisions/additions. There are no expected direct costs to State and local governments associated with this proposed regulation. No recordkeeping, reporting, or other requirements will be imposed on local governments. The authority and responsibility for implementing and administering Subpart 226-1 and Subpart 226-2 in New York resides solely with the Department. Added requirements for recordkeeping, reporting, etc. are only applicable to end users who become subject to the industrial cleaning solvent regulation and persons who become subject to solvent cleaning processes because they were cleaning objects other than metal.

Costs to the Regulating Agency

Administrative costs to the regulating agency will not increase.

PAPERWORK

No additional paperwork will be imposed on the solvent cleaning pro- cess industry and persons who become subject to the industrial cleaning solvent regulation will have minimal recordkeeping requirements.

LOCAL GOVERNMENT MANDATES

This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Local entities are not expected to be affected by the proposed revisions.

DUPLICATION

No other regulations address the specific requirements to reduce VOC emissions from the affected industries.

The following alternatives have been evaluated to address the goals set forth above. These are:

1. Take no action. The “no action” alternative does not comply with the CAA. Failure to comply with the CAA could result in an EPA imposed Federal Implementation Plan (FIP) pursuant to CAA section 186(c), san- tions in the form of an increase in the new source review offsets ratio to 2 to 1, and the loss of Federal highway funding pursuant to CAA section 179.

2. The proposed revisions to Part 226 contain alternatives for compliance. Both solvent cleaning processes and industrial cleaning solvent regulations have compliant material requirements and a RACT variance provision; solvent cleaning processes also have the option of using add-on controls for compliance. These alternative compliance provi- sions are preferable because they are consistent with the federal CTGs and OTC model rule, will help New York State achieve necessary VOC emis- sion reductions, and will satisfy the State’s obligations under the CAA.

FEDERAL STANDARDS

The revisions are designed to comply with the requirements outlined in the CTG and OTC Model rules.

COMPLIANCE SCHEDULE

In accordance with the CTGs and the CAA, States should submit SIP revisions within one year of the date of issuance of final CTGs. Based on the various dates of issuance of the CTGs, the Department should submit SIP revisions as soon as practicable.

Regulatory Flexibility Analysis

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvent CTG issued by the Ozone Transport Commission (OTC) in September 2006 and the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasing issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA) section 186(c), EPA is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions and has suggested changes to applicability and VOC content for solvent degreasing.

EFFECTS ON SMALL BUSINESS AND LOCAL GOVERNMENTS

The proposed revisions to Part 226 apply statewide. As detailed in the RIS, this is a requirement flowing from the State’s obligations under the Clean Air Act. This is not a mandate on local governments. The proposed revisions apply to any entity that owns or operates a subject source. Facilities that engage in solvent cleaning processes (Subpart 226-1) will have new VOC content limits. Facilities that use 3 tons or more of industrial cleaning solvents per year will be subject to new requirements in Subpart 226-2 as applicable.

COMPLIANCE REQUIREMENTS:

There are no specific requirements in the regulation which apply exclusively to small businesses or local governments. Local governments are not directly affected by the proposed revisions.

PROFESSIONAL SERVICES

Small businesses and local governments are not expected to need professional services to comply with the revisions to Subpart 226-1. Local governments are not directly affected by the proposed revisions. Facilities which are currently permitted and that will become subject to Subpart 226-2 (estimated to be 13 facilities state wide) may need to seek minimal professional services in the form of guidance in altering their processes to come into compliance.

COMPLIANCE COSTS:

3
The Industrial Cleaning Solvent CTG (addition of Part 226-2) concluded that facilities may incur additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC water-based cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning, would result in a coast savings of $1,330/ton of VOC used. For this calculation only cleaning materials and waste disposal costs were considered. The Department considers these costs to be well within RACT guidelines.

The OTC estimates the costs associated with changes to solvent cleaning processes (changes to Part 226) to be on the order of $1,400 per ton of VOC reduced. The Department considers these costs to also be well within RACT guidelines.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY:
As noted earlier, this requirement flows from the State’s obligations under the CAA. This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Compliant products are available for all solvent cleaning processes and industrial cleaning solvents and are affordable.

MINIMIZING ADVERSE IMPACT:
No adverse impacts to the environment or regulated industry are expected. The proposed revisions are intended to reduce VOC emissions to the environment. Local governments are not expected to be directly affected by the proposed revisions.

SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:
Since local governments are not expected to be directly affected by the proposed revisions, the Department did not contact local governments directly. The Department did provide advance notice of these rule revisions to affected facilities so that they would have sufficient time to take the necessary steps to come into compliance with the rule. Additionally, the Department plans on holding public hearings at various locations throughout New York State after the revisions are proposed. Small businesses will have the opportunity to attend these public hearings; and there will be a public comment period in which interested parties can submit written comments. Public participation and comment will also be available during EPA’s SIP approval process.

CURE PERIOD:
In accordance with NYS State Administrative Procedures Act (SAPA) Section 202-b, this rulemaking does not include a cure period because the Department is undertaking this rulemaking to comply with federal Clean Air Act requirements, requiring the incorporation of federal CTGs to establish RACT for industrial cleaning solvents for inclusion into the state implementation plan.

Rural Area Flexibility Analysis
The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226, 200, and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasing issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions; and has suggested changes to applicability and VOC content for solvent degreasing.

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:
The proposed revisions to Part 226 and attendant revisions to Part 201 apply statewide. All rural areas of New York State will be affected.

REPORTING, RECORDKEEPING AND COMPLIANCE REQUIREMENT: PROFESSIONAL SERVICES:
There are no specific compliance requirements in this proposed rulemaking which apply exclusively to rural areas of the State. Studies have shown that solvent cleaning processes and use of industrial cleaning solvents is distributed proportionately with population. Rural areas are not particularly affected by the revisions. All facilities conducting solvent cleaning processes will be required to comply with applicable recordkeeping, VOC content and handling requirements. Under current law, these requirements have been required at all such facilities and are essentially unchanged since Part 226 was last amended in 2003. Facilities that use 3 tons or more of industrial cleaning solvents per year will have new VOC content or vapor pressure limits, and recordkeeping and handling requirements. Only minimal professional services might be necessary to comply with these changes. It is estimated that 13 facilities state wide use 3 tons or more of industrial cleaning solvents per year, which will become newly subject to Part 226. This may require some minimal utilization of professional services for guidance in changing their cleaning solvents to comply with the new requirements.

COSTS:
There are no specific costs in this proposed rulemaking which apply exclusively to rural areas of the State. Facilities subject to the new industrial cleaning solvent requirements may incur minimal additional cost or realize a savings on a case by case basis. It is estimated that replacing high VOC content cleaning materials with low VOC water-based cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning, would result in a coast savings of $1,330/ton of VOC used. For this calculation only cleaning material and waste disposal costs were considered. The Department considers these costs to be well within RACT guidelines.

Changes to cleaning solvent processes are expected to be on the order of $1,400 per ton of VOC reduced. The Department considers these costs to also be well within RACT guidelines.

MINIMIZING ADVERSE IMPACT:
The Department is providing advance notice of these rule revisions to the regulated community so that companies have sufficient time to take the necessary steps to come into compliance with Part 226. The proposed revision also includes time for subject sources to come into compliance. Changes to Part 226 are not anticipated to have an adverse effect on rural areas. To date, the Department is unaware of any particular adverse impacts experienced by rural areas as a result of the regulation. Rather, the rule is intended to create air quality benefits for the entire state, including rural areas, through the reduction of ozone forming pollutants.

RURAL AREA PARTICIPATION:
Since rural areas are not particularly affected by the revisions, the Department did not directly contact rural area facilities. However, the Department did provide advance notice of these rule revisions to the regulated community so that they would have sufficient time to take the necessary steps to come into compliance with the rule. Also, the Department plans on holding public hearings after the revisions are proposed. All facilities, including those located in rural areas of the state, will have the opportunity to attend these public hearings; and there will be a public comment period in which interested parties can submit written comments. Public participation and comment will also be available during EPA’s SIP approval process.

Job Impact Statement
NATURE OF IMPACT:
The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226, 200, and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasing issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions; and has suggested changes to applicability and VOC content for solvent degreasing.

CATEGORIES AND NUMBERS OF JOBS OR EMPLOYMENT OPPORTUNITIES AFFECTED:
The proposed revisions to Part 226 affect owners/operators of solvent cleaning processes, and those who use industrial cleaning solvents statewide. The revisions are not expected to adversely impact jobs and employment opportunities in New York State. The proposed revisions to Part 226 may affect existing facilities by requiring them to lower the VOC content and/or vapor pressure of the solvents used in their processes. This may require minimal consultation utilization to evaluate the necessity of process modifications. In such cases, jobs and employment opportunities may increase as a result.

REGIONS OF ADVERSE IMPACT:
There are no regions of the State where the proposed revisions to Part 226 would have a disproportionate adverse impact on jobs or employment opportunities.

MINIMIZING ADVERSE IMPACT:
The Department is providing advance notice of these rule revisions to the regulated community so that companies have sufficient time to take the necessary steps to come into compliance with Part 226. The proposed revision also includes time for subject sources to come into compliance.

SELF-EMPLOYMENT OPPORTUNITIES:
None that the Department is aware of.
State of New York
COUNTY OF NEW YORK

SS:

0000138372-01

Publio Gonzalez being duly sworn,
says that he/she is the principal Clerk of the Publisher of the

New York Post

a daily newspaper of general circulation printed and published in the English language, in the County of New York, State of New York; that advertisement hereto annexed has been regularly published in the said "New York Post" once,
on the 20th of March, 2019

Sworn to before me on this 20th day of March, 2019

RICHARD C SAVIN
NOTARY PUBLIC - STATE OF NEW YORK
No. 01SA6304152
Qualified in Dutchess County
My Commission Expires May 27, 2022

Notary Public
**NOTICE OF PUBLIC HEARING**

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

Notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold a public hearing on the proposed revision to the EIR for the Proposed MWW Landfill Capping Project, in accordance with Article 6 of the Environmental Conservation Law (ECL) and Article 8 of the General Municipal Law. The public hearing will be held on Thursday, May 15, 2014 at 7:00 p.m. at the New York State Office Building, 371 Washington Ave, Albany, NY 12234.

The purpose of the hearing is to allow persons interested in the Proposed MWW Landfill Capping Project to express their views on the proposed action. The Department will consider all views, including those expressed at the public hearing, in determining whether to approve or disapprove the proposed action.

The Proposed MWW Landfill Capping Project, as proposed, will involve the construction of a capping system to cover the existing landfill and to prevent the further release of leachate, gas, and odors. The capping system will consist of a geomembrane, a leachate collection system, and a cover of compacted soil. The project is expected to be completed by 2018.

The Department will consider all views, including those expressed at the public hearing, in determining whether to approve or disapprove the proposed action. The Department will issue a Final Environmental Impact Statement (FEIS) and a Final Environmental Impact Report (FEIR) as required by the ECL and the Federal Water Pollution Control Act (CWA) and the Federal Clean Water Act (CWA). The FEIS and FEIR will be available for public review at the Department's website: [www.dec.ny.gov](http://www.dec.ny.gov).

The Department encourages all persons, organizations, corporations, and government agencies that may be affected by the proposed project to attend the hearings. All persons who wish to be a party to the proposed action are invited to submit written comments. Written comments must be submitted by Tuesday, May 20, 2014 to: Michael Emery, Environmental Protection Analyst, New York State Department of Environmental Conservation, 371 Washington Ave, Albany, NY 12234.
Ambika Mohan being duly sworn hereby declares and says, that she is the Advertising Account Executive responsible for placing the attached advertisement for publication in **Newsday** for Miller Advertising Agency, Inc, located in New York, NY, and that the **NYSDEC Notice of Complete Application** advertisement, of which the annexed is a true copy, has been published in the said publication on the following issue date(s):

*Mar. 20, 2019*

Ambika Mohan

Subscribed to and Sworn before me

This 16th day of **Apr. 1** 2019

Donna Perez
Notary Public

Donna Perez
Notary Public State Of New York
No. 01PE6151365
Qualified In New York County
Commission Expires August, 14th - 2022
A Loveridge / T Tomes / S Rawling / R Bernard / T Duquette of the city of Albany, being duly sworn, says that he/she is principal Clerk of THE TIMES UNION, a daily newspaper printed in the county of Albany, Town of Colonie, and Published in the County of Albany, Town of Colonie and the city of Albany, aforesaid and that notice of which a printed copy is annexed has been regularly published in the said ALBANY TIMES UNION on the following dates

03-20-2019

Sworn to before me, this 01 day of March 2019

[Signature]

Notary Public
Albany County
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Pursuant to 6 NYCRR Part 226, the New York State Department of Environmental Conservation (DEC) will hold a public hearing on the proposed revisions to 6 NYCRR Part 226, Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills and 6 NYCRR Part 202, General Provisions.

Effective immediately, all municipal solid waste landfills are required to comply with Part 226, which is based on the Federal Octave Emission Guidelines, (FSEG) set forth in 40 CFR Part 60. Subpart B, as adopted in 1996. Part 226 controls landfill gas emissions by requiring landfills that exceed a specified emission threshold to install and operate a gas collection and control system. This threshold is set at a 30-year average concentration of 30 parts per million (ppm) or 300 mg/m³.

The proposed revisions to Part 226 seek to clarify and improve the reporting requirements for landfills, including the reporting of fluctuating emissions. The revisions also seek to enhance the enforcement mechanisms for non-compliance and to provide additional guidance to landfills on the implementation of the gas collection and control systems.

The public hearing will be held on [date] at [time] at [location]. All interested individuals are invited to attend and participate. Written comments may be submitted by [date] and should be directed to [address].

For the purpose of this hearing, the term "landfill" includes any solid waste disposal facility that is not a hazardous waste landfill, as defined in 40 CFR Part 261. The term "gas collection and control system" means any system designed to collect and control the emission of landfill gas.

The Department of Environmental Conservation (DEC) is responsible for implementing and enforcing the regulations of the Solid Waste Management Act (SWMA) and the Air Pollution Control Act (APCA). The DEC has the authority to promulgate regulations to implement these Acts and to ensure the protection of human health and the environment.

The proposed revisions to Part 226 seek to ensure that landfills are properly equipped with gas collection and control systems to prevent the emission of harmful gases. The revisions also seek to clarify the requirements for reporting and record-keeping to improve compliance and enforcement.

The hearing will be conducted in accordance with the provisions of the New York State Environmental Conservation Law (ECL) and the New York State Administrative Procedure Act (APRA).

The Department of Environmental Conservation (DEC) will provide reasonable accommodations for persons with disabilities who have been excluded from or are limited in their participation in this hearing if advance notice is provided to the DEC. The DEC is committed to ensuring that persons with disabilities have an equal opportunity to participate in the hearing process.

The proposed revisions to Part 226 will be effective upon publication in the New York State Register.
WARREN COUNTY AFFIDAVIT

STATE OF NEW YORK:

County of Warren, ss:

Debbie Kerr, being duly sworn,
says that (s)he is an authorized designee for Lee Enterprises,
publishers of THE POST-STAR, a daily newspaper published in
Glens Falls, Warren County, State of New York, and that the printed
notice attached hereto was cut from the said POST-STAR, and that
the said notice was published therein, namely

Public Hearing
Mar. 20, 2019

MILLER ADVERTISING-LEGAL

220 WEST 42ND STREET, 12TH FLOOR
NEW YORK NY 10036

ORDER NUMBER 71095

Signed this 26th day of Mar., 2019

Sworn to before me this 23rd day of March, 2019

Section: Legals
Category: 001 Legal Notices - Warren County

PUBLISHED ON: 03/20/2019

TOTAL AD COST: 145.04

FILED ON: 3/20/2019

BRIAN J. CORCORAN
Notary Public - State of New York
No. 01CO6133976
Qualified in Saratoga County
My Commission Expires September 19, 2021
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Notice is hereby given that the New York State Department of Environmental Conservation (NYSDEC) will hold a legislative Public Hearing on two separate proposals:

1. Pursuant to Sections 1-0101, 3-0101, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 71-2103, and 71-2105 of the Environmental Conservation Law, the Department will consider the following legislative changes to Part 208 of the New York State Conservation Code (NYCRR), to be adopted as Title 226, Subpart 226-1, entitled "Cleaning Processes". The proposed amendments will add a new Subpart 226-1 entitled "Industrial Cleaning Solvents" which will be a new regulation. Additionally, the proposed amendments will add a new Subpart 226-2 entitled "Industrial Cleaning Solvents" which will be a new regulation. Under the proposed changes, the current Part 226 will be re-designated Subpart 226-2 and renamed "Solvent Cleaning Processes". Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the proposed Subpart 226-1. Currently, Part 226 only applies to the cleaning of "immediate" products. The proposed revisions expand the definition of "immediate" product and allow for the applicability to new material cleaned by solvent cleaning processes. If solvent cleaning processes are subject to Part 226 because you are cleaning something other than metal, it will now be subject to Subpart 226-1.

2. Pursuant to Sections 1-0101, 3-0101, 3-0303, 19-0103, 19-0105, 19-0301, 19-0303, 71-2103, and 71-2105 of the Environmental Conservation Law, the Department will consider the following legislative changes to Part 208 of the New York State Conservation Code (NYCRR), to be adopted as Title 226, Subpart 226-1, entitled "Cleaning Processes". The proposed amendments will add a new Subpart 226-1 entitled "Industrial Cleaning Solvents" which will be a new regulation. Under the proposed changes, the current Part 226 will be re-designated Subpart 226-2 and renamed "Solvent Cleaning Processes". Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the proposed Subpart 226-1. Currently, Part 226 only applies to the cleaning of "immediate" products. The proposed revisions expand the definition of "immediate" product and allow for the applicability to new material cleaned by solvent cleaning processes. If solvent cleaning processes are subject to Part 226 because you are cleaning something other than metal, it will now be subject to Subpart 226-1.

The Department will provide interpreter services for deaf persons, at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to Richard Mackey, NYSDEC, 625 Broadway, Albany, NY 12233-3251, (518) 402-8254, rmackey@dec.ny.gov.

Pursuant to the Environmental Conservation Law, the State Environmental Quality Review Act, the Environmental Conservation Law, the proposed regulations may be found on the NYSDEC’s website at http://www.dec.ny.gov/regulations/. Comments on the proposed regulations may be submitted in writing by May 29, 2019.

Hearings for the proposed rule and attendant revisions to existing rules as described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

Date Time Location
5/22/2019 1:00 pm 6274 Avon-Lima Rd. (sites, 5 and 20), Conference Room, Avon, NY 14414-0516
5/24/2019 1:00 pm NYSDEC, 625 Broadway, Public Assembly Room 124A/B, Albany, NY 12233

The Department will provide interpreter services for deaf persons, at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to Richard Mackey, NYSDEC, 625 Broadway, Albany, NY 12233-3251, (518) 402-8254, rmackey@dec.ny.gov.

Pursuant to the Environmental Conservation Law, the State Environmental Quality Review Act, the Environmental Conservation Law, the proposed regulations may be found on the NYSDEC’s website at http://www.dec.ny.gov/regulations/. Comments on the proposed regulations may be submitted in writing by May 29, 2019.

