

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of the General Counsel, Deputy Commissioner & General Counsel  
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AUG 06 2020

## RE: Enforcement Discretion under Subpart 226-1 (Solvent Cleaning Processes)

To Whom It May Concern:

This is to advise you that, subject to the terms set forth in this letter, the New York State Department of Environmental Conservation (Department) will exercise its authority to utilize enforcement discretion with respect to certain provisions of 6 NYCRR Subpart 226-1 (Subpart 226-1) concerning the regulation of solvent cleaning processes. The Department will exercise this authority regarding the provisions set forth below in lieu of full compliance with Subpart 226-1.

The Department amended Part 226, effective November 1, 2019. As a result, the former Part 226 was re-designated as Subpart 226-1 and renamed "Solvent Cleaning Processes". Updates under adopted Subpart 226-1 are based on the Ozone Transport Commission's (OTC) 2012 Model Rule for Solvent Degreasing in order to implement federal guidelines aimed at reducing volatile organic compounds (VOCs) emitted by solvent cleaning processes. Subpart 226-1 generally requires owners and operators of facilities that operate cold cleaners, open-top degreasers, and all types of conveyORIZED degreasers that carry out solvent cleaning processes to comply with various equipment specifications and control and operating requirements.

The 2019 revisions expand certain requirements to facilities that carry out solvent cleaning processes on metal objects. After December 1, 2020, the rule will apply to the cleaning of all non-metal objects. The revised rule also lowers the VOC content of cleaning solution (a maximum of 25 grams per liter at 20 degrees Celsius) for facilities using cold cleaning degreasing with an internal volume greater than two gallons, unless using a degreaser exempted under section 226-1.4(a)(4)(i) – (iii). Certain solvent cleaning processes may also be exempt under section 226-1.7, and owners and operators may seek a process specific RACT demonstration under section 226-1.6 as an alternative to compliance. Facilities subject to revised Subpart 226-1 must be in compliance with the new requirements by December 1, 2020.

On March 7, 2020, Governor Cuomo issued Executive Order 202 declaring a disaster emergency for the entire State of New York, along with several subsequent Executive Orders to address the COVID-19 emergency. As a result of the COVID-19 emergency, industries that provide solvent cleaning process parts and services in New York informed the Department that production and distribution capacity has been impacted by coronavirus, including delays in the sourcing of certain equipment and machine parts necessary for owners and operators of solvent cleaning processes to comply with the December 1, 2020 compliance date.

Acknowledging the impact on the actions and operations of New York State



businesses and the regulated community due to the COVID emergency, the Department is providing under this enforcement discretion to owners and operators of facilities that carry out solvent cleaning processes an additional 12 months, until December 1, 2021, to comply with requirements under revised section 226-1.4(a)(4) that became effective on November 1, 2019. Specifically, owners and operators conducting solvent cleaning using cold cleaning degreasing when the internal volume of the machine is greater than two gallons may continue to use a cleaning solution with a vapor pressure of 1.0 mm Hg, or less, at 20°C to demonstrate compliance with this subdivision until December 1, 2021. All other provisions of Subpart 226-1 remain in effect and will be enforced.

Thank you for your cooperation in this matter. Questions regarding this enforcement discretion should be directed to Khai Gibbs, Esq. of the Office of General Counsel at (518) 402-9185. Technical questions regarding compliance options under Subpart 226-1 should be directed to Katelyn Tamargo of the Division of Air Resources at (518) 402-8403.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Berkman', with a long horizontal flourish extending to the right.

Thomas S. Berkman  
Deputy Commissioner  
and General Counsel

cc: Regional Directors  
Regional Air Pollution Control Engineers  
Regional ECO Cpt.

EMDS #648772