Hearings for the proposed rule and attendant revisions to existing rules as described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

Date Time Location
5/22/2019 1:00 pm 6274 Avon-Lima Rd. (sites, 5 and 20), Conference Room, Avon, NY 14414-0516
5/24/2019 1:00 pm NYSDEC, 625 Broadway, Public Assembly Room 124A/B, Albany, NY 12233

The Department will provide interpreter services for deaf persons, at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to Richard Mackey, NYSDEC, 625 Broadway, Albany, NY 12233-3251, (518) 402-8254, rmackey@dec.ny.gov.

Pursuant to the Environmental Conservation Law, the State Environmental Quality Review Act, the Environmental Conservation Law, the proposed regulations may be found on the NYSDEC’s website at http://www.dec.ny.gov/regulations/. Comments on the proposed regulations may be submitted in writing by May 29, 2019.
THE POST-STANDARD
LEGAL AFFIDAVIT

INV#: 0009071767

MILLER ADVERTISING AGENCY INC
220 W 42 ST 12TH FL
NEW YORK, NY 10036

Sales Rep: Pamela Gallagher
Name: MILLER ADVERTISING AGENCY INC
Account Number: 1001507
INV#: 0009071767

<table>
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<th>Date</th>
<th>Position</th>
<th>Description</th>
<th>P.O. Number</th>
<th>Ad Size</th>
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<td>Other Legals NY</td>
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<td>IO# R3120113</td>
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</table>

State of New York, County of Onondaga ss. Pamela Gallagher, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Post-Standard 03/19/2019

Pamela Gallagher
Principal Clerk
An Authorized Designee of the President, Timothy R. Kennedy
Subscribed and sworn to before me, this 19th day of March 2019

Anne Petro
NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT
(315) 470-2051 OR Legals@Syracuse.com

ANNE PETRO
Notary Public - State of New York
No. 01PE6366489
Qualified in Onondaga County
Commission Expires: 10-30-2021
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Notice is hereby given that the New York State Department of Environmental Conservation (NYSDEC) will hold a legislative Public Hearing on two separate proposals:

1. Pursuant to Sections 1-0101, 3-0001, 3-0002, 19-0100, 19-0105, 19-0107, 19-0109, 19-0109, 19-0109, 19-0109, 19-0109, 71-2103, and 71-2106 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 226, Solvent Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, and 6 NYCRR Part 208, General Provisions.

Emissions from municipal solid waste (MSW) landfills are regulated by Part 226 which is based on the federal Emission Guidelines (EG) set forth in 40 CFR Part 60, Subpart C, as issued in 1996. Part 266 controls landfill gas emissions by regulating landfills that exceed a specified emission threshold to install and operate a gas collection and control system (GCCS) where the landfill gas is either flared or utilized as an energy source. In 2016, the U.S. Environmental Protection Agency (EPA) updated the federal EG by replacing Subpart C with new Subpart C. New Subpart C applies to existing landfills that have accepted waste after November 8, 1987 and began construction, reconstruction or modification prior to July 17, 2014. In order to comply with the new federal EG, the Department is required to issue its “Section 111(g) State Plan for MSW Landfills” to include the new EG and submit the State Plan to EPA for review and approval. Consequently, the Department proposes to revise Part 208, and attendant revisions to Parts 206, to incorporate by reference the new federal EG for MSW Landfills.

The proposed revisions to Part 206 state that if a facility's daily design capacity threshold of 2.5 million megagrams (Mg) and 2.5 million cubic meters of waste, then the non-methane organic compounds (NMOC) emission trigger threshold from 50 Mg/year to 25 Mg/year for insulating and operating a GCCS. For MSW landfills that air aired, the current 50 Mg/year NMOC trigger threshold will remain. There will be a new optional methodology for determining where a landfill must install and operate a GCCS – referred to as Tier 4—which is based on site-specific source emissions monitoring of methane. Under Tier 4, if a landfill's surface emissions of methane are above 500 parts per million for four consecutive quarters, the landfill will be required to install and operate a GCCS. Other notable changes include: new and updated definitions; the removal of certain operation standards with corresponding requirement to take corrective action for exceedances; along with monitoring and reporting requirements; required electronic reporting when using test methods supported by EPA electronic reporting tool (ERT); criteria for capping, nutrient or composting a portion of the GCCS to slow producing landfill gas areas; expanding landfill gas treatment; and provisions for startup, shutdown, and malfunction periods.

2. Pursuant to Sections 1-0101, 3-0001, 3-0002, 19-0100, 19-0105, 19-0109, 19-0109, 19-0109, 19-0109, 19-0109, 19-0109, 71-2103, and 71-2106 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 226, Solvent Gas Collection and Control Systems, and 6 NYCRR Part 208, Permits and Regulations.

Under the proposed changes, the current Part 226 will be re-designated Subpart 226-1 and renamed “Solvent Cleaning Processes.” Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the proposed Subpart 226-1. Currently, Part 226 only applies to the cleaning of “metal.” This proposed change removes this distinction, opening the applicability to any material cleaned by solvent cleaning processes. If a solvent cleaning process was not subject to Part 226 before you were cleaning something other than metal, it will now be subject to Subpart 226-1.

Concurrent with the Zone Transport Commission’s (ZTC) 2012 updated model rule, a new replacement VCR requirement is being proposed for Part 226 cold processes, including intercooler/dryers/driers. Proposed Subpart 226-1 will change the current requirement of using a solvent with a maximum vapor pressure of 1.0 mm Hg or less, at 35°C, to using a cleaner with no more than 25 grams of VOC per liter (g/l) of cleaning solution. No changes are being proposed for the other Part 226 solvent cleaning processes (open top or conveyorized).

Additionally, the proposed amendments will add a new Subpart 226-2, entitled “Industrial Cleaning Solvents,” which will be a new regulation consistent with the Environmental Protection Agency’s (EPA) Industrial Cleaning Solvents Control Techniques Guidelines (ITG) (2006). Any owner or operator of a facility that emits to the atmosphere three (3) tons or more volatile organic compounds (VOCs) from industrial cleaning solvents, on an annualized basis, is required to follow the provisions applicable to the cleaning of foreign objects from surfaces of web operations, including large and small manufactured components, parts, containers, tools, tanks, and vessels. Such cleaning may be done by wiping, brushing, mopping, flushing or spraying, either by hand or mechanical means. The use of cleaning solvents that are already subject to other regulation is not excluded from the new requirements under proposed Subpart 226-2. The proposed Subpart 226-2 will have work practice, recordkeeping, and storage requirements for cleaning solvents that contain VOCs. Cleaning solutions will also have a maximum VOC content limit of fifty (50) grams of VOCs per gallon (g/l) of cleaning material or, as an alternative to this maximum VOC content, an Industrial Cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 30 degrees Celsius may also be used.

Further, the Department proposes to submit the Part 226 as well as the revisions to Parts 206 and 208 to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP) for New York State.

Hearings for the proposed rule and attendant revisions to existing rules described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
<th>Notice</th>
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<tbody>
<tr>
<td>5/12/2019</td>
<td>1:00 pm</td>
<td>4274 Ave-Lima Rd, (Rt. 5 &amp; 20)</td>
<td>Syracuse Post Standard</td>
</tr>
<tr>
<td>5/24/2019</td>
<td>1:00 pm</td>
<td>4274 Ave-Lima Rd, Public Assembly Room 12949, Albany, NY 12223</td>
<td>Syracuse Post Standard</td>
</tr>
</tbody>
</table>

The Department will provide interpreter services for deaf persons at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to Richard McKeel, NYSDEC, 625 Broadway, Albany, NY 12233-3260, (518) 402-8436, air.regs@dec.ny.gov.

Pursuant to Part 617 of the implementing regulations for the State Environmental Quality Review Act, the Department has prepared a Negative Declaration stating that the proposed actions will not have a significant effect on the environment.

The Department invites all persons, organizations, corporations, and government agencies that may be affected by the proposed revisions to attend the hearings. Any person who wishes to make a statement is invited to attend. It is requested that oral statements also be submitted in writing. The Department will give equal weight to written and oral statements, and since a cumulative record will be compiled, it is not necessary for interested parties to attend each hearing.

Information for Part 226 and attendant revisions, may be obtained from Dan Briscoe, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany NY 12233-3260, telephone, (518) 402-8402; or email, air.reg@dec.ny.gov. Written statements may be submitted until 5 pm May 23, 2019.

Information for Part 206 and attendant revisions, may be obtained from John Henkes, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany NY 12233-3260, telephone, (518) 402-8302; or email, air.reg@dec.ny.gov. Written statements may be submitted until 5 pm May 23, 2019.

Requests for information and comments related to “Section 111(g) State Plan for MSW Landfills” revision and the SIP revision to incorporate Part 226, Solvent Cleaning Processes and attendant Cleaning Solvents, may be obtained from Richard J. Babula, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany NY 12313-3260, telephone, (518) 402-8302; or email, air.reg@dec.ny.gov. Written statements may be submitted until 5 pm May 23, 2019.

The proposed regulations may be found on the NYSDEC website at: http://www.dec.ny.gov/publications/84247.html/pdf, and may be obtained from the following Department offices:


- **REGION 2**: 31 South Putnam Road, Greenlawn, NY 11740, Attention: Michael Emery.
Notice is hereby given that Niagara Mohawk Power Corporation d/b/a National Grid has filed with the New York State Public Service Commission ("Commission") proposed tariff revisions to its Schedule for Gas service, PSC No. 219 - GAS, to become effective, May 1, 2019.

The proposed tariff amendment is intended to provide the Company flexibility in accepting applications for new or additional gas service if the Company determines there is insufficient gas supply and/or capacity to serve the prospective customer(s) in the relevant area of its service territory. The flexibility provided by the amendment will allow the Company to responsibly add new gas customers and manage demand, while continuing to provide safe and reliable service to its existing customers.

Copies of the amendments to PSC No. 219 - GAS are available for public inspection and can be obtained by writing National Grid, Regulation and Pricing Department, A-4, 300 Erie Boulevard West, Syracuse, NY 13202 or on the Company's website at: https://www.nationalgridus.com/Upstate-NY-Home/Rates/Rate-Statements.

### Proposed Tariff Amendment Details

<table>
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<th>Amendment Details</th>
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<tr>
<td><strong>Description</strong></td>
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<tr>
<td><strong>Effective Date</strong></td>
</tr>
</tbody>
</table>

### Public Inspection Locations

- National Grid, Regulation and Pricing Department, A-4, 300 Erie Boulevard West, Syracuse, NY 13202
- National Grid website: https://www.nationalgridus.com/Upstate-NY-Home/Rates/Rate-Statements
STATE OF NEW YORK  
COUNTY OF NEW YORK  

Ambika Mohan being duly sworn hereby declares and says, that she is the Advertising Account Executive responsible for placing the attached advertisement for publication in Rochester Demoratic Chronicle for Miller Advertising Agency, Inc; located in New York, NY, and that the NYSDEC Notice of Complete Application advertisement, of which the annexed is a true copy, has been published in the said publication on the following issue date(s):  

Mar. 20, 2019  

Ambika Mohan  

Subscribed to and Sworn before me  
This 18th day of April, 2019  

Donna Perez  
Notary Public  

Qualified In New York County  
Commission Expires August, 14th - 2022
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Notice is hereby given that the New York State Department of Environmental Conservation (NYDEC) will hold a public hearing on two separate proposals.

1. Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0106, 19-0107, 19-0301, 19-0302, 19-0303, 19-0306, 21-0203, and 21-0205 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 226, Solvent Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, and 6 NYCRR Part 201, General Provisions.

   Exclusions from municipal solid waste (MSW) landfills are regulated by Part 226 as well as the proposed revisions to 6 NYCRR Part 226, Solvent Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, and 6 NYCRR Part 201, General Provisions. The proposed revisions to 226 and 201 include changes to existing regulations to address changes in technology and operational procedures that have evolved since the regulations were first promulgated.

   The proposed revisions to Part 201 redefine the term "installable capacity" to reflect the current practice of using a solvent system with a maximum vapor pressure of 1.2 mm Hg (101.3 kPa) at 30°C. This system is equipped with a solvent recovery unit that is capable of removing volatile organic compounds (VOCs) from the solvent collected in a solvent collection system, and the emissions are less than the threshold specified in 40 CFR Part 60, Subpart C, as Issued on November 26, 1997.

   The proposed revisions to Part 226 address changes in technology and operational procedures that have evolved since the regulations were first promulgated.

   Pursuant to Section 1-0101, 19-0103, 19-0301, 19-0303, 21-0203, and 21-0205 of the Environment Conservation Law, the Department is required to submit the proposed revisions to the Office of Environmental Quality Review (OER) for review and approval. The OER has 30 days to complete its review of the proposed revisions. The Department will then submit the proposed revisions to the United States Environmental Protection Agency (EPA) for review and approval. The Department will also notify the New York State Energy Research and Development Authority (NYSERDA) of the proposed revisions.

   The proposed revisions to Part 226 include changes to existing regulations to address changes in technology and operational procedures that have evolved since the regulations were first promulgated.

   The proposed revisions to Part 201 redefine the term "installable capacity" to reflect the current practice of using a solvent system with a maximum vapor pressure of 1.2 mm Hg (101.3 kPa) at 30°C. This system is equipped with a solvent recovery unit that is capable of removing volatile organic compounds (VOCs) from the solvent collected in a solvent collection system, and the emissions are less than the threshold specified in 40 CFR Part 60, Subpart C, as Issued on November 26, 1997.

   The proposed revisions to Part 226 address changes in technology and operational procedures that have evolved since the regulations were first promulgated.

   The Department will provide interpreter services for deaf persons at no charge. Written requests for interpreter services are required and should be submitted by May 15, 2019, to Richard NYSDEC, Albany (518) 402-8438, or at ajmgs@dec.ny.gov. Interpreters will be available at an additional cost for deaf persons.

   In accordance with the Americans with Disabilities Act, 42 U.S.C. §12101 et seq., the Department will provide reasonable accommodation to persons with disabilities. Requests for reasonable accommodation should be submitted in writing to the Department by May 15, 2019, or at ajmgs@dec.ny.gov.

   Pursuant to Sections 1-0101, 19-0103, 19-0301, 19-0303, 21-0203, and 21-0205 of the Environmental Conservation Law, the Department has prepared a Negative Declaration stating that the proposed actions will not have a significant effect on the environment.

   The Department invites all persons, corporations, organizations, and government agencies that may be affected by the proposed revisions to attend the hearing. At each hearing, persons who wish to make a statement will be invited to speak. It is requested that all statements be submitted in writing. The Department will make every effort to give equal weight to written and oral statements, and includes a cumulative record to be necessary for interested parties to attend each hearing.

   Information for Part 226 and attendant revisions may be obtained from Dan Bilakos, P.E., NYSDEC Division of Air Resources, 650 Broadway, Albany, NY 12233-3251. Written statements may be submitted until 5:00 p.m. on May 21, 2019.

   Information for Part 201 and attendant revisions may be obtained from John Henkes, Director, Division of Air Resources, 650 Broadway, Albany, NY 12233-3251. Written statements may be submitted until 5:00 p.m. on May 21, 2019.

   The proposed regulations may be found on the NYSDEC's website at: http://www.dec.ny.gov/environmental/proposals.htm?start=0101&pg=may19

   Rochester Democrat and Chronicle
STATE OF NEW YORK
COUNTY OF NEW YORK

Ambika Mohan being duly sworn hereby declares and says, that she is the Advertising Account Executive responsible for placing the attached advertisement for publication in *Buffalo News* for Miller Advertising Agency, Inc; located in New York, NY, and that the NYSDEC Notice of Complete Application advertisement, of which the annexed is a true copy, has been published in the said publication on the following issue date(s):

*Mar. 20, 2019*

Ambika Mohan

Subscribed to and Sworn before me

This ___ day of April, 2019

Donna Perez
Notary Public

Donna Perez
Notary Public State Of New York
No. 01PE6151365
Qualified In New York County
Commission Expires August, 14th - 2022
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Notice is hereby given that the New York State Department of Environmental Conservation (NYSDEC) will hold a legislative Public Hearing on two separate proposals:

1. Pursuant to Section 1-0101, 3-0201, 3-0203, 19-0102, 19-0105, 19-0107, 19-0301, 19-3002, 19-3003, 19-3005, 71-2103, and 71-2105 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 206, Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, and 6 NYCRR Part 230, General Provisions.

Emissions from municipal solid waste (MSW) landfills are regulated by Part 206 which is based on the federal Emission Guidance (EG) set forth in 40 CFR Part 50, Subpart C, as issued in 1986. Part 206 controls landfill gas emissions by requiring landfills that exceed a specified emission threshold to install and operate a gas collection and control system (GCCS) where the landfill gas is either flared or utilized as an energy source. In 2016, the U.S. Environmental Protection Agency (EPA) updated the federal EG by replacing Subpart C with new Subpart C. New Subpart C applies to existing landfills that have accepted waste after November 8, 1987 and began construction, reconstruction or modification prior to July 17, 2014. In order to comply with the new federal EG, the Department is required to revise its "Section 111(d) State Plan for MSW Landfills" to include the new EG and submit the plan to EPA for review and approval. Consequently, the Department proposes to revise Part 206, and attendant revisions to Parts 230, to incorporate reference to the new federal EG for MSW Landfills.

The proposed revisions to Part 206 retain the rule application design capacity threshold of 0.25 megagrams (Mg) and 0.5 million cubic meters of waste, but lower the new-machinery organic compounds (NMAC) emission transfer threshold from 0.25 Mg per year to 0.5 Mg per year for installing and operating a GCCS. For MSW landfills that have a closed, the current 60 Mg per year NMAC transfer threshold will remain. There will be a new optional methodology for determining when a landfill must install and operate a GCCS—referred to as Tier 4—which is based on site-specific surface emissions monitoring of methane. Under Tier 4, if a landfill’s surface emissions of methane are above 800,000 cubic feet per million for consecutive quarters, the landfill will be required to install and operate a GCCS. Other notable changes include: new and updated definitions; the removal of certain operation standards with corresponding requirement to take corrective action for exceedances, along with monitoring and reporting requirements; require electronic reporting where using test methods supported by EPA’s electronic reporting tool (EET); criteria for caching, removing or decommissioning a portion of the GCCS in low producing landfill gas areas; expanding landfill gas treatment, and provisions for startup, shutdown and multistep processes.

2. Pursuant to Sections 1-0101, 3-0201, 3-0203, 19-0102, 19-0105, 19-0107, 19-0301, 19-3002, 19-3003, 19-3005, 71-2103, and 71-2105 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 226, Solvent and Cleaning Processes, and 6 NYCRR Part 230, General Provisions.

Under the proposed changes, the current Part 226 will be re-designated Subpart 226-1 and renamed "Solvent and Cleaning Processes". Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the proposed Subpart 226-1. Currently, Part 226 only applies to the cleaning of metal. This proposal removes this restriction, opening the applicability to any material cleaned by solvent cleaning processes. If a solvent cleaning process was not subject to Part 226 because you were cleaning something other than metal, it will now be subject to Subpart 226-1.

Consistent with the Oswego Transportation Commission’s (OTC) 2012 updated model rule, a new implementation requirement is being proposed for Part 226 critic cleaners, reviewing remote remote cleaners. Subpart 226-1 will change the current requirement of using a solvent with a maximum vapor pressure of 10 mm Hg or less. Above 70°F is using a cleaner with no more than 25 grams of VOC per liter (25g/l) of cleaning solution. No changes are being proposed for the other Part 226 solvent cleaning processes (other than vapor or condensation).

Additionally, the proposed amendments will add a new Subpart 226-2, entitled "Industrial Cleaning Solvents" which will be a new regulation consistent with the Environmental Protection Agency’s (EPA's) Industrial Cleaning Solvents Control Technique Guidelines (CTG) (2006). Any owner or operator of a critical cleaning process that uses three (3) or more of volatile organic compounds (VOCs) from Industrial Cleaning Solvents, on an annual basis, may be subject. Specifically, the provisions apply to the cleaning of foreign materials from surfaces of: kilns, furnaces, including large and small manufactured components, parts, equipment, frames, tools, and vessels. Such cleaning may be done by any process, brushing, mopping, flushing or spraying, either by hand or mechanical means. The use of cleaning solvents that are already subject to (or exempt from) other regulatory provisions will not subject to any new requirements under proposed 226-2. The proposed Subpart 226-2 will have work practice, recordkeeping and reporting requirements for Industrial Cleaning Solvents. Cleaning solutions will also have a maximum VOC content limit of 50 (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material, or an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20°C. Optimal controls may also be used. Further, the Department proposes to include the Part 226 as well as the revisions to Part 206 to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP) for New York State.

Hearings for the proposed rule and attention to revisions to existing rules described above will be held on the following dates and locations in places that are reasonably accessible to persons with impaired mobility:

<table>
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<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
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<tbody>
<tr>
<td>3/22/2019</td>
<td>1:00 PM</td>
<td>6274 Avon-Lima Rd. (Rt. 5 and 28), Conference Room, Avon, NY 14414-9516</td>
</tr>
<tr>
<td>3/24/2019</td>
<td>1:00 PM</td>
<td>NYSDEC, 625 Broadway, Public Assembly Room 125A, Albany, NY 12233</td>
</tr>
</tbody>
</table>

The Department will provide interpreter services for deaf persons at no charge. Written requests for interpreter services required and should be submitted by 5:00 PM May 22, 2019, to the Department’s interpreter office, 505 Broadway, Albany, NY 12233. (518) 402-8403; email, air.regs@dec.ny.gov. Written statements may be submitted until 5:00 PM May 29, 2019. Information for and comments related to the “Section 111(d) State Plan for MSW Landfills” revision and the SIP revision to incorporate Part 226, Solvent and Cleaning Processes, and Industrial Cleaning Solvents, may be obtained from Robert O. Aiello, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3281, Phone: (518) 402-8406; email, air.regs@dec.ny.gov. Written statements may be submitted until 5:00 PM May 29, 2019. The proposed regulations may be found on the NYSDEC’s website at: http://www.dec.ny.gov/energy/reghearing.html. They may be obtained from any of the following Department offices:

BROKLYN – 60 City Hall Park, 20 City Hall Park, Brooklyn, NY 11201-3907, Attention: Laura M. Cali
BUFFALO – 301 Main Street, Suite 2200, Buffalo, NY 14202, Attention: Michael Emery
BUFFALO – 270 Michigan Avenue, Buffalo, NY 14202, Attention: Michael Emery

The Department invites all persons, corporations, agencies that are affected by revisions, organizations, and government agencies that may be affected by the proposed revisions to attend the hearings. At each hearing, persons who wish to make a statement will be invited to speak. It is requested that oral statements be submitted in writing. The Department will give equal weight to written and oral statements, and since a cumulative record will be compiled it is not necessary for interested parties to attend each hearing.

Information for Part 206 and attendant revisions, may be obtained from Dan Britzka, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3281, Telephone: (518) 402-8403, email, air.regs@dec.ny.gov. Written statements may be submitted until 5:00 PM May 29, 2019. Information for and comments related to the “Section 111(d) State Plan for MSW Landfills” revision and the SIP revision to incorporate Part 226, Solvent and Cleaning Processes, and Industrial Cleaning Solvents, may be obtained from Robert O. Aiello, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3281, Telephone: (518) 402-8403, email, air.regs@dec.ny.gov. Written statements may be submitted until 5:00 PM May 29, 2019. Requests for information and comments related to the “Section 111(d) State Plan for MSW Landfills” revision and the SIP revision to incorporate Part 226, Solvent and Cleaning Processes, and Industrial Cleaning Solvents, may be submitted to Robert O. Aiello, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3281, Phone: (518) 402-8406, Email: air.regs@dec.ny.gov. Written statements may be submitted until 5:00 PM May 29, 2019.

The proposed regulations may be found on the NYSDEC’s website at: http://www.dec.ny.gov/energy/implementation.html. They may be obtained from any of the following Department offices:
The Buffalo News, Wednesday, March 20, 2019

**Puzzle Corner**

**Crossword**

BY EUGENE SHEFFER

Solution time: 21 minutes

---

**ACROSS**

1. Facts end figures
5. Bygone jet
8. Son of Seth
12. Latin love
13. Historic period
14. "Peter Pan" pooch
15. "No problem!"
17. DBikens
18. Skip
19. "Delicious" crop
21. Threo, in Rome
22. Holds hay
23. Zsa Zsa's sister
26. Stitch
28. Justice Ruth -
31. Missing
33. Pouch
35. Sh.riUbiks
36. Toy (with)
38. Prattle
40. Malakai
41. Beer, slangily
43. Capt. Kirk
46. Black Seaport
47. Indigenous
51. Accomplishes
52. "Yes?"
54. Bifield's pal 20119
65. Napoleon's title
66. Actress Turner 23 Sprite

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**DOWN**

1. Cribler source
2. Mine, in Montreal
3. Talk up
4. Sing
5. Small sofas
6. Lanka lead-in
7. Early Mongolian
8. Bridge tactic
9. Acoontest
10. "My treat"
11. Lip line?
13. Historic period
14. "Peter Pan" pooch
15. "No problem!"
17. DBikens
18. Skip
19. "Delicious" crop
21. Threo, in Rome
22. Holds hay
23. Zsa Zsa's sister
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54. Bifield's pal 20119
65. Napoleon's title
66. Actress Turner 23 Sprite

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In the Matter Of:
PART 208 & PART 226

HEARING

May 22, 2019
NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In The Matter of:
The Proposed Revisions to 6 NYCRR Parts 208, 200 and 226.

Held Before: Molly T. McBride
Impartial Hearing Officer

Location: NYS DEC Region 8 Office
6274 East Avon Lima Road
Avon, New York 14414

Date: May 22, 2019

Time: 1:00 p.m.

Reported By: MICHELLE MUNDT ROCHA
Alliance Court Reporting, Inc.
120 East Avenue, Suite 200
Rochester, New York 14604
Appearing as the Administrative Law Judge:
Molly T. McBride, Esq.
Office of Hearings & Mediation Services
625 Broadway, First Floor
Albany, New York 12233-1550
Molly.mcbride@dec.ny.gov
IN RE: PROPOSED REVISIONS TO 6 NYCRR PARTS 208, 200 & 226

WEDNESDAY, MAY 22, 2019;

(Proceedings in the above-titled matter
commencing at 1:02 p.m.)

* * *

ALJ MCBRIDE: Good afternoon, everyone.

My name is Molly McBride, and I'm an Administrative
Law Judge with the New York State Department of
Environmental Conservation. I'll be presiding over
today's public comment hearing.

The purpose of today's hearing is to receive public comment regarding the proposed amendments to 6 NYCRR Parts 226 and Part 201, as well as Part 208 and 200. Written comments are going to be accepted through 5 p.m. on May 29, 2019. Written comments may be mailed to the New York State Department of Environmental Conservation Division of Air Resources at 625 Broadway, Albany, New York 12233-3250.

If you wish to comment on Part 208, please direct your comments to Dan Brinsko at the 625 Broadway address. And if you wish to comment on Part 226, please direct your comments to John Henkes at the 625 Broadway address. We are also accepting comments via email. The email address is airregs -- that's
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R-E-G-S -- air.reg@dec.ny.gov.

Hearings for the proposed rule revisions are going to be held here today, as well as on Friday, May 24, at 1 p.m. at the Department Central Office located at 625 Broadway Albany New York. Notice of the proposed rulemakings as well as the public hearings were published in the New York State Register and the Department's environmental notice bulletin.

This public comment session is to provide the public with an opportunity to comment on the proposed rulemakings and is not a question-and-answer session. If anyone would like to make a comment on the record here today, they will need to fill out a speaker card, and we will call their name.

Before we see if anyone would like to make a comment on the record, we will hear from Michele Kharroubi, who's from the Division in the Region 8 office. And I will remind you that oral unwritten comments are given the same weight in the Department's review.

Michelle?

MS. KHARROUBI: Thank you, Judge McBride.

Good afternoon. My name is Michele Kharroubi. I am an environmental engineer and work in
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the Division of Air Resources in Avon, New York.

The Department is proposing to repeal 6 NYCRR Part 208, Landfill Gas Collection and Control Systems for Certain Municipal Solid Waste Landfills, replace it with a new Part 208, and also revise 6 NYCRR Part 200, General Provisions, to incorporate by reference as the new Part 208 the newly updated federal emission guideline (EG) for municipal solid waste (MSW) landfills codified at 40 CFR Part 60, Subpart Cf, titled "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills."

On August 29, 2016, the US Environmental Protection Agency (EPA) updated the federal EG with 40 CFR 60, Subpart Cf. The new federal EG further reduces emissions of methane by lowering the emission threshold at which a landfill must install and operate a landfill gas collection and control system (GCCS). Subsequently, to continue complying with section 111(d) of the Clean Air Act (CAA) and the newly adopted federal regulations, once this proposal is adopted, the Department is required to revise its State Plan to reflect the new federal EG and submit such State Plan to EPA for review and approval.

New Part 208 will apply to existing
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landfills that have accepted waste after November 8, 1987, and began construction, reconstruction or modification prior to July 17, 2014. The proposed revisions to Part 208 retain the rule applicability design capacity threshold of 2.5 million megagrams (Mg) and 2.5 million cubic meters of waste, but lowers the non-methane organic compound (NMOC) emission trigger threshold from 50 megagrams per year to 34 megagrams per year for installing and operating a GCCS. For MSW landfills that have closed, the current 50 megagram per year NMOC trigger thresholds will remain.

There will be a new optional methodology for determining when a landfill must install and operate a GCCS, referred to as Tier 4, which is based on site-specific surface emissions monitoring of methane. Under Tier 4, if a landfill surface emissions of methane are above 500 parts per million for four consecutive quarters, the landfill will be required to install and operate a GCCS.

Other notable changes include new and updated definitions, the removal of certain operation standards with corresponding requirements to take corrective action for exceedances, along with
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monitoring and reporting requirements; required
electronic reporting when using test methods supported
by EPA's electronic reporting tool (ERT); criteria for
capping, removing or decommissioning a portion of the
GCCS in low-producing landfill gas areas; expanding
landfill gas treatment; and provisions for start-up
shutdown and malfunction periods.

Part 200 will be amended to update
incorporated references to federal rules.

The Department conducted a comprehensive
stakeholder outreach effort by way of a conference
call on May 16, 2018, to discuss the draft revisions
to Part 208 and to obtain feedback. A wide range of
affected parties were on call, including landfills,
industry associations, environmental consultants,
environmental groups and governmental agencies. A
fact sheet outlining the draft revisions was
circulated prior to the conference call. During the
conference call department staff were able to field
questions and hear ideas and concerns from
stakeholders, and all participants were encouraged to
submit their comments in writing. The comments
received from the stakeholder outreach process were
considered in developing this proposal.
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Public hearings for this proposed rulemaking are being held in two New York State locations: At Avon on May 22nd at 1 p.m. and Albany on May 24th at 1 p.m. In addition to providing statements at this hearing today, interested parties may also submit written comments related to the proposed revisions to Part 208 and Part 200.

Statements made at this hearing today and written comments received during the public comment period will be given equal weight and will become part of the administrative record for this rulemaking.

Anyone wishing to obtain information or submit comments related to the proposed revisions to Part 208 or Part 200 may contact me -- not me -- Dan Brinsko, P.E., with NYSDEC Division of Air Resources, 625 Broadway, Albany, New York 12233-3250; telephone number (518) 402-8403; or email airregs@dec.ny.gov.

Written comments will be accepted through 5 p.m. Sunday, July 29, 2019.

Thank you for attending this hearing.

ALJ MCBRIDE: Thank you.

Is there anyone that would like to make a comment on the record? And what we'll do is go off the record for about ten minutes in case anyone's
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running late.

(The proceeding recessed at 1:11 p.m.)

(The proceeding reconvened at 1:17 p.m.; appearances as before noted.)

ALJ MCBRIDE: We took a short recess to see if anyone was running late for the hearing. It's now approximately 1:20, and we have no one that would like to make a comment on the record. So we'll close the hearing record for this hearing. And I'll remind everyone there's another comment opportunity on Friday, May 24th, at the Department Central Office in Albany; and written comments will be accepted via mail and email.

Thank you very much.

(TIME: 1:18 p.m.)

*   *   *

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CERTIFICATION

STATE OF NEW YORK:
COUNTY OF MONROE:

I, MICHELLE M. ROCHA, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were produced by computer-aided transcription (CAT) under my personal supervision and constitute a true and accurate record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the City of Rochester, County of Monroe, State of New York.

MICHELLE M. ROCHA
Freelance Court Reporter and Notary Public No. 01R05038965
in and for Monroe County, New York
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STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter
 - of -

Public Comments Session to Receive Public Comments
About Title 6, Compilation of Official Codes, Rules and
Regulations, for Proposed Rules 208 and 226.

*******************************************************

5/24/2019
1:00 p.m.

DEC
625 Broadway
Conference Room
Albany, New York

PRESENT:

Daniel O'Connell
Department of Environmental Conservation
Office of Hearing and Mediation Services
Administrative Law Judge

Dan Brinsko
Department of Environmental Conservation
Division of Air Resources
Professional Engineer One, Environmental

Rich McAuley
Department of Environmental Conservation
Regulatory Coordinator

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Proceedings 5/24/2019 -- Proposed Rules 208 and 226

ALSO PRESENT:

Members of the Public

REPORTED BY: Brenda C. Griffin
MR. O'CONNELL: Good afternoon, ladies and gentlemen. My name is Daniel O'Connell. I'm from the New York State Department of Environmental Conservation, Office of Hearing and Mediation Services. I'm the administrative law judge assigned for today's public comments session regarding the Department's proposed rulemaking.

Today's hearing is the second public comment session. The first session was held on Wednesday, May 22, 2019, at the Department's offices located in Avon, New York.

Today the public is invited to comment about two proposed rules from Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

The first is Part 208, titled Landfill Gas Collection and Control Systems For Certain Municipal Solid Waste Landfills.

The proposed revisions to Part 208 include, also, attendant revisions to Part 200, General Provisions.

The purpose of these revisions is to incorporate the new federal Emission Guideline for municipal solid waste landfills, codified under 40 CFR.
Part 60, Subpart CF.

After these proposed amendments are adopted, the Department is required to revise the State Plan to reflect the new Emission Guidelines, and submit the revised State Plan to the Environmental Protection Agency for review and approval.

The second proposed rule concerns Part 226, titled Solvent Metal Cleaning Processes, which is currently identified as Part 226, will be designated as Subpart 226-1.

Subpart 226-1 will be titled Solvent Cleaning Processes. The Department proposes a new subpart, 226-2, that will be entitled Industrial Cleaning Solvents.

Attendant changes to Part 201 entitled Permits and Regulations are also proposed for consistency purposes.

After these proposed amendments are adopted, The Department is required to revise the State Implementation Plan, which the Environmental Protection Agency will review and approve.

Written comments are being accepted through 5 p.m., on May 29, 2019.

Written comments about Part 208 should be directed to Dan Brinsko, professional engineer, New

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York State Department of Environmental Conservation,  
Division of Air Resources, 625 Broadway, Albany, New York, 12233-3250.

Written comments about Part 226 should be directed to John Henkes, professional engineer, New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York, 12233-3250.

And I will provide these addresses again at the end of the proceeding. And you can ask for them during any break that we may take.

In addition, I understand that there are forms available today so that you can submit written comments to the Department.

Comments about the proposed rulemakings can also be emailed to the following address: air regs@dec.ny.gov. In the subject line, please put Part 208, Part 226, or both Part 208 and Part 226, depending on the scope and nature of your comments.

Notice of the proposed rulemaking was posted on The Department's website and it was published in the State Register, as well as the Department's Environmental Notice Bulletin on March 20, 2019.

Anyone who wishes to speak today must fill out a speaker card. They are available at the sign-in
table here at the entrance. Speakers will be called in the order which I received cards.

When I call your name, please come up to the podium and use the podium. Please state your name and address, and whether you are speaking on behalf of someone or a particular group.

This is not a question-and-answer session. The purpose of the hearing today is to provide members of the public with the opportunity to comment about the proposed amendments.

When you make your statement, please come forward here. Speak slowly, loudly, and clearly. All comments this afternoon are being recorded by a stenographer. If we can't hear you, there's a risk that the statements you are making will not be recorded accurately.

If you wish to make a statement, you may -- if you don't wish to make a statement, you may submit your comments in writing, as I said before. The staff reviews oral statements and written statements equally.

Before taking comments today, we will hear a brief summary of the proposed rulemaking from Department staff. Dan Brinsko from the Division of Air Resources will speak about the proposed Part 208 rules
and the proposed Part 226 rules.

So, Mr. Brinsko, when you're ready.

MR. BRINSKO: Thank you, Judge O'Connell.

Good afternoon. My name is Dan Brinsko. I am an environmental engineer and I work in the Division of Air Resources in Albany, New York.

The Department is proposing to repeal 6 NYCRR Part 208, Landfill Gas Collection and Control Systems For Certain Municipal Solid Waste Landfills, replace it with a new Part 208, and also revise 6 NYCRR Part 200, General Provisions, to incorporate by reference as the new Part 208, the newly-updated federal Emission Guidelines for Municipal Solid Waste Landfills, codified as 40 CFR, Part 60, Subpart CF, titled Emission Guidelines and Compliance Times For Municipal Solid Waste Landfills.

On August 29, 2016, the US Environmental Protection Agency updated the federal EG, Emission Guideline, with 40 CFR Part 60, Subpart CF.

The new federal Emission Guideline further reduces emissions of methane by lowering the emission threshold at which a landfill must install and operate a landfill gas collection and control system.

Subsequently, to continue complying with Section 111(d) and the Clean Air Act, and newly-adopted
federal regulations, once this proposal is adopted, The Department is required to revise its State Plan to reflect the new Emission Guidelines, and submit such State Plan to EPA for a review and approval.

New Part 208 will apply to existing landfills that have accepted waste after November 8, 1987, and began construction, reconstruction, or modification prior to July 17, 2014.

The proposed revisions to Part 208 retain the rule applicability design capacity threshold of 2.5 million megagrams and 2.5 million cubic meters of waste, but lowers the non-methane organic compounds emission trigger threshold from 50 megagrams per year to 34 megagrams per year for installing and operating a gas collection control system.

For Municipal Solid Waste Landfills that have closed, the current 50 megagram per year NMOC trigger threshold will remain.

There will be a new optional methodology for determining when a landfill must install and operate a gas collection control system, which is referred to as Tier 4, which is based on site-specific surface emissions monitoring of methane.

Under Tier 4, if a landfill's surface emissions of methane are above 500 parts per million
for four consecutive quarters, the landfill will be required to install and operate a gas collection control system.

Other notable changes include new and updated definitions; the removal of certain operation standards with corresponding requirements to take corrective action for exceedances; along with monitoring and recording requirements; and require the electronic reporting when using test methods supported by EPA's Electronic Reporting Tool; and criteria for capping, removing, or decommissioning a portion of the gas collection control system in low-producing landfill gas areas; expanding landfill gas treatment; and provisions for startup, shutdown and malfunction periods.

Part 200 will be amended to update incorporated references to the federal rules.

The Department conducted a comprehensive stakeholder outreach effort by way of a conference call to May 16th, 2018, to discuss the draft revisions to Part 208 and obtain feedback.

A wide range of affected parties were on the call, including: Landfills, industry associations, environmental consultants, environmental groups, and governmental agencies.
A fact sheet outlining the draft revisions was circulated prior to the conference call. During the conference call, department staff were able to field questions and hear ideas and concerns from stakeholders and all participants were encouraged to submit their comments in writing.

The comments received from the stakeholder outreach process were considered in developing this proposal.

Public hearings for this proposed rulemaking are being held in two New York State locations: In Avon on May 22, at 1:00 p.m.; and Albany, on May 24th, at 1:00 p.m.

In addition to providing statements at this hearing today, interested parties may also submit written comments related to the proposed revisions to Part 208 and Part 200.

Statements made at this hearing today and written comments received during the public comment period will be given equal weight and become part of the administrative record for this rulemaking.

The changes proposed in Part 201 are necessary for consistency with the proposed changes in addition to -- strike that. Sorry.

Anyone who wishes to obtain information or
submit comments related to the proposed revisions to
Part 208 or 200 may contact me, Dan Brinsko,
Professional Engineer, New York State DEC, Division of
Air Resources, 625 Broadway, Albany, New York,
12233-3250. Telephone: 518-402-8403. Email:
air.reg@dec.ny.gov.

And written comments will be accepted
through 5:00 p.m., Wednesday, May 29, 2019.

Thank you for attending this hearing.

MR. O'CONNELL: Do you want to include the
statement with respect to Part 226?

MR. BRINSKO: I can do that. I had the
statement with me. I flipped it over and I was reading
that. That's where I said strike.

Thank you, Judge O'Connell. Good
afternoon. My name is Dan Brinsko. I'm an
environmental engineer in the Division of Air Resources
in Albany, New York.

The Department of Environmental
Conservation is proposing to amend Part 226, Solvent
Metal Cleaning Processes and Part 201, General
Provisions, Title 6 of Official Compilation of Codes,
Rules and Regulations of the State of New York.

This public hearing is one of the two
scheduled for receiving statements and comments on The
Department's proposal to adopt amendments to Part 226 and related revisions to Part 201.

These proposed changes are necessary to comply with the 2012 Ozone Transport Commission's Model Rule and the 2007 US Environmental Protection Agency's Industrial Cleaning Solvents Control Technique Guidelines.

Under the proposed changes, the current Part 226 will be redesignated Subpart 226-1, and renamed Solvent Cleaning Processes.

Additionally, the proposed amendments will add a new Subpart 226-2, entitled Industrial Cleaning Solvents.

All owners or operators of Solvent Cleaning Processes will be subject to the current Part 226 will be subject to the proposed Subpart 226-1.

Currently, Part 226 only applies to the cleaning of metal. This proposal removes this distinction, opening applicability to any material being cleaned by Solvent Cleaning Processes.

If your Solvent Cleaning Processes was not subject to Part 226 because you were cleaning something other than metal, you will now be subject to Subpart 226-1.

A VOC requirement is being proposed for
Part 226 cold cleaners, including remote reservoir cleaners.

The proposed rule will change the current requirement of using a solvent with a maximum vapor pressure of 1.0 millimeters of mercury or less at 20 degrees Celsius to using a cleaner with no more than 25 grams of VOC per liter of cleaning solution. No changes are being proposed for the other Part 226 Solvent Cleaning Processes.

The proposed Subpart 226-2 Industrial Cleaning Solvent, will be a new regulation. Any owner or operator of a facility that uses three tons or more of volatile organic compounds from cleaning solvents on an annual basis may be subject.

Specifically, the provisions apply to any method of cleaning, by hand or mechanical means, of foreign materials from surfaces of unit operations, including large and small manufactured components, parts, equipment, floors, tanks, and vessels.

Use of cleaning solvents that are already subject to other regulatory provisions would not be subject to any new requirements because of this proposal.

Owners or operators subject to the proposed Part or Subpart 226-2, Industrial Cleaning
Solvents, will have work practice, record keeping and storage requirements for their cleaners that contain VOCs.

Cleaning solutions will also have a maximum VOC content limit of 50 grams of VOC per liter; or 0.42 pounds of VOC per gallon of cleaning material; or, as an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of 8 millimeters of Mercury at 20 degrees Celsius may also be used.

The changes proposed in Part 201 are necessary for consistency with the proposed changes and additions to Part 226.

The Department held a stakeholder meeting on January 29, 2018, to discuss the likely elements of the proposed revisions and to obtain feedback.

The comments received from the stakeholder meeting as well as additional input received during the stakeholder outreach process were considered in developing this proposal.

In addition to providing statements at this hearing today, anyone may also submit written comments related to the proposed revisions to Part 226 and Part 201.

Statements made at this hearing today and
written comments received during the public comment
period will be given equal weight and become part of
the administrative record for this rulemaking.

Anyone who wishes to obtain information or
submit comments related to the proposed revisions to
Part 226 or Part 201 may contact John Henkes at New
York State DEC, Division of Air Resources, 625
Broadway, Albany, New York, 12233-3250. Telephone:
518-402-8403. E-mail:

Written comments will be accepted through
5:00 p.m., Wednesday, May 29, 2019.

Thank you for attending this hearing.

MR. O'CONNELL: Thank you, Mr. Brinsko.

There are a few members of the public here in the
assembly room today. This is their opportunity now to
submit any comments. Do you wish to make any comments
today?

UNIDENTIFIED SPEAKER: No thanks. We just
came to see if anybody else was coming to give
comments.

MR. O'CONNELL: Right. We will go off the
record.

(At which time, a recess was held from
1:17 p.m. until 1:26 p.m.)
MR. O'CONNELL: Okay. During our off-the-record break, I waited to see if any additional members of the public came to offer comments today, with respect to the two proposed rule changes concerning Part 208 and Part 226.

No one else is here. I just want to check with you in case you wanted to make a comment?

UNIDENTIFIED SPEAKER: No thank you.

MR. O'CONNELL: Before adjourning today, I will remind everyone that the deadline for filing comments is 5:00 p.m., on May 29, 2019.

Comments may be submitted in writing to the addresses provided during today's session. They may also be provided via email at air.regs@dec.ny.gov.

This hearing is adjourned. Thank you.

* * *

(Whereupon, the proceedings in the above-entitled matter were concluded at 1:27 p.m.)
RE: PROPOSED RULES 208 AND 226

AT: DEPARTMENT OF ENVIRONMENTAL CONSERVATION
625 Broadway
Albany, New York

DATE: May 24, 2019

CERTIFICATION

I, Brenda C. Griffin, a shorthand reporter and Notary Public in and for the State of New York do hereby certify that the foregoing record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.

Brenda C. Griffin
Assessment of Public Comments

6 NYCRR Part 226, Solvent Cleaning Processes and Industrial Cleaning Solvents

6 NYCRR Part 201, Permits and Registrations

Comments received from March 20, 2019 through 5:00 P.M., May 29, 2019

The New York State Department of Environmental Conservation (Department) is revising 6 NYCRR Part 226, Solvent Metal Cleaning Processes and re-designating it Subpart 226-1, Solvent Cleaning Processes; adding a new Subpart 226-2, Industrial Cleaning Solvents; and making related changes to Part 201 Permits and Registrations. These changes are necessary to comply with the 2012 Ozone Transport Commission’s (OTC) Model Rule and the 2006 U.S. Environmental Protection Agency’s (EPA) Industrial Cleaning Solvents Control Technique Guidelines (CTG). Public hearings were held on May 22, 2019 in Avon, NY and May 24, 2019 in Albany, NY.

The Department received written comments from eight (8) commenters during the comment period of March 20, 2019 through 5:00 pm on May 29, 2019.

General

Comment 1: Moog appreciates the opportunity to comment on these proposed regulations and thanks the New York State Department of Environmental Conservation (NYSDEC) for its work in developing them. Commenter 1

Response to comment 1: The Department thanks the commenter for their efforts and participation in the rulemaking process.

Comment 2: Moog urges NYSDEC to follow the recommendation of USEPA in its Industrial Cleaning Solvents Control Techniques Guidelines (CTG) document (September 2006), which is for State and local agencies to
“consider the specific industries and operations in their jurisdictions and the individual requirements of those operations, and tailor their rules to those specific scenarios accordingly.” Commenter 1

Comment 3: The GAC is not opposed to environmental controls. However, promulgation of any regulatory controls should allow an industry sector to use the materials that are technologically compatible with their manufacturing process.

The GAC believes that NYSDEC does have the authority and flexibility to craft a regulation that will not only reduce air emissions, but also allow industrial sectors to use cleaning solvents that are technologically feasible. Commenter 8

Response to comments 2 & 3: The Department recognizes that there is great variety in processes that use cleaning solvents and has taken this into account when crafting these regulatory requirements.

**Distinction between Subparts 226-1 and 226-2**

Comment 4: Is it correct that Section 226-1 is intended to regulate parts washers, and all other solvent cleaning operations are addressed under Section 226-2? Commenters 1 & 2

Response to comment 4: The current Part 226 and proposed Subpart 226-1 regulate solvent cleaning processes that use equipment, such as parts washers, designed to perform the cleaning. The Subpart 226-1 regulated equipment is categorized into three types: cold cleaning degreasers (including remote reservoir degreasers), open-top vapor degreasers and conveyorized degreasers. Subpart 226-2 is intended to regulate the use of industrial cleaning solvents that are not regulated by any other State or Federal regulation, including Subpart 226-1.

Comment 5: Why does NYSDEC propose not to exempt hand wiping from the Part 226 regulation (Section 226-2.1(a)), when it is exempt under the OTC Model Rule (Section 7(a)(6))? Commenters 1 & 2
Response to comment 5: The Industrial Cleaning Solvents CTG, the basis of proposed Subpart 226-2, specifically includes cleaning by hand; therefore, it is included in the proposed applicability in subdivision 226-2.1(a).

Solvent cleaning of parts and equipment performed exclusively by hand wiping or ‘hand cleaning’ is currently exempt from permitting requirements under paragraph 201-3.3(c)(96). The proposed rulemaking will modify this exemption by specifying that solvent cleaning reaching the applicability criteria of Subpart 226-2 is not exempt from permitting requirements. As a result, the owner or operator of a facility with 3 tons or more per year of VOC emissions from cleaning solvents subject to Subpart 226-2 must have the appropriate air permit or registration.

Under existing Part 226, ‘wipe cleaning’ is excluded from the definition of ‘cold cleaning degreasing’. This will not change under the proposed rulemaking. However, clarifying language will be added.

Comment 6: Please clarify how the manual use of solvents for flushing, dipping, wiping, or spraying are addressed in the proposed regulations. Are these processes regulated if performed without use of a degreaser (cold cleaning machine) at a facility that has 3 tons or more of actual VOC emissions from industrial cleaning solvents on a twelve-month rolling total basis? Commenters 1 & 2

Response to comment 6: The process of solvent cleaning using a cold cleaning degreaser is subject to the requirements of proposed Subpart 226-1 which has no minimum emissions applicability criteria. The process of solvent cleaning manually by flushing, dipping, wiping, or spraying, that is not subject to other regulations would be subject to Subpart 226-2 if the total VOC emissions from such cleaning (manual or otherwise) are three tons or more per year on a twelve-month rolling total basis.

Comment 7: Clarify what constitutes a “machine” under the definition of “degreaser” in 226-1(b)(3). There are many batch solvent cleaning operations that meet the definition of “cold cleaning degreasing” under the proposed
rule and are performed in a “machine,” such as wafer cleaning in semi-conductor manufacturing, but are not a traditional “parts washer.” Clarify whether these types of cleaning units are regulated under 226-1 or 226-2. Commenter 6

Response to comment 7: The term ‘machine’ has been in Part 226 since 2003. It was incorporated from an earlier version of the OTC model rule. In broad terms, “[a] machine is a device consisting of fixed and moving parts that modifies mechanical energy and transmits it in a more useful form.’ (The American Heritage Dictionary of the English Language, Fourth Edition 2000). There is no change in the definition of degreaser or cold cleaning degreasing being proposed, just the inclusion of non-metal items.

**Basis of 25gm/L limit for cold cleaning**

Comment 8: As understood, the proposed regulatory change for “cold cleaning degreasing” operations will require the use of a solvent with a 25 gram/L VOC content. How was this limit determined, and what was the basis for selecting this value? Was an evaluation of the availability and effectiveness for solvents with a 25g/L VOC content considered in establishing this value? Commenter 5

Comment 9: NYC DOT would like to apprise NYSDEC that these proposed regulatory changes could have an outsized impact to operations that use parts washer sinks where it is certain that the solvents used in these sinks would lose their efficiency if the VOC limits in these solvents are reduced to a maximum of 25 grams/Liter, as stated at proposed Section 226-1.14 (a)(4). Commenter 5

Response to Comments 8 & 9: The proposed changes and additions to Part 226 are the result of the Department’s continued evaluation of Reasonably Available Control Technology (RACT) for industries that emit certain air pollutants, in this case VOCs. The VOC limit of 25gm/L was selected because there are commercially available cleaning solutions meeting this limit which are appropriate for use in existing cold cleaning degreasers and are
proven to be a reasonable and effective alternative to cleaning solutions meeting the current VOC vapor pressure criteria, with significantly less VOC emissions. Such cleaning solutions have been in use in other areas of the country for years.

**Exemptions**

Comment 10: Why is use of cold cleaning degreasers using a solvent with VOC content of 5% or less no longer exempt from regulation (Section 226-1.7(a))? The detergent in aqueous cleaners has a VOC content of approximately 5% – are aqueous cleaners now to be regulated under Part 226? Commenter 1

Response to comment 10: The proposal establishes a VOC limit of a maximum of 25 grams of VOC per liter at 20 degrees Celsius. Any solution, aqueous or other, meeting this limit will be compliant, regardless of the percent VOC content.

Comment 11: Please consider copying the exception listed in 226-2.3(a)(4)(b) to Section 226-1.4(a)(4). Mineral spirits are commonly used in cold cleaning degreasers, and this solvent cannot be completely replaced by aqueous cleaning. Commenter 1

Response to comment 11: There is no basis upon which to add this exemption and doing so would make the regulation significantly less stringent, resulting in more VOC emissions from some Subpart 226-1 regulated sources and thereby defeating the purpose of updating RACT for solvent cleaning processes.

Comment 12: Other OTC states include the manufacture of high precision products in the definition of special and extreme solvent metal cleaning that is exempt from restrictions that would otherwise prohibit the use of isopropyl (IPA). Moog urges NYSDEC to adopt a similar provision. Commenter 2
Comment 13: Please consider modifying the definition of “Special and Extreme Solvent Metal Cleaning” in Section 226-1.2(b)(9) to include “Research, development, manufacture and rework of high precision products for which contamination must be minimized in accordance with a customer or other specification,” as is done in the States of Rhode Island, Connecticut, and Massachusetts. Commenters 1 and 2

Response to comments 12 & 13: Adding such categories to the definition of special and extreme solvent cleaning would reduce emission control requirements currently in place, resulting in more VOC emissions from some Subpart 226-1 regulated sources. The proposed changes to Subpart 226-1 are no more restrictive of the use of IPA than the existing regulation.

Comment 14: Please consider adding an exception for industrial cleaning solvents with a composite vapor pressure of 8 mm Hg or less to Section 226-1.4(a)(4), similar to Section 226-2.3(a)(4)(b). Mineral spirits have a vapor pressure of 1-2 mm Hg and are commonly used in cold cleaning degreasers. The use of mineral spirits in cold cleaning degreasers cannot be completely replaced by aqueous cleaners. Proposed Section 226-2.1(c)(1) will not allow the exception listed in 226-2.3(a)(4)(b) to apply to the use of cleaning solvents in cold cleaning degreasers. Commenter 2

Response to comment 14: There is no basis for adding exemptions from Subpart 226-2 to Subpart 226-1 and doing so would make the regulation significantly less stringent than the existing regulation, resulting in more VOC emissions from Subpart 226-1 regulated sources and thereby defeating the purpose of updating RACT for solvent cleaning processes.

Comment 15: Please consider adding exceptions in Section 226-2.1(c) for a cleaning activity, including surface preparation prior to coating, necessary to meet a standard or specification issued or approved by the United States Department of Defense, Federal Aviation Administration, or other federal government entity the cleaning of personal protection equipment, such as respirators. Commenters 1 & 2
Comment 16: Operations that fall under the research and development (R&D) activity exemption in 201-3.2(c)(44) could involve cleaning steps that are similar to the solvent cleaning processes regulated under Subpart 226-1 or cleaning activities described in the 226-2.1(a) applicability description for industrial cleaning solvents. Clarify whether the use of solvent cleaning processes described in 226-1 and/or the solvents used to clean parts, equipment, floors, and vessels described in 226-2, when performed in association with R&D activities, is regulated under these subparts. Commenter 6

Response to comments 15 & 16: Solvent cleaning for surface preparation prior to coating is exempt under proposed paragraph 226-2.1(c)(2). To further clarify applicability, a new paragraph will be added concerning the cleaning of miscellaneous items. The cleaning of personal protection equipment will be included in that paragraph.

There is no specific exemption for R&D activities under the current Part 226 or proposed in Subpart 226-1. Such activities may be exempt from the proposed Subpart 226-2 if they are subject to or specifically exempt from another regulation. However, consistent with the CTG, language will be added to proposed Subpart 226-2 exempting such activities.

Comment 17: 6 NYCRR Part 212 Reasonably Available Control Technology (RACT) and Best Available Control Technology (BACT) subject sources should be excepted from 226-2. Industrial cleaning solvent emissions that are already subject to RACT and/or BACT under Part 212 should be excepted from Subpart 226-2 since existing RACT and/or BACT would have evaluated the technical and economic feasibility of alternative solvents, using lower amounts of solvents, and add-on control. Having these emissions be subject to another rule is not consistent with the NYSDEC’s previously stated goal of having sources subject to a single rule. Furthermore, having these emissions be subject to multiple rules will result in only adding another rule citation to the existing RACT/BACT reports, which provides no environmental benefit. Commenter 3
Response to comment 17: The Department will add language to the final rule clarifying that Reasonably Available Control Technology (RACT) or Best Available Control Technology (BACT) compliant sources subject to Part 212 are exempt from Subpart 226-2.

Comment 18: ACA believes that NYSDEC should broaden the exemptions to the requirements of Subpart 226-2 to include the recommended exemptions in EPA’s Industrial Solvent Cleaning Control Technique Guideline (CTG). At a minimum, NYSDEC should include exemptions for coatings, ink, adhesive, and resin manufacturing operations because several other states have adopted this exemption. Commenter 4

Comment 19: ACA suggests DEC use the following text from EPA’s exemptions in the CTG in 226-2, which were adopted from the Bay Area and South Coast AQMD Industrial Solvent Cleaning rules:

“Bay Area 8-4: Stripping of cured inks, coatings, and adhesives; Cleaning of resin, coating, ink, and adhesive mixing, molding, and application equipment; Research and development laboratories; Performance or quality assurance testing of coatings, inks, or adhesives.

South Coast AQMD Rule 1171: Coating, ink, and adhesive manufacturing; Polyester resin operations; Product cleaning during manufacturing process or surface preparation for coating; Cleaning of coatings or adhesives application equipment; Cleaning of ink application equipment; Cleaning of polyester resin application equipment.” Commenter 4

Response to comments 18 &19. The Department has evaluated the appropriateness of exempting suggested and recommended categories contained in the CTG from the proposed Subpart 226-2 and has found that it would be appropriate to include some, but not all, such categories. Proposed Subpart 226-2 appropriately exempts industries for which there are existing New York State (NYS) air regulations that include RACT for industrial cleaning solvents. The proposed rule also exempts activities the EPA has recommended be excluded from the CTG,
activities to which the CTG is not intended to apply, and activities with trivial emissions based on existing NYS regulations.

The CTG lists categories with special limits based on South Coast AQMD Rule 1171(c). The categories listed under 1171(c) are not suggested categories to be excluded from regulation, as suggested by the commenter. Rather, these are categories with special VOC limits under the South Coast Rule for which EPA does not recommend a VOC limit greater than the proposed 50gm/l. The CTG suggests that these categories should not be exempt from proposed Subpart 226-2.

The CTG does recommend that a list of 15 categories regulated under CAA Section 183(e) be excluded from proposed Subpart 226-2, and all relevant categories are, in fact, excluded from proposed Subpart 226-2 under paragraph 226-2.1(c)(2), (3) and (4). These categories are already subject to Subpart 228-1 ‘Surface Coating Processes’, Subpart 228-2 ‘Commercial and Industrial Adhesives, Sealants and Primers’, or Part 234 ‘Graphic Arts’, which are NYS VOC RACT regulations that include industrial cleaning solvents in their RACT analysis.

While the CTG suggests that categories from Bay Area 8-4-11 and Bay Area 8-4-117 be excluded, the Department has determined that some, but not all, of these suggested exceptions are appropriate for inclusion in proposed Subpart 226-2. Again, the categories which are subject to existing New York State regulation that include industrial cleaning solvents in their RACT analysis are excluded from Subpart 226-2. One suggested category, pharmaceutical manufacturing, is subject to a NYS VOC RACT regulation (Part 233 ‘Pharmaceutical and Cosmetic Manufacturing Processes’) that did not include cleaning solvents in the RACT analysis; therefore, this category is not excluded from Subpart 226-2. Other listed categories (such as coating, ink, adhesive and resin manufacturing), as well as many other potentially subject industries, are regulated under Part 212 ‘Process Operations’. Part 212 regulated facilities that are major for VOC emissions, and that use industrial cleaning solvents, are already subject to RACT or Toxic - Best Available Control Technology (T-BACT) analysis and
controls. Thus, they are already excluded from proposed Subpart 226-2 requirements. Facilities with less than major VOC emissions may be subject to the requirements of Subpart 226-2 if their VOC emissions from industrial cleaning solvents reach 3 tons per year or more, which is the applicability threshold of Subpart 226-2. The categories of ‘R&D’ and ‘medical device cleaning’ will be considered trivial and will be exempt under a new miscellaneous exception paragraph under subdivision 226-2.1(c) (see response to comments 15 & 16).

Comment 20: Clarification is needed for solvent cleaners used for janitorial and maintenance purposes. The USEPA CTG for industrial cleaning solvents was used as the basis for Subpart 226-2. This document indicates that janitorial supplies used for cleaning offices, bathrooms or other similar areas are not covered by the CTG. Since janitorial cleaning is not a listed exception in the proposed revisions, NYSDEC should clarify if they are subject to Subpart 226-2. Commenters 3 & 6

Response to comment 20: Consistent with the CTG, language will be added to the final rule indicating that janitorial supplies used for cleaning offices, bathrooms or other similar areas are not covered by Subpart 226-2. (see response to comment 15) However, the CTG has a category for ‘repair and maintenance’ under the CTG list of categories with special limits in South Coast AQMD Rule 1171(c), which suggests that this category not be exempt from the proposed rule.

Comment 21: The general 50 g/L limit will not allow for effective cleaning of coatings, ink, adhesives, and resin manufacturing operations. Cleaning manufacturing equipment is very important because incomplete cleaning of process equipment and tanks can cause cross-contamination of manufactured products and negatively impact product quality and could result in an off-specification product that would need to be disposed of (offsetting any VOC emission reductions that would have resulted from the use of low VOC cleaning solvents). Chemistries also vary considerably from batch to batch and are very difficult to clean unless effective cleaning solvents are used. Thus, ACA recommends that NYSDEC exempt coatings, ink, adhesive, and resin manufacturing from its
proposed industrial cleaning solvents rule. If NYSDEC decides not to exempt coatings, ink, adhesives, and resin manufacturing operations from the industrial cleaning solvent rule, ACA suggests NYSDEC incorporate the “Wisconsin Language” that includes alternative compliance options. Commenter 4

Response to comment 21: Thank you for the suggested alternative compliance requirements for the categories ‘coatings, ink, adhesives, and resin manufacturing operations.’ Also, see response to comments 18 & 19.

Alternatives to VOC limits

Comment 22: Section 3.0(a)(3) of the OTC Model Rule states that, “Cleaning solution used to clean post-solder printed circuit boards (PCB’s) as well as critical adjunct processes, including the cleaning of raw solder paste and adhesives from hard surfaces, such as stencils and misprinted boards during the printing process, and baked on fluxes (polymerized fluxes) from reflow and wave solder oven components, such as conveyor fingers and condensation traps, may contain no more than 150 grams VOC per liter of solution and must follow all other provisions of this rule.” Moog uses significant quantities of aerosol flux cleaner with VOC content higher than the proposed level of 25 grams per liter. The aerosol flux cleaner is used for cleaning of printed circuit boards and other soldered parts. It is requested that use of aerosol flux cleaners be allowed a VOC content of up to 150 grams per liter, as permitted in the OTC Model Rule. Commenter 2

Response to comment 22: The OTC model rule is largely the basis of Subpart 226-1 but does not pertain to Subpart 226-2. However, consistent with the OTC model rule, an alternative VOC limit of 150 gm/L will be added to proposed Subpart 226-1 for cleaning post solder circuit boards and adjunct processes.

Comment 23: How is use of aerosol flux cleaners to be handled? The OTC Model Rule (Section 3(a)(3)) includes a provision that allows up to 150 g/l VOC in cleaning solutions used to clean post-solder printed circuit boards. This provision is not present in the proposed amendment to Part 226. Commenter 1

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Response to comment 23: The use of aerosol flux cleaners is an industrial solvent cleaning process, and its use would be potentially subject to the regulatory requirements of Subpart 226-2. Facilities can use aerosol flux cleaners by maintaining their industrial cleaning solvent VOC emissions at less than 3 tons per year, or by treating their emissions, or by obtaining an approved RACT variance for that specific process. Note that such cleaning will now be possible under Subpart 226-1 (see response to comment 22)

Comment 24: Moog understands that the exemption for cold cleaning degreasers using a solvent with VOC content of 5% or less by weight is to be deleted, so as not to cause confusion with the proposed VOC limit of 25 g/l. Some aqueous solutions used in cold cleaning degreasers have 5% VOC content, but only 10.5 g/l VOC, and thus could have the VOC content doubled while remaining below the proposed concentration limit. Please confirm that the proposed amendment will allow the cleaning solution in cold cleaners to have 10% or more VOC content by weight, as long as it remains under the 25 g/l VOC concentration limit. Commenter 2

Response to comment 24: The only VOC content limits being proposed for Subpart 226-1 cold cleaning are in units of grams of VOC/L; no other limits, units, or characteristics are necessary. Only VOCs, as defined in 6 NYCRR Part 200, are included in the applicability criteria and subject to the VOC limits of Subpart 226-2.

Comment 25: 226-1.4(a)(4) eliminates the option to use common petroleum-based cleaners with a VOC content >25 g/L after December 1, 2020 regardless of the vapor pressure in cold cleaning degreasers with a volume greater than 2 gallons. That will eliminate a number of common parts washers & solvents as many parts washers used in small shops are in the 8 to 12-gallon range and are designed for petroleum-based solvents both for the cleaning properties and to prevent corrosion of cleaned parts and incompatibility with oil-based lubricants. Eliminating the ability of shops to use solvents with a vapor pressure of 1.0 mm Hg or less at 20 degrees C long term may inadvertently result in increased use of spray can cleaners, which would negate the benefits of eliminating low vapor pressure solvents in common parts cleaners. Commenter 7
Response to comment 25: The proposed VOC limit of 25gm/L for Subpart 226-1 cold cleaners was selected because there are commercially available cleaning solutions meeting this criterion that are proven to be a reasonable and effective alternative, with significantly lower VOC emissions, to cleaning solutions meeting the current VOC vapor pressure criteria. Additionally, they have been in use in other areas of the country for years.

Spray can cleaning will be subject to Subpart 226-2, unless it meets other VOC limits under NYS or federal rules. The use of industrial cleaning solvents with a maximum composite vapor pressure of 8.0 mm Hg or less at 20 degrees C is compliant with Subpart 226-2.

Applicability

Comment 26: The changes will require facilities subject to 226-2 to evaluate hand wiping emissions under Part 212 and assign an environmental rating. In order to assign a rating, modeling will need to be performed. Some types of hand wiping leave a large portion of the solvent on the rag. Furthermore, hand-wiping activities usually result in a fugitive emission source (i.e., such emissions are not directly vented). In our opinion, the effort involved in simulating their dispersion in a model, accurately, is significant and would not appear to offer much environmental benefit. Commenter 6

Response to comment 26: All source owners or operators subject to Part 226 are currently required to evaluate their emissions to determine if any applicable air contaminant can be defined as an “A” rated air contaminant under section 212-1.3. This will not change. Section 212-1.3 states: The factors in Subdivisions (a) through (d) will be considered in making a determination of the environmental rating to be applied to an air contaminant pursuant to subdivision (e), Table 1 – Environmental Rating Criteria, modeling is not necessarily required. The factors referred to in Subdivisions (a) through (d) will be considered, not required. The practical approach to evaluating the hand wiping process is to apply the criteria of toxicity to these air contaminants. If an applicable
air contaminant is listed in Part 212-2.2 Table 2 – High Toxicity Air Contaminant List, it would seem likely the air contaminant would receive an Environmental Rating of “A”.

Comment 27: Clarification is needed on which sources should be included in the 3 ton per year applicability threshold. 6 NYCRR 226-2.1(c) indicates that the requirements of the subpart do not apply to the listed excepted sources. It is not clear if by requirements NYSDEC is referring to just the control and recordkeeping requirements in 226-2.3 226-2, or the entire subpart, inclusive of the applicability threshold. Please clarify. Commenters 3 & 6

Response to comment 27: The use of cleaning solvents by any of the exempt sources, industries or processes identified in 226-2.1(c) do not count towards the 3 ton per year applicability threshold for Subpart 226-2 and clarifying language will be added.

Comment 28: If the emissions from the sources listed in 226-2.1(c) are not to be included in the threshold criteria (3 tpy), then applicability is difficult to assess since exception 226-1.2(c)(7) is subject to review and approval by NYSDEC. Further guidance is needed on what state and federal rules will be applicable to that exception. Commenter 3

Response to comment 28: Reference to ‘Department approval’ will be removed and clarifying language will be added.

Comment 29: ACA supports NYSDEC’s proposed three-ton emissions threshold for industrial cleaning solvents. NYSDEC states in proposed Subpart 226-2: “Any owner or operator of a facility that emits to the atmosphere three (3) tons or more of volatile organic compounds (VOCs) from cleaning solvents, on an annual basis, may be subject.” ACA supports this threshold because it is consistent with thresholds found in other states. If NYSDEC
adopts the proposed three-ton threshold, it will ensure consistency with industrial cleaning solvent rules in neighboring states. Commenter 4

Response to comment 29: Thank you for your support of the 3 ton per year applicability criteria.

Comment 30: ACA does not support the “once in, always in” applicability in the proposed NYSDEC rulemaking. NYSDEC is proposing that once a facility is subject to this subpart, that facility “will remain subject even if the use of VOC’s from industrial cleaning solvents drops below the three tones per year criteria.” NYSDEC’s proposed “once in, always in” criteria does not recognize a facility’s commitment to reduce its overall emissions nor encourages them to investigate and incorporate lower VOC technologies. The proposal is inconsistent with every other state and local industrial cleaning solvent regulation in the United States and places a substantial burden on industry. NYSDEC did not estimate the burden of the “once in, always in” applicability provision on industry, especially its impact on small businesses and local governments. This is problematic because a small business or local government could, in theory, exceed the applicability threshold one time (including, for example, solvent cleaning associated with equipment malfunction, spill, fire, or natural disaster). As a result, that small business or local government would be subject to the stringent industrial cleaning solvent requirements forever. This is unreasonable and inconsistent with industrial solvent cleaning rules in other states. ACA recommends that NYSDEC delete the burdensome “once in, always in” applicability provision. Also, EPA does not require this to be included. ACA requests the New York State Department of Environmental Conservation (NYSDEC) remove this provision from the proposed rule change. The same concepts regarding innovation and regulatory burden apply to VOC sources and the NYSDEC needs to be encouraging sources to reduce their emissions. Commenter 4

Comment 31: Section 226-2.1 (a) states that facilities, once subject to the regulation, will remain subject to the regulation even if the use of VOCs from industrial cleaning solvents drops below the 3 ton per year threshold.
The GAC does not support this regulatory strategy as it does not recognize a facility’s commitment to reduce its overall emissions nor encourages them to investigate and incorporate lower VOC emitting technologies.

There is no U.S. Environmental Protection Agency (U.S. EPA) regulatory mandate to include this provision in the regulation. It is an interpretation that should not be codified as evidenced by U.S. EPA’s recent change in policy regarding major sources of Hazardous Air Pollutants.

On January 25, 2018, U.S. EPA invoked a significant policy reversal by ending its “Once-in-Always-in” (OIAI) policy on pollution sources. Since 1995, EPA has interpreted the 1970 Clean Air Act (CAA) to require large emitters of hazardous air pollutants to be treated as major sources of pollution even after they have taken actions to reduce emissions below the levels required by law. The change was made primarily to provide incentives for companies to reduce their emissions below the level of applicability. In a U.S. EPA press release announcing the January 25 policy change, the agency said the old policy hampered innovation and environmental improvement.

“The ‘once in always in’ policy has been a longstanding disincentive for sources to implement voluntary pollution abatement and prevention efforts, or to pursue technological innovations that would reduce hazardous air pollution emissions,” the statement said. “States, state organizations, and industries have frequently requested rescission of this policy. … [T]oday’s EPA action is an important step in furtherance of the president’s regulatory reform agenda while providing a meaningful incentive for investment in hazardous air pollution reduction activities and technologies.”

U.S. EPA has also initiated rulemaking to codify its position so that it is clearly understood that the change in policy needs to be solidified. When the proposal is released, the GAC intends to request that it be applied to VOC sources subject to reasonably available control technology (RACT) requirements for the same reasons U.S. EPA is applying it to major sources of Hazardous Air Pollutants.
It is for this reason GAC requests the New York State Department of Environmental Conservation (NYSDEC) remove this provision from the proposed rule change. The same concepts regarding innovation and regulatory burden apply to VOC sources and the NYSDEC needs to be encouraging sources to reduce their emissions. Commenter 8.

Response to comments 30 & 31: After further consideration, the Department has determined that this provision is not necessary and that any related matters would otherwise be handled by the permit process delineated in 6 NYCRR Part 201 ‘Permits and Registrations’. The ‘once in, always in’ provision in subdivision 226-2.1(a) will be removed. Please note that the use of any cleaning solvent also subject to Clean Air Act (CAA) section 112 concerning hazardous air pollutants (HAPs) may still be required to follow the ‘once in always in’ provisions as specified in an applicable maximum achievable control technology (MACT) standard covered within the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations.

Comment 32: The GAC proposes that Section (c), Exceptions be expanded to include cleaning activities associated with digital printing operations to allow the rules developed by NYSDEC to align with other states in the Northeast corridor for this application. Therefore, we urge the NYSDEC to adopt an exception for “cleaning activities associated with digital printing operations.” Also, EPA doesn’t include this. Including this exemption aligns the New York regulations with regulatory decisions adopted by other states. Commenter 8.

Response to comment 32: Digital printing operations are considered a part of the graphic arts industry and will be considered exempt from Subpart 226-2 under 226-2.1(c)(4). Language will be added to the final rule to clarify this, and, for consistency, similar language will be added to 226-2.1(2) and (3).

Comment 33: Would solvents that contain only VOCs that are classified as having a negligible photochemical reactivity as stated at 6 NYCRR Part 200.1(cg), “Volatile Organic Compound”, be excluded from having to
comply with the proposed regulatory change that will require a maximum VOC content of 25 grams/Liter as stated at proposed Section 226-1.4 (a)(4)? Commenter 5

Response to comment 33: Compounds having negligible photochemical reactivity listed in Part 200.1(cg) are not counted as VOC’s in the proposed 25 gm of VOC/L limit.

Comment 34: The printing industry, as represented by the GAC, utilize “Remote reservoir degreasing” as defined in Section 226-1.2 Definitions. It is unclear through the remainder of the proposed rule language if the regulatory requirements for this type of solvent cleaning activity will be revised. Typically, this type of degreasing operation is regulated through the use of work practices, as contained in Section 226-1.3, General requirements (a) through (f).

To clarify and provide clear regulatory guidance to those who use remote reservoir degreasers, the GAC recommends that the language for general requirements in Subpart 226-1.3 (sic), General requirements be amended to read:

“(A person) Owners or operators conducting solvent (metal) cleaning processes, including remote reservoir degreasing, must” (Proposed changes italicized.) Commenter 8

Response to comment 34: Remote reservoir degreasers are a type of cold cleaner. If their internal volume is greater than 2 gallons, in addition to the 226-1.3 ‘general requirements’ they are also subject to the proposed 226-1.4(a) ‘Equipment specifications and control requirements’, except for 226-1.4(a)(3) for which they are specifically not required to comply. This is currently in Part 226.

Comment 35: Please explain the rational for the regulations applying to “cold cleaning degreasers” but exempting “conveyorized degreasers” and “open top vapor degreasers” at proposed Part 226-1.7 Commenter 5
Response to comment 35: The exemptions in renumbered 226-1.7 exist in the current rule. They simply limit the sizes of regulated conveyorized and open top vapor degreasers.

Comment 36: Is the operation of a parts washer sink with a reservoir capacity of 15 gallons or more covered under the definition of “cold cleaning degreasing” as stated under the definitions at proposed Part 226 -1.2 (b)(1)?
Commenter 5

Response to comment 36: The commenter’s description would be considered a cold cleaning degreaser under Subpart 226-1; this is not a change from the existing regulation.

Comment 37: What is meant by “batch process” in “cold cleaning degreasing” as stated at proposed Part 226 -1.2 (b)(1)? Commenter 5

Response to comment 37: The term ‘batch process’ refers to the cleaning solution being of a single consistency or batch. The same batch is used and reused until its effectiveness is worn out or contaminated and then replaced.

Comment 38: Are activities involving the use of portable and stationary parts washer sinks where items are placed individually in a sink for cleaning included in the description of “cold cleaning degreasing” operations at proposed Part 226 -1.2 (b)(1). Commenter 5

Response to comment 38: The description provided by the commenter would be considered a cold cleaning degreaser. No changes are being made to the definition of a cold cleaning degreaser or cold cleaning.

Comment 39: Moog understands that NYSDEC is implementing the Part 226 changes to be consistent with the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasing (2012) and comply with EPA’s Industrial Cleaning Solvents Control Technique Guidelines (2006). Moog supports the exemption listed at Section 7.0(a)(8) of the OTC Model Rule, which allows certain critical, high-precision cleaning requirements to
be exempt from the rule, with specification and handling of the exemption to be made at the State level.

Commenter 2

Response to comment 39: The Department evaluated the provisions of the OTC model rule for appropriateness in New York. Adding the exception noted would reduce VOC emission controls already in place. The new requirements for Subpart 226-1 are no more restrictive to the use of isopropyl than the current regulation. Thank you for your support.

**Legal/Procedural**

Comment 40: Please note that NYC DOT was only recently aware of these proposed changes and is asking for an extension of time beyond the 05/29/2019 deadline for the submission of comments to these proposed changes. Commenter 5.

Response to comment 40: As required by the New York State Administrative Procedures Act and the Environmental Conservation Law, this proposal was published in the Environmental Notice Bulletin and the New York State Register on Wednesday March 20, 2019. In addition, it was published in several newspapers including the Syracuse Post-Standard on Tuesday, March 19, 2019 and the New York Post, Newsday, Albany Times Union, Buffalo News, Glens Falls Post Star and Rochester Democrat on Wednesday, March 20, 2019.

Comment 41: It is notable that there were no hearings on these proposed changes within NYSDEC Region 2 which would have allowed NYC DOT to attend and obtain the answers to these questions. Commenter 5.

Response to comment 41: All comments received, whether in writing or oral at a public hearing are given equal weight. Therefore, one need not attend a public hearing to provide comments on a rulemaking. Please note, these public hearings are legislative type hearings which do not include back and forth conversation between DEC presenters and the commenters.
Comment 42: In the Regulatory Impact Statement, NYSDEC mentions (emphasis added), “Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to incorporate the revisions to Parts 226 and 201 into its state implementation plan (SIP). These revisions to Subpart 226 conform to, and are not stricter than, federal requirements…The proposed revisions are consistent with the federal CTG and OTC model rule, incorporating the latest RACT requirements for solvent cleaning processes and industrial cleaning solvents under Part 226.” ACA disagrees with these statements because NYSDEC’s proposed industrial cleaning solvent regulation is not consistent with, and is actually stricter than, federal requirements as found in EPA’s Industrial Solvent Cleaning CTG.

Specifically, NYSDEC has not included the EPA recommended exemptions for coatings, adhesives, ink and resin manufacturing and application equipment, and NYSDEC included the overly burdensome “once in, always in” applicability provision which is not included in the EPA Industrial Solvent Cleaning CTG or any other state or local regulation. In addition, NYSDEC claims that the proposed industrial cleaning solvent regulations would result in the EPA stated cost savings of $1,330 per ton of VOC used. ACA suggests that if NYSDEC is going to use the EPA cost estimates then the Department must be consistent and include the EPA suggested exemptions and eliminate the problematic “once in, always in” provision. Lastly, ACA recommends that NYSDEC document the associated cost impacts on industry, as well.

Response to comment 42: The federal CTG’s are used to presumptively define VOC RACT and are intended as technological guidance to State and regulatory agencies; they are not statute, regulation or minimum standards. They provide guidance on regulating particular segments of industry. Proposed Part 226 meets our SIP obligations. In addition, please see response to comments 18 & 19 and 30 & 31.

Miscellaneous
Comment 43: Is the reference in Section 226-1.4 to Section 226-1.5 actually intended to refer to Section 226-1.6? Commenters 1 and 2

Response to comment 43: Yes, the reference will be corrected to refer to section 226-1.6.

Comment 44: Is the reference in Section 226-2.1(c)(1) to Section 226-1.6(a) actually intended to refer to Section 226-1.7(a)? Commenters 1, 2, 6 & 7

Response to comment 44: Yes, the reference will be corrected to paragraph 226-1.7(a).

Comment 45: 226-1.3(g) refers to “a cold cleaning degreaser that is subject to section 226-1.3(a)(4) of this Part…” Clarify whether the correct reference should instead be 226-1.4(a)(4). Commenters 6 & 7.

Response to comment 45: Yes, the reference will be corrected to paragraph 226-1.4(a)(4).

Comment 46: 226-1.2(b)(6) should be updated to remove the word metal. Commenter 6.

Response to comment 46: The word ‘metal’ will be removed.

Comment 47: “Unit Operations” is defined, but not used in the rule. Commenter 6

Response to comment 47: ‘Unit operations’ is used in subdivision 226-2.1(a) ‘Applicability’.

Comment 48: 226-1.3(g) refers to MSDS sheets, which should now be SDS sheets. Commenter 7

Response to comment 48: Thank you. Reference to MSDS will be replaced with ‘manufacturers published information’
Comment 49: 226-2.4(a) refers to section 226-2.2, which is the definitions section, in the first sentence. This appears to be an incorrect reference. Commenter 7.

Response to comment 49: The reference will be corrected to refer to section 226-2.3.

**Outside of Scope**

Comment 50: As a part of this rule-making action, 6 NYCRR 212-1.4(j) should be updated for clarity. Commenter 6

Response to comment 50: Changes to Part 212 are not part of this rulemaking.

Commenter List:

1. Moog Inc. East Aurora, NY
2. Moog Inc. East Aurora, NY
3. Eastman Kodak Company
4. American Coatings Association
5. New York City DOT
6. O’Brien & Gere Engineers, Inc.
7. Jo Citizen
8. Graphic Arts Coalition
CERTIFICATE OF ADOPTION

AGENCY ACTION: 6 NYCRR Part 226, Solvent Cleaning Processes and Industrial Cleaning Solvents and Part 201, Permits and Registrations

Pursuant to the provisions of Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302 19-0303, 19-0305, 71-2103, and 71-2105 of the Environmental Conservation Law, I, Basil Seggos, Commissioner of the Department of Environmental Conservation (DEC), hereby certify that the amendments to 6 NYCRR Part 226, Solvent Metal Processes and Industrial Cleaning Solvents and 6 NYCRR Part 201, Permits and Registrations be adopted to read as on the attached original, and certify that this is the original thereof, as adopted by me on October 1, 2019, to be effective 30 days after filing with the Department of State.

I further certify that prior notice, as required under the State Administrative Procedure Act, was published in the State Register on March 20, 2019 under Notice No. ENV-12-19-00002-P. I also further certify that prior notice of public hearings, scheduled for and held on May 22 in Avon, NY; and on May 24 in Albany, NY was published in the State Register on March 20, 2019 and DEC’s Environmental Notice Bulletin on March 20, 2019 and in local newspapers in the State on March 20, 2019. No other publication of prior notice was required by statute.

Basil Seggos
Commissioner
Department of Environmental Conservation

DATED: October 1, 2019

Albany, New York
Subpart 226-1 Solvent Cleaning Processes

Section 226-1.1 Applicability

(a) Applicability. This Subpart applies to all owners or operators of facilities who operate cold cleaners (including remote reservoir cold cleaning machines), open-top vapor degreasers, and all types of conveyorized degreasers that carry out solvent cleaning processes of metal objects using a solution containing volatile organic compounds (VOCs). After December 1, 2020, this Subpart also applies to cleaning of non-metal objects.

Section 226-1.2 Definitions.

(a) To the extent that they are not inconsistent with the specific definitions in subdivision (b) of this section, the general definitions of Part 200 of this Title apply.

(b) For the purposes of this [Part] Subpart, the following specific definitions also apply:

1. ‘Cold cleaning degreasing.’ Batch process of solvent [metal] cleaning, with liquid solvent, by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

2. ‘Conveyorized degreasing.’ Continuous process of solvent [metal] cleaning by operating with either cold or vaporized solvents.

3. ‘Degreaser.’ Any solvent [metal] cleaning machine used to perform cold cleaning degreasing, remote reservoir degreasing, conveyorized degreasing, or open-top vapor degreasing.

4. ‘Freeboard height.’ Distance from the top of the vapor zone to the top of the degreaser tank. On cold cleaners, it is the distance from liquid level to lip of tank.

5. ‘Freeboard ratio.’ Freeboard height divided by the interior width of the degreaser tank.


7. ‘Remote reservoir degreasing.’ Cold cleaning degreasing performed in a device in which liquid solvent is pumped to a sink-like work area, where the [metal] parts are cleaned, and then drains back into an enclosed container allowing no solvent to pool in the work area.

(9) ‘Special and extreme solvent [metal] cleaning.’ The use of degreasers:

(i) to clean [metal] parts in the manufacturing and rework of electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors used in aerospace service;

(ii) to clean [metal] parts used in the manufacturing of ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds, or oxygen in concentrations greater than 23 percent; or

(iii) to clean [metal] parts exposed to ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds, or oxygen in concentrations greater than 23 percent.

[Section 226.2] Section 226-1.3 General requirements.

[A person] Owners or operators conducting solvent [metal] cleaning processes must:

(a) store solvent in covered containers and transfer or dispose of waste solvent in such a manner that less than 20 percent of the waste solvent (by weight) can evaporate into the atmosphere;

(b) maintain equipment to minimize leaks and fugitive emissions;

(c) display at the equipment location a conspicuous summary of proper operating procedures consistent with minimizing emissions of VOCs;

(d) keep the degreaser cover closed except when parts are being placed into or being removed from the degreaser, the cover needs to be open in order to add or remove solvent from the degreaser, no solvent is in the degreaser, or manually cleaning [metal] parts in a cold cleaning degreaser;

(e) create and maintain a record of solvent consumption for five years. This record must be retained for five years and made available to the department upon request.

(f) not clean sponges, fabric, wood, leather, paper products and other absorbent materials in a degreaser; and

(g) if using a cold cleaning degreaser that is subject to [section 226.3] paragraph 226-1.4(a)(4) of this [Part] Subpart, retain a record of the following three items for five years and provide these records to the department upon request. An invoice, a bill of sale, a certificate covering multiple sales, [a material safety data sheet (MSDS)] manufacturers published information, or other appropriate documentation acceptable to the department may be used to comply with this requirement:

(1) the name and address of the solvent supplier;

(2) the type of solvent including the product or vendor identification number; and

(3) the VOC content of the cleaning solution in grams per liter (gm/l) or the vapor pressure of the solvent measured in mm Hg at 20°C (68°F) as appropriate to verify compliance.

[Section 226.3] Section 226-1.4 Equipment specifications and control requirements.
Except as otherwise permitted by the department pursuant to section [226.5] 226-1.6 of this Part, the following types of control [equipment] requirements must be used by [a person] an owner or operator conducting solvent [metal] cleaning:

(a) ‘Cold cleaning degreasing when the internal volume of the machine is greater than two gallons.’

(1) A cover which can be operated easily.

(2) An internal drainage facility (under cover), if practical.

(3) A control system that limits VOC emissions to those achievable with equipment having a freeboard ratio greater than or equal to 0.5, or a water cover when the solvent is insoluble in and heavier than water. Remote reservoir degreasers are exempt from this requirement.

(4) [Solvent with] Cleaning solution with a maximum VOC content of 25 grams per liter at 20°C; prior to December 1, 2020, a cleaning solution with a vapor pressure of 1.0 mm Hg, or less, at 20°C may be used to demonstrate compliance with this subdivision. [Prior to January 1, 2004, compliance with this requirement is not mandatory if compliant solvents are not readily available. On or after January 1, 2004, the person conducting solvent [metal] cleaning covered by this subdivision must use compliant solvents or have submitted a process specific RACT demonstration pursuant to section 226.5 of this Part.] This paragraph does not apply to degreasers:

(i) used in special and extreme solvent [metal] cleaning;

(ii) for which the owner or operator has received department approval of a demonstration that compliance with the requirement of a cleaning solution with a maximum VOC content of 25 grams per liter at 20°C, or [solvent] with a vapor pressure of 1.0 mm Hg, or less, at 20°C will result in unsafe operating conditions; or

(iii) that are located in a permanent total enclosure having control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater.

(5) Cleaning solution used to clean post-solder printed circuit boards (PCB’s) as well as critical adjunct processes, including the cleaning of raw solder paste and adhesives from hard surfaces, such as stencils and misprinted boards during the printing process, and baked on fluxes (polymerized fluxes) from reflow and wave solder oven components, such as conveyor fingers and condensation traps, may contain no more than 150 grams VOC per liter of solution and must follow all other provisions of this Subpart.

(b) ‘Open-top vapor degreasing.’

(1) A cover which can be operated easily without disturbing the vapor zone.

(2) Safety switches which shut off the sump heat if the condenser malfunctions and shall shut off the pump if the vapor level drops excessively.

(3) One of the following:
(i) a freeboard ratio that is greater than or equal to 0.75, and a powered or mechanically assisted cover if the top opening is greater than 10 square feet;

(ii) a refrigerated chiller; or

(iii) local exhaust ventilation and a carbon adsorption unit, or an equivalent system, for collection of VOCs.

(c) ‘Conveyorized degreasing.’

(1) One of the following:

(i) a refrigerated chiller; or

(ii) local exhaust ventilation and a carbon adsorption unit, or an equivalent system, for collection of VOCs.

(2) A drying tunnel, rotating basket or other device acceptable to the department which prevents carry-out of VOCs.

(3) Safety switches which shut off the system when the degreaser malfunctions.

(4) Minimize openings at the entrance and exit of the degreaser.

[Section 226.4] Section 226-1.5 Operating requirements.

Except as otherwise allowed by the department pursuant to section [226.5] 226-1.6 of this [Part] Subpart, the following operating practices are required by a person conducting solvent [metal] cleaning:

(a) ‘Cold cleaning degreasing.’ Clean parts shall be drained at least 15 seconds or until dripping ceases.

(b) ‘Open-top vapor degreasing.’ (1) Minimize solvent carry-out by the following measures:

(i) rack parts to allow full drainage;

(ii) move parts in and out of degreaser tank at less than 11 ft/min;

(iii) degrease the work load in the vapor zone at least 30 seconds or until condensation ceases;

(iv) tip out any pools of solvent before removal; and

(v) dry parts for at least 15 seconds before removal.

(2) Work loads shall not occupy more than half the open-top area of the degreaser tank.

(3) Spray only below the vapor level.
AS ADOPTED

(e) ‘Conveyorized degreasing.’ (1) Exhaust ventilation rate shall not exceed 125 percent of the minimum ventilation rate required for the protection of workers in the vicinity of the degreaser.

(2) Minimize carry-out emissions by:

(i) proper racking for best drainage; and

(ii) maintaining a conveyor speed at less than 11 ft/min.

(3) Water must not be visibly detectable in the solvent leaving the water separator.

[Section 226.5] Section 226-1.6 Reasonably available control technology.

Where it can be demonstrated that a solvent [metal] cleaning process cannot be controlled to comply with sections [226.2] 226-1.3, [226.3] 226-1.4 and [226.4] 226-1.5 of this [Part]Subpart for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of satisfactory evidence that the person engaging in solvent [metal] cleaning is applying reasonably available control technology (RACT) and has a plan to develop the technologies necessary to comply with the aforementioned sections. [Process specific RACT demonstrations shall be submitted with the application for a Title V facility permit or a State facility permit for an existing source under the provisions of Part 201 of this Title.] Process specific RACT demonstrations shall be submitted with the application for a Title V or State Facility permit or as a permit modification for existing sources under the provisions of Part 201 of this Title. Such process specific RACT demonstrations must be submitted to the United States Environmental Protection Agency for approval as a revision to the State Implementation Plan.

[Section 226.6] Section 226-1.7 Exemptions.

(a) This [Part] Subpart shall not apply to:

(1) conveyorized degreasers with an air/vapor interface smaller than 22 square feet (2.0 m²);

(2) open-top vapor degreasers with an open-top area smaller than 11 square feet (1.0 m²);

(3) conveyorized and open-top vapor degreasers subject to the requirements in 40 CFR 63, Subpart T; and

[(4) cold cleaning degreasers that use a solvent with a VOC content of five percent or less by weight.]

Section 226-1.8 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any provision of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
A new Subpart 226-2 is added to read as follows:

Subpart 226-2 Industrial Cleaning Solvents

Section 226-2.1 Applicability, Schedule and Exceptions.

(a) Applicability. This Subpart applies to the owner or operator of a facility which has actual emissions of three (3) tons or more of volatile organic compounds (VOCs) from industrial cleaning solvents, on a twelve-month rolling total basis. This Subpart specifically applies to the cleaning of foreign materials from surfaces of unit operations such as large and small manufactured components, parts, equipment, floors, tanks, and vessels. Emissions from all methods of cleaning, including by hand, will be considered toward the applicability criteria.

(b) Schedule. The owner or operator of a facility with an initial start-up after the effective date of this Subpart must be in compliance with its requirements upon start-up. The owner or operator of an existing facility must be in compliance with this Subpart within one year of the effective date of this Subpart or within one year of reaching the applicability criteria of emitting three (3) tons or more of VOC’s from industrial cleaning solvents on a twelve (12) month rolling total basis.

(c) Exceptions. The emissions from cleaning solvents by any of the industries or processes identified in this subdivision do not count towards the 3 tons per year applicability threshold for Subpart 226-2. The requirements of this Subpart do not apply to the following:

(1) The use of cleaning solvents in cold cleaning degreasers (including remote reservoir degreasers), open-top vapor degreasing and conveyorized degreasers; and including cleaning items defined as ‘special and extreme solvent cleaning’ subject to Subpart 226-1, and cleaning processes that specifically do not apply to Subpart 226-1 under 226-1.7(a);

(2) The use of cleaning solvents in surface coating processes to clean spray guns subject to Subpart 228-1; and for surface preparation, clean-up and coating removal subject to Subpart 228-1, including items specified as not being subject to the rule in Subpart 228-1.1(b);

(3) The use of cleaning solvents for surface preparation and clean-up of adhesives, sealants and primers subject to Subpart 228-2, including items exempt from the rule in Subpart 228-2.2;

(4) The use of cleaning solvents for offset lithographic, flexographic, rotogravure, screen printing or letterpress printing processes subject to Part 234, including items specified as not being subject to the rule in Part 234.1(d);

(5) The use of cleaning solvents used in Aircraft de-icing operations exempt from permitting under Subpart 201-3;
(6) Cleaning solvents given an “A” rating by the Department or that are already subject to RACT and/or T-BACT subject to Part 212; and

(7) The use of any cleaning solvent specified or regulated under any Federal or State statute or regulation which specifies a VOC limit or exemption.

(8) The use of cleaning solvents:
   (i) to clean personal protection equipment
   (ii) for personal hygiene such as hand sanitizers
   (iii) to clean medical equipment
   (iv) in research and development activities; and
   (v) in janitorial supplies used for cleaning offices, bathrooms or other similar areas.

Section 226-2.2 Definitions.

(a) To the extent that they are not inconsistent with the specific definitions in this section, the general definitions of Part 200 of this Title apply. For the purposes of this Subpart, the following specific definitions also apply:

1) ‘Cleaning Tool.’ An item used to aid cleaning, such as wiping rags, brushes, mops, scrapers, or water jets.

2) ‘Industrial Cleaning Solvent.’ Any liquid containing a volatile organic compound (VOC) used to facilitate the removal of foreign materials from a surface.

3) ‘Unit Operation.’ An industrial operation, classified or grouped according to its function in an operating environment, such as mixing or holding vessels, tanks, reactors, floors or other surfaces to be cleaned.

4) ‘Unit Operation Systems.’ The ensemble of equipment around which a material balance is performed. It includes all possible points/sources that could result in losses to the atmosphere as a result of the equipment being cleaned, including losses during dispensing of cleaning materials, losses from residual cleaning materials on or in cleaning tools, and losses from storing cleaning materials.

Section 226-2.3 Control Requirements.

The owner or operator of a facility subject to this Subpart shall not conduct any cleaning, with industrial cleaning solvents containing VOC’s, unless the following control measures are used:

(a) Work Practice
   (1) use closed, non-leaking containers to store or dispose of cloth or other absorbent cleaning tools impregnated with industrial cleaning solvents when not in use;
   (2) minimize air circulation around cleaning operations;
   (3) properly dispose of used cleaning solvents and tools;
(4) implement equipment practices that minimize emissions, such as maintaining of cleaning equipment and repair of solvent leaks; and

(b) an industrial cleaning solvent with a maximum VOC content of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material must be used for cleaning the following: large and small manufactured components, parts, equipment, floors, tanks, and vessels; or

(c) as an alternative to the maximum VOC content specified above, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used; or

(d) emissions are controlled by an emission control system with an overall control efficiency of at least 85 percent or equivalent control.

Section 226-2.4 Compliance.

Reasonably available control technology.

(a) Where it can be demonstrated by the owner or operator of a facility that the requirements of section 226-2.3 of this Subpart cannot be met, for reasons of technological and economic infeasibility, the Department may accept a lesser degree of control upon submission of satisfactory evidence that the person(s) engaging in cleaning with industrial cleaning solvents is applying reasonably available control technology (RACT) and has a plan to develop the technologies necessary to comply with Section 226-2.3. Process specific RACT demonstrations shall be submitted with the application for a Title V or State Facility permit, or as a permit modification for existing sources under the provisions of Part 201 of this Title. The Department will submit such process specific RACT demonstration to the United States Environmental Protection Agency as a revision to the State Implementation Plan.

Record Keeping.

(b) The owner or operator of a facility must retain a record of the quantity and type of industrial cleaning solvents used at the facility. This record must be maintained for a period of five years and be provided to the department upon request. An invoice, a bill of sale, a certificate covering multiple sales, a material safety data sheet, or other documentation suitable for establishing compliance, acceptable to the department, may be used to comply with this requirement.

Section 226-2.5 Severability.

Each provision of this Subpart shall be deemed severable, and in the event that any provision of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
Sections 201-1 through 201-3.2(c)(38) remain unchanged.

Section 201-3.2(c)(39) is amended to read as follows:

(39) Solvent [metal] cleaning processes:

(i) Cold cleaning degreasers with an open surface area of 11 square feet or less and an internal volume of 93 gallons or less or, having an organic solvent loss of 3 gallons per day or less.

(ii) Cold cleaning degreasers that use a solvent with a VOC content of five percent or less by weight, unless subject to the requirements in 40 CFR 63, subpart T.

(iii) Conveyorized degreasers with an air/vapor interface smaller than 22 square feet (2.0 m²), unless subject to the requirements in 40 CFR 63, subpart T.

(iv) Open-top vapor degreasers with an open-top area smaller than 11 square feet (1.0 m²), unless subject to the requirements in 40 CFR 63, subpart T.

Section 201-3.2(c)(40) through 201-3.3(c)(95) remain unchanged.

Section 201-3.3(c)(96) is amended to read as follows:

(96) Solvent cleaning of parts and equipment performed exclusively by hand wiping or hand cleaning[.] unless such cleaning reaches the applicability criteria of Subpart 226-2 of this Title.
AS ADOPTED

The remainder of Part 201 is unchanged.
6211.8 Applicability
This part shall apply in relation to any election at which early voting is held pursuant to title VI of article 8 of the election law as enacted by chapter 6 of the laws of 2019.
This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019. The emergency rule will expire December 2, 2019.

Text of rule and any required statements and analyses may be obtained from: Nicholas R. Cartagena, Board of Elections, 40 N. Pearl Street, Suite 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.ny.gov

Regulatory Impact Statement
A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Regulatory Flexibility Analysis
A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Rural Area Flexibility Analysis
A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Job Impact Statement
A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of emergency rule making, I.D. No. SBE-22-19-00003-EP, Issue of May 29, 2019.

Assessment of Public Comment
The State Board received four public comments in response to its publication of Emergency Adoption and Revised Rulemaking I.D. No. SBE-22-19-00003-EP that amends section 6211. The Board received comments from the following entities:
A Disability Rights Advocacy Organizations
Summaries of the comments on the proposal and the Department’s responses thereto are as follows:
Comment: “The NYS BOE proposed early voting communication plan ... fails to include a deadline indicating when a county board of elections office must notify eligible voters of the designated early polling places and hours of operations. Voters with disabilities have increased barriers arranging transportation to the polls on Election Day. It is necessary to provide a deadline whereby a county board of elections must notify their eligible voters of the designated polling places and hours of operations. (e.g. No less than 30 days prior to the commencement of any early voting period.)”
Response: The proposed regulations provide that a local “board of elections shall annually file a copy of the communications plan on or before June 1, except in the first year of early voting, on or before the first day of July.” Any communication plan that does not timely inform voters of early voting sites and their dates and hours of operation will be rejected by the State Board.

NOTICE OF ADOPTION
Audit Status for Early Voting
I.D. No. SBE-22-19-00001-A
Filing No. 908
Filing Date: 2019-10-04
Effective Date: 2019-10-23

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Addition of section 6210.18 to Title 9 NYCRR.
Statutory authority: Election Law, sections 9-211 and 3-102(17)
Subject: Audit Status for Early Voting.
Purpose: Establishes Process for Auditing Early Voting Machines and Systems.
Text or summary was published in the May 29, 2019 issue of the Register, I.D. No. SBE-22-19-00001-EP.

Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Nicholas Cartagena, State Board of Elections, 40 North Pearl Street, Ste 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
A revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not required because the changes made to the last published rule do not necessitate revision to the previously published document.

Initial Review of Rule
As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION
Related to the Minimum Required Voting Machines and Privacy Booths Needed for Early Voting Polling Sites
I.D. No. SBE-22-19-00002-A
Filing No. 907
Filing Date: 2019-10-04
Effective Date: 2019-10-23

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Addition of section 6210.19 to Title 9 NYCRR.
Statutory authority: Election Law, sections 7-203(2) and 3-102(17)
Subject: Related to the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites.
Purpose: Establishes the Minimum Required Voting Machines and Privacy Booths needed for Early Voting Polling Sites.
Text or summary was published in the May 29, 2019 issue of the Register, I.D. No. SBE-22-19-00002-EP.

Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Nicholas Cartagena, State Board of Elections, 40 North Pearl Street, Ste 5, Albany, NY 12207, (518) 474-2063, email: nicholas.cartagena@elections.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
A revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not required because the changes made to the last published rule do not necessitate revision to the previously published document.

Initial Review of Rule
As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment
The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION
Air Emissions Regulation of Cleaning Solutions Containing Volatile Organic Compounds
I.D. No. ENV-12-19-00002-A
Filing No. 900
Filing Date: 2019-10-02
Effective Date: 30 days after filing

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Rule Making Activities

Articles 1 and 3 of the CAA establish the overall State policy goal of reducing air pollution and providing clean air for the citizens of New York and provide general authority to adopt and enforce measures to do so. In addition to the general powers and duties of the Department and the Commissioner to prevent and control air pollution found in Articles 1 and 3, Article 19 of the CAA was specifically adopted to safeguard the quality of New York from pollution. Under Article 19, the Department is authorized to formulate, adopt, promulgate, amend and repeal regulations for preventing, controlling and prohibiting air pollution. This Department is also authorized to promulgate standards and regulations for controlling or prohibiting air pollution in such areas of the State as shall or may be affected by air pollution. In addition, this authority also includes the preparation of a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of any new air pollution recognizing various requirements for different areas of the State.

In 1970, Congress amended the CAA “to provide for a more effective program to improve the quality of the Nation’s air.” The statute directed EPA to adopt National Ambient Air Quality Standards (NAAQS) and required states to develop implement plans known as State Implementation Plans (SIPs) which prescribed the measures needed to attain the NAAQS. In 1977 the Act was amended to require states to identify areas that did not meet the NAAQS; these areas would then be designated as “nonattainment” areas. States with these “nonattainment” areas were then required to include in their SIPs requirements relating to new source review, reasonable available control technology, emission inventories and projections, and contingency measures.

Congress again amended the Act in 1990 with the goal of setting more realistic deadlines while requiring reasonable progress towards attainment. The 1990 CAA amendments specified RECLAIM, a federal program to implement similar regulations programs associated with one of the chemical precipitators of ozone: Volatile Organic Compounds (VOCs). In particular, CAA section 172(c)(1) provides that, for certain nonattainment areas, states must revise their SIPs to include reasonably available control measures as expeditiously as possible, including emissions reductions achievable by requiring “reasonably available control technology” (RACT) for sources of VOC emissions. Under EPA’s current RACT scheme, pollution controls are required for VOC emission sources listed in designated source categories under EPA’s Comprehensive Technical Guidance (CTGs), including CTGs establishing Reasonably Available Control Technology (RACT) for industrial cleaning solvents. CAA section 182(b)(2)(A) requires that, for certain nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by all CTGs issued between November 15, 1990 and the area’s date of attainment. Additionally, CAA section 184(b)(1)(B) requires implementation of RACT statewide in states that are located within an Ozone Transport Region (OTR). New York is one of the several states located in the OTR required under the CAA to revise its SIP to include RACT requirements statewide for each of the source categories identified in the federal CTGs, including RACT for industrial cleaning solvents.

NEEDS AND BENEFITS

Adoption of the proposed revisions to Part 226 will help fulfill state and federal legislative objectives by imposing RACT controls on solvent cleaning processes and industrial cleaning solvents in the source categories identified in the latest federal CTGs listing New York’s VOCs emissions from solvent cleaning processes and industrial cleaning solvents, reducing harmful ground-level ozone pollution, and allowing the State to attain the NAAQS for ozone.

There are two types of ozone, stratospheric and ground level ozone. Ozone in the stratosphere is naturally occurring and desirable because it shields the earth from carcinogenic ultraviolet radiation. In contrast, ground level ozone, or smog, results from the mixing of VOCs and NOx on hot, sunny, summer days, and can harm humans and plants. As a result, EPA established the primary ozone NAAQS “to protect the public health.”


Children and outdoor workers are especially at risk for damaging effects caused by ozone exposure. A child’s developing respiratory system is
more susceptible than an adult’s. Additionally, ozone is a summertime phenomenon. Children and old people are outside playing and exercising more often during the summer which results in greater exposure to ozone than many adults. Outdoor workers are also more susceptible to lung damage because of their increased exposure to ozone during the summer months.

In 2006, EPA recognized a number of epidemiological and controlled human exposure studies that: suggest that asthmatic individuals are at greater risk for a variety of ozone-related effects including increased respiratory symptoms, increased medication usage, increased doctor and emergency room visits and hospital admissions; provide highly suggestive evidence that short-term ambient ozone exposure contributes to mortality; and report health effects at ozone concentrations lower than the level of the current standards, as low as 0.04 parts per million (ppm) for some highly sensitive individuals. See ‘Fact Sheet: Review of National Ambient Air Quality Standards for Ozone’ and Draft Staff Paper. ‘Human Exposure and Risk Assessments and First Draft Environmental Report’, U.S. Environmental Protection Agency, July 2006.

Ground level ozone also interferences with the ability of plants to produce food and store food, which compromises growth, reproduction and overall plant health. By weakening sensitive vegetation, ozone makes plants more susceptible to disease, pests and environmental stresses. Ozone has been shown to reduce yields for many economically important crops (e.g., corn, kidney beans, soybeans). Also, ozone damage to long-lived species such as trees (by killing or damaging leaves) can significantly decrease the natural beauty of an area, such as the Adirondacks.

As discussed above, the proposed revisions to Part 226 will also allow the state to satisfy state and federal legislative objectives by imposing RACT to control VOC emissions from solvent cleaning processes and industrial cleaning solvents in New York. Furthermore, the furthering of the attainment of the federally mandated ozone NAAQS. A discussion of CAA and regulatory needs and benefits are further detailed in the “Regulatory Impact Statement” (RIS) and other rulemaking documents.

Costs to Regulated Parties and Consumers

The Ozone Transport Commission (OTC) estimates the costs associated with changes to solvent cleaning processes (proposed Part 226-1) to be on the order of $1,400 per ton of VOC reduced. The Department asserts that these costs are well within the framework of RACT programs.

The OTC, in its Industrial Cleaning Solvent CTG (proposed Part 226-2), concluded that facilities may incur minimal additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning would result in a coast savings of $1,330 per ton of VOC used. For non cleaning material and waste disposal costs were considered. Here too, the Department has determined that these costs align with RACT protocol.

Costs to State and Local Governments

As discussed above, this rulemaking flows from the State’s obligations under the Clean Air Act (CAA). The proposed changes to Part 226 are applicable to all areas of the State and are not expected to be affected by the proposed revisions/additions. There are no expected direct costs to State and local governments associated with this proposed regulation. No record keeping, reporting, or other requirements will be imposed on local governments. The authority and responsibility for implementing and administering Subpart 226-1 and Subpart 226-2 in New York resides solely with the Department. Added requirements for record keeping, reporting, etc. are applicable only to the person(s) who become subject to the industrial cleaning solvent regulation and persons who become subject to solvent cleaning processes because they were cleaning objects other than metal.

Costs to the Regulating Agency

Administrative costs to the regulating agency will not increase.

PAPERWORK

No additional paperwork will be imposed on the solvent cleaning process industry and industries subject to the industrial cleaning solvent regulation will have minimal record keeping requirements.

LOCAL GOVERNMENT MANDATES

This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Applying add-on controls for compliance. These alternative compliance provisions are consistent with the federal CTGs and OTC model rule, will help New York State achieve necessary VOC emission reductions, and will satisfy the State’s obligations under the CAA.

FEDERAL STANDARDS

The revisions are designed to comply with the requirements outlined in the CTG and OTC Model Rule.

COMPLIANCE SCHEDULE

In accordance with the CTGs and the CAA, States should submit SIP revisions within one year of the date of issuance of final CTGs. Based on the various dates of issuance of the CTGs, the Department should submit SIP revisions as soon as practicable.

Revised Regulatory Flexibility Analysis

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasers issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOC) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions and has suggested changes to applicability and VOC content for solvent degreasing.

EFFECTS ON SMALL BUSINESS AND LOCAL GOVERNMENTS:

The proposed revisions to Part 226 apply statewide. As detailed in the RIS, this is a requirement flowing from the State’s obligations under the Clean Air Act. This is not a mandate on local governments. The proposed revisions apply to any entity that owns or operates a subject source. Facilities that engage in solvent cleaning processes (Subpart 226-1) will have new VOC content limits. Facilities that use 3 tons or more of industrial cleaning solvents per year will be subject to new requirements in Subpart 226-2 as applicable.

COMPLIANCE REQUIREMENTS:

There are no specific requirements in the regulation which apply exclusively to small businesses or local governments. Local governments are not directly affected by the proposed revisions.

PROFESSIONAL SERVICES

Small businesses and local governments are not expected to need professional services to comply with the revisions to Subpart 226-1. Local governments are not directly affected by the proposed revisions. Facilities which are currently permitted and that will become subject to Subpart 226-1/2 will need to seek professional services in the form of guidance in altering their processes to come into compliance.

COMPLIANCE COSTS:

The Industrial Cleaning Solvent CTG (addition of Part 226-2) concluded that facilities may incur minimal additional cost or realize a savings on a case by case basis. It estimated that replacing high VOC content cleaning materials with low VOC water-based cleaning materials for large manufactured surfaces, tank cleaning and gun cleaning, would result in a coast savings of $1,330 per ton of VOC used. For non cleaning material and waste disposal costs were considered. The Department considers these costs to be well within RACT guidelines.

The OTC estimates the costs associated with changes to solvent cleaning processes (changes to Part 226-1) to be on the order of $1,400 per ton of VOC reduced. The Department considers these costs to also be well within RACT guidelines.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

As noted earlier, this rulemaking flows from the State’s obligations under the CAA. This is not a mandate on local governments. It applies equally to any entity that owns or operates a subject source. Compliance products are available for all solvent cleaning processes and industrial cleaning solvents and are affordable.

MINIMIZING ADVERSE IMPACT:

No adverse impacts to the environment or regulated industry are expected. The proposed revisions are intended to reduce VOC emissions to the environment. Local governments are not expected to be directly affected by the proposed revisions.
SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION:

Since local governments are not expected to be directly affected by the proposed revisions, the Department did not contact local governments directly. The Department did provide advance notice of these rule revisions to the regulated community so that they would have sufficient time to take the necessary steps to come into compliance with the rule. Additionally, the Department plans on holding public hearings at various locations throughout New York State after the revisions are proposed. Small businesses will have the opportunity to attend these public hearings; and there will be a public comment period in which interested parties can submit written comments. Public participation and comment will also be available during EPA’s SIP approval process.

CURE PERIOD:

In accordance with NYS State Administrative Procedures Act (SAPA) Section 202-b, this rulemaking does not include a cure period because the Department is undertaking this rulemaking to comply with federal Clean Air Act requirements, requiring the incorporation of federal CTGs to establish RACT for industrial cleaning solvents for inclusion into the state implementation plan.

Revised Rural Area Flexibility Analysis

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commission’s (OTC) Model Rule for Solvent Degreasing issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions, and has suggested changes to applicability and VOC content for solvent degreasing.

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS AFFECTED:

The proposed revisions to Part 226 and attendant revisions to Part 201 will affect industries that use industrial cleaning solvents. Although seven (7) rural areas of New York State will be affected, the Department did not directly contact rural area facilities. However, the Department did provide advance notice of these rule revisions to the regulated community so that they would have sufficient time to take the necessary steps to come into compliance with the rule. Also, the Department plans on holding public hearings after the revisions are proposed. All facilities, including those located in rural areas of the State, will have the opportunity to attend these public hearings, and there will be a public comment period in which interested parties can submit written comments. Public participation and comment will also be available during EPA’s SIP approval process.

Revised Job Impact Statement

NATURE OF IMPACT:

The New York State Department of Environmental Conservation (Department) proposes to revise 6 NYCRR Parts 226 and 201. The proposed changes to Part 226, and attendant revisions to Part 201, will incorporate the Control Techniques Guidelines (CTG) Industrial Cleaning Solvents issued by the Environmental Protection Agency (EPA) in September 2006 and the Ozone Transport Commissions (OTC) Model Rule for Solvent Degreasing issued in 2012. Federal CTGs establish Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by solvent cleaning processes. Pursuant to the Clean Air Act (CAA), the Department is required to submit the Part 226 revisions to EPA for state implementation plan (SIP) review and approval. The OTC provides guidance to member states on methods of reducing VOC emissions, and has suggested changes to applicability and VOC content for solvent degreasing.

CATEGORIES AND NUMBERS AFFECTED:

The proposed revisions to Part 226 affect owners/operators of solvent cleaning processes, and those who use industrial cleaning solvents statewide. The revisions are not expected to adversely impact jobs and employment opportunities in New York State. The proposed revisions to Part 226 may affect existing facilities by requiring them to lower the VOC content and/or vapor pressure of the solvents used in their processes. This may require minimal consultation utilization to evaluate the necessity of process modifications. In such cases, jobs and employment opportunities may increase as a result.

REVISIONS TO PART 226:

None that the Department is aware of.

SELECTION OF RURAL AREAS AFFECTED:

None that the Department is aware of.

RURAL AREA PARTICIPATION:

The Department is revising 6 NYCRR Part 226, Solvent Metal Cleaning Processes and re-designating it Subpart 226-1, Solvent Cleaning Processes; and adding a new Subpart 226-2, Industrial Cleaning Solvents; and making related changes to Part 201, Permits and Registrations. These changes are necessary to align with the 2012 Ozone Transport Commission’s (OTC) Model Rule and comply with the 2006 U.S. Environmental Protection Agency’s (EPA) Industrial Cleaning Solvents Control Technique Guidelines (CTG). Public hearings were held on May 22, 2019 in Avon, NY and May 24, 2019 in Albany, NY. The Department received written comments from (7) commenters during the comment period of March 20, 2019 through 5:00 pm May 29, 2019.

Most comments received were either editorial (correcting references) or requests for clarification on applicability. Incorrect references, some the product of re-numbering of Part 226 into Subpart 226-1, have been corrected.

Requests for clarification of applicability were primarily limited to proposed Subpart 226-2 or how to distinguish applicability between Subparts 226-1 and 226-2. These were addressed by clarifying language in the exceptions section of Subpart 226-2. Applicability under Subpart 226-1 for solvent cleaning processes only changed with the addition of cleaning of non-metal items. Subpart 226-2 is intended to establish Reasonably Available Control Technology (RACT) for industrial cleaning solvents

MINIMIZING ADVERSE IMPACT:

The Department is providing advance notice of these rule revisions to the regulated community so that companies have sufficient time to take the necessary steps to come into compliance with Part 226. The proposed revision also includes time for subject sources to come into compliance. Changes to Part 226 are not anticipated to have an adverse effect on rural areas. To date, the Department is unaware of any particular adverse impacts experienced by rural areas as a result of the regulation. Rather, the rule is intended to create air quality benefits for the entire state, including rural areas, through the reduction of ozone forming pollutants.
containing Volatile Organic Compounds (VOC’s). Many such cleaning solvents are already regulated by existing New York State VOC RACT regulations. EPA’s CTG recommends exempting 15 categories regulated under CAA Section 183(c) from additional regulation or CTG requirement since they have already been subjected to RACT analysis and controls. These categories are excluded from proposed Subpart 226-2 under paragraphs 226-2.1(c)(2), (3) and (4). These categories are already subject to Subpart 228-1 ‘Surface Coating Processes’, Subpart 228-2 ‘Commercial and Industrial Adhesives, Sealants and Primers’, or Part 234 ‘Graphic Arts’. These are New York State’s VOC RACT regulations which include industrial cleaning solvents in their RACT analysis.

The federal CTG suggests excluding a number of other categories which may or may not be appropriate depending on existing New York State air regulations and needs. Some, but not all these, are subject to existing New York State air regulations that already include industrial cleaning solvent use in a RACT analysis. Such categories are excluded from Subpart 226-2 as well. In response to several comments requesting exclusion from the rule, the Department is adding a miscellaneous section to the Subpart 226-2 exclusions. These were considered by the Department to be either insignificant emission sources or cleaning activities inappropriate for regulation under Subpart 226-2 or identified in the CTG as not applicable.

The coating industry, including coatings, inks, adhesives and resin manufacturing, believes that it should be exempt from Subpart 226-2 or at least have alternative compliance options. In New York State, these and many other potentially subject industries are regulated under Part 212 ‘Process Operations’. Part 212 regulated facilities that are major for VOC emissions are already subject to RACT or Toxic- Best Available Control Technology (T-BACT) analysis and controls. Therefore, such facilities are excluded from the Subpart 226-2 requirements. Facilities with less than major VOC emissions may be subject to the requirements of Subpart 226-2 if their VOC emissions from industrial cleaning solvents reaches 3 tons per year or more, which is the applicability threshold of Subpart 226-2.

There was considerable opposition to the ‘once in always in’ provision in the proposed applicability of Subpart 226-2. After further consideration, the Department has determined that this provision is not necessary, and any related matters can be otherwise handled by the permit process delineated in 6 NYCRR Part 201 ‘Permits and Registrations’. The ‘once in, always in’ provision in subdivision 226-2.1(a) will be removed.

Several commenters expressed concern over the effectiveness of a cleaning solvent with 25 grams of VOC per liter, which is the proposed limit for cold cleaning in Subpart 226-1. The VOC limit of 25gm/L was selected because there are commercially available cleaning solutions meeting this limit which are appropriate for use in existing cold cleaning degreasers and are proven to be a reasonable and effective alternative to cleaning solutions meeting the current VOC vapor pressure criteria, with significantly less VOC emissions. Such cleaning solutions have been in use in other areas of the country for years.

One commenter requested an alternative VOC limit for the cleaning of post-solidify printed circuit boards (PCB’s) as well as critical adjunct cleaning solutions meeting the current VOC vapor pressure criteria, with a reasonable time prior to the scheduled public hearing. The written request may or may not be appropriate depending on existing New York State air regulations or change the considerations of their best usage. This proposed rule making does not rely upon ECL § 17-0301 for statutory authority, but is a clarification of an existing regulation and does not establish WQS. However, this proposed rule making will not change the best usages of Class I and Class SD saline surface waters (I/SD waters) were, and remain, “secondary contact recreation and fishing.” These waters shall be suitable for fish, shellfish, and wildlife propagation and survival. [In addition, the water quality shall be suitable for primary contact recreation, although other factors may limit the use for this purpose.]

The proposed clarifications would impact limited waters in the State; the majority of I/SD waters are located in and around New York City (NYC), with a few waters located in and around Suffolk County.

1. Statutory authority:
   The general authority to promulgate regulations is found in New York State Environmental Conservation Law (NYSDEC) is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the intent of the 2015 amendments to 6 NYCRR Parts 701 and 703.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Class I and Class SD Waters

I.D. No. ENV-43-19-00006-P

Pursuant to the Provisions of the State Administrative Procedure Act, Notice is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 701.13 and 701.14 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, section 3-0301(2)(a).

Subject: Class I and Class SD waters.

Purpose: To clarify best usages of Class I and SD waters were are “secondary contact recreation and fishing” and “fishing,” respectively.

Public hearing(s) will be held at: 2:00 p.m., January 8, 2020 at Department of Environmental Conservation Region 2, 47-40 21st St., Long Island City, NY.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Text of proposed rule: Section 701.13 is amended to read as follows:

701.13 Class I saline surface waters.

The best usages of Class I waters are secondary contact recreation and fishing. These waters shall be suitable for fish, shellfish, and wildlife propagation and survival. [In addition, the water quality shall be suitable for primary contact recreation, although other factors may limit the use for this purpose.]

Section 701.14 is amended to read as follows:

701.14 Class SD saline surface waters.

The best usage of Class SD waters is fishing. These waters shall be suitable for fish, shellfish and wildlife propagation. [In addition, the water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.] This classification may be given to those waters that, because of natural or man-made conditions, cannot meet the requirements for fish propagation.

Text of proposed rule and any required statements and analyses may be obtained from: Michelle Tompkins, Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-3500, (518) 402-8221, email: WQSuregulations@dec.ny.gov.

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: Five days after the last scheduled public hearing.

Additional matter required by statute: Pursuant to article 8 of the Environmental Conservation Law, the State Environmental Quality Review Act, Short Environmental Assessment Form, a Negative Declaration, and a Coastal Assessment Form have been prepared and are on file with the Department.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

The waters of New York State (both freshwater and saline) are grouped into classes and, within those classes, water quality standards (WQS) are assigned to protect their best usages. There are five classes of saline waters defined in Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 701: SA, SB, SC, I, and SD.

The New York State Department of Environmental Conservation (NYSDEC) is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the intent of the 2015 amendments to 6 NYCRR Parts 701 and 703.

The 2015 amendments to 6 NYCRR Parts 701 and 703 adopted more protective total and fecal coliform WQS for Class I and Class SD saline surface waters (2015 I/SD Rule Making). Through this proposed rule making, NYSDEC is clarifying that the best usages of Class I and Class SD saline surface waters (I/SD waters) were, and remain, “secondary contact recreation and fishing” and “fishing,” respectively.

The proposed clarifications would impact limited waters in the State; the majority of I/SD waters are located in and around New York City (NYC), with a few waters located in and around Suffolk County.

1. Statutory authority:
   The general authority to promulgate regulations is found in New York State Environmental Conservation Law (ECL) § 3-0301(2)(a). ECL § 3-0301(2)(a) provides that the Commissioner of NYSDEC may adopt regulations to carry out the purposes of the ECL in general.

   Relying on ECL § 17-0301 for statutory authority, in 2015, NYSDEC promulgated amendments to 6 NYCRR Parts 701 and 703 to adopt more protective total and fecal coliform WQS for I/SD waters. However, this proposed rule making is different than the 2015 I/SD Rule Making in that it is a clarification of an existing regulation and does not establish WQS. This proposed rule making does not rely upon ECL § 17-0301 for statutory authority. This proposed rule making does not assign new classifications to waters or change the considerations of their best usage. This proposed rule making also does not adopt, alter or modify the standards of quality and purity.

2. Legislative objectives:
   ECL § 3-0301(2)(a) was enacted with the purpose of providing NYSDEC the authority to “adopt, amend, or repeal environmental standards, criteria, and those rules and regulations having the force and effect of environmental standards and criteria... Utilizing the authority granted in ECL § 3-0301(2)(a), NYSDEC is proposing amendments to 6 NYCRR 701.13 and 701.14 to clarify the
Public Notice

Notice of Adoption
6 NYCRR Part 226, Solvent Cleaning Processes and Industrial Cleaning Solvents
6 NYCRR Part 201, Permits and Registrations

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103, and 71-2105 of the Environmental Conservation Law (ECL), the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

NYS DEC is amending existing Part 226, entitled: "Solvent Metal Cleaning Processes," of Title 6 of the Official Compilation of Codes, Rules and Regulation of the State of New York (6 NYCRR) and attendant revisions to Part 201.

Under the adoption, the current Part 226 will be re-designated Subpart 226-1 and renamed "Solvent Cleaning Processes". Additionally, the proposed amendments will add a new Subpart 226-2, entitled "Industrial Cleaning Solvents".

Owners or operators of solvent cleaning processes subject to the current Part 226 will be subject to the new subpart 226-1. Currently, Part 226 only applies to the cleaning of "metal". This amendment removes this distinction, opening the applicability to any material cleaned by solvent cleaning processes. If your solvent cleaning process was not subject to Part 226 because you were cleaning something other than metal, you will now be subject to Subpart 226-1.

Consistent with the Ozone Transport Commission's (OTC) 2012 updated model rule, a new/replacement VOC requirement is being added to Part 226 cold cleaners, including remote reservoir cleaners. New Subpart 226-1 will change the current requirement of using a solvent with a maximum vapor pressure of 1.0 mm Hg, or less, at 20°C- to using a cleaner with no more than 25 grams of VOC per liter (25g/l) of cleaning solution. No changes are being made to the other Part 226 solvent cleaning processes (open top vapor or conveyorized).

Subpart 226-2 'Industrial Cleaning Solvents' will be a new regulation consistent with the Environmental Protection Agency's (EPA's) Industrial Cleaning Solvents Control Technique Guidelines (CTG) (2006). Any owner or operator of a facility that emits to the atmosphere three (3) tons or more of volatile organic compounds (VOCs) from industrial cleaning solvents, on an annual basis, may be subject. Specifically, the provisions apply to the cleaning of foreign materials from surfaces of unit operations, including large and small manufactured components, parts, equipment, floors, tanks, and vessels. Such cleaning may be done by wiping, brushing, mopping, flushing or spraying, either by hand or mechanical means. The use of cleaning solvents that are already subject to (or exempt from) other regulatory provisions are not subject to any new requirements under proposed 226-2. New Subpart 226-2 will have work practice, recordkeeping and storage requirements for their cleaners that contain VOCs. Cleaning solutions will also have a maximum VOC content limit of fifty (50) grams of VOC per liter (0.42 pounds of VOC per gallon) of cleaning material- or, as an alternative to this maximum VOC content, an industrial cleaning solvent with a maximum composite vapor pressure of eight (8) millimeters of mercury (mmHg) at 20 degrees Celsius may also be used. Further, NYS DEC proposes to submit the Part 226 as well as the revisions to Part 201 to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP) for New York State.

Documents pertaining to this rulemaking can be found on NYS DEC's website at http://www.dec.ny.gov/regulations/propregulations.html#public.
Notice of Proposed Rule Making - Amendments to 6 NYCRR 701.13 & 701.14 - Clarification of Class I & Class SD Best Usages;

Notice is hereby given that the New York State Department of Environmental Conservation (NYS DEC) filed a Notice of Proposed Rule Making with the New York State Department of State on October 7, 2019 to amend 6 NYCRR 701.13 & 701.14, Clarification of Class I & Class SD Best Usages. The proposed rule making amends 6 NYCRR 701.13 and 701.14 to clarify the intent of the 2015 I/SD Rule Making that the best usages of Class I and Class SD marine surface waters were, and remain, "secondary contact recreation and fishing" and "fishing," respectively.

Public Hearing Time and Location

NYS DEC will hold a public hearing at the following date, time, and location:

Date: January 8, 2020
Time: 2:00 p.m.
Address: NYS DEC - Region 2 Office
47-40 21st Street 8th Floor Conference Room 834
Long Island City, NY 11101

The purpose of the public hearing is to accept oral and written comments on the proposed rule making.

Public Comment on the Proposed Rule Making

The public comment period commences on October 23, 2019. Written statements may be submitted to: Michelle Tompkins, NYS DEC - Division of Water, 625 Broadway, 4th Floor, Albany, NY 12233-3500, E-mail: WQSrulemakings@dec.ny.gov Written statements must be submitted to the NYS DEC by midnight on January 13, 2020.

Public Hearing

At the public hearing to be held on January 8, 2020, attendees will have an opportunity to make an oral statement and/or file a written statement. It is not necessary to file a written statement or request in order to appear to make a statement at the hearing. Written statements received prior to, during, or after the hearing (before the comment period closes), and oral statements made at the hearing will be given equal consideration.

Public Hearing Facilities/Services

The public hearing is scheduled at a location reasonably accessible to persons with a mobility impairment. Interpreter services will be made available to hearing impaired persons, at no charge, upon advance written request received by the NYS DEC (see contact information below) no later than December 18, 2019.

Environmental and Regulatory Impact Review

NYS DEC has determined that the proposed rule making will not have a significant adverse environmental impact. NYS DEC has prepared a Regulatory Impact Statement, a Regulatory Flexibility Analysis for small businesses and local governments, a Rural Area Flexibility Analysis and a Job Impact Statement, in accordance with the State Administrative Procedures Act.

Available Documents

Copies of the documents for the proposed rule making described above, along with the Express Terms (text of proposed rule), are available on the NYS DEC website at: http://www.dec.ny.gov/regulations/propregulations.html or by contacting the contact listed below.
Authority

NYS DEC is conducting the rule making proceedings, including the above-mentioned public hearing, pursuant to § 3-0301(2)(a) of the New York State Environmental Conservation Law.

Contact: Michelle Tompkins, NYS DEC - Division of Water, 625 Broadway, Albany NY 12233-3500, Phone: (518) 402-8233, E-mail: WQSrulemakings@dec.ny.gov.

Notice of Proposed Rulemaking 6 NYCRR Parts 622, Uniform Enforcement Hearing Procedures

Pursuant to Sections 3 0301, 15 0901, 17 0303, 19 0301, 23 0305, 33-0303, 70-0107, 71 0301, 71-1709 and 71-1719 of the Environmental Conservation Law (ECL) and State Administrative Procedure Act, art. 3, the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

NYS DEC proposes to repeal 6 NYCRR Part 622, Uniform Enforcement Hearing Procedures, and replace the rule with a new 6 NYCRR Part 622, Uniform Enforcement Hearing Procedures, to clarify the hearing process for administrative enforcement proceedings. In addition to adopting a new Part 622, NYS DEC proposes to amend the definition section of 6 NYCRR Part 620, Procedures for Issuance of Summary Abatement Orders, and Part 624, Permit Hearing Procedures, to make the definitions of terms shared by Parts 620, 622 and 624 consistent. NYS DEC also proposes to amend 6 NYCRR 621.10(a), 621.11(g) and 621.13(d) to require that a copy of a written request for a hearing made pursuant to those subdivisions be provided to the Chief Administrative Law Judge.

Notice of Proposed Rulemaking to repeal and replace 6 NYCRR Part 622 and amend 6 NYCRR Parts 620, 621 and 624 will be published in issue 43 of the State Register, dated October 23, 2019. Documents pertaining to the proposed rulemaking may be found at: http://www.dec.ny.gov/regulations/propregulations.html#public.

Written comments on the proposed rule may be submitted until 5:00 p.m. on January 31, 2020. Written comments must be mailed to Administrative Law Judge (ALJ) Michael S. Caruso, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550, or emailed to ALJ Caruso at ohms@dec.ny.gov.

A Hearing for the proposed rule and attendant revisions to existing rules described above will be held as follows and is scheduled in a place that is reasonably accessible to persons with impaired mobility:

Date: January 7, 2020
Time: 1:00 p.m.
Location: NYS DEC
625 Broadway, Public Assembly Room 129A/B
Albany, NY 12233

NYS DEC will provide interpreter services for hearing impaired persons at no charge upon written request submitted no later than December 27, 2019. The written request must be addressed to ALJ Caruso, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ Caruso at: ohms@dec.ny.gov.

Contact: Michael S. Caruso, NYS DEC - Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550, Phone: (518) 402-9003, E-mail ohms@dec.ny.gov.