Drycleaning & Laundry Institute

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No. of Pages, including this cover sheet: 5

SUBJECT: EPA - Perc Air Emission Standards

Comments:

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

December 14, 2006

Mr. Steven Burke
Senior Environmental Engineer
United States Surgical
195 McDermott Road
North Haven, Connecticut 06473

Re: Applicability Determination for 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

Dear Mr. Burke:

The U.S. Environmental Protection Agency (EPA) has reviewed the letter dated September 1, 2006, from United States Surgical located in North Haven, Connecticut (US Surgical) (enclosed). The September 1, 2006, letter requested clarification from EPA on the applicability of the perchloroethylene air emission standards for dry cleaning facilities (Dry Cleaning Facilities NESHAP) to a dry cleaning machine currently installed at US Surgical's North Haven facility. You have asked whether the dry cleaning machine is subject to the requirements for a "new" source which commenced construction or reconstruction on or after December 21, 2005, or whether it is subject to the requirements for a source that commenced construction or reconstruction before that date. This letter provides you with a written applicability determination.

The September 1, 2006, letter explains that US Surgical owns a dry cleaning machine that was originally built and installed at its North Haven facility in 1998. As such, it was regulated as a "new" source under the Dry Cleaning Facilities NESHAP as then promulgated. The dry cleaning machine was later removed from service and sent to a sister facility. However, in June 2003, the dry cleaning machine was returned to US Surgical in North Haven, Connecticut and re-installed there in March 2006. Since EPA had proposed amendments to the Dry Cleaning Facilities NESHAP on December 21, 2005 (promulgated on July 27, 2006), you asked whether the amended new source requirements would apply to the returned machine, or whether the machine would remain subject to the previous new source requirements and any existing source requirements that became applicable under the amended NESHAP. In an email dated September 21, 2006 (enclosed), you clarified that the North Haven facility does not contain any dwelling or housing. Therefore, the dry cleaning machine is not located in a building with a residence. In emails dated September 27, 2006, and September 28, 2006 (enclosed), you further clarified that no alterations or modifications were made to the machine, other than maintenance. You also confirmed that you have not replaced the washer or dryer on the machine. The dry cleaning machine is a dry-to-dry machine and therefore does not have a reclaimer.

On March 5, 1994, EPA issued a policy memorandum titled "Dry Cleaning Regulation: Clarification re Definition of Construction" (enclosed). The memorandum clarifies that relocation of an existing dry cleaning machine by its owner does not constitute installation for the purpose of the term "construction". The memorandum states that it is therefore not a "new" facility for purposes of the regulation if an owner of an existing machine moves it to a new location. See 40 C.F.R. section 63.321's definition of the term "construction." In addition, the regulation defines reconstruction to mean replacement of a washer, dryer or reclaimer; or replacement of any components of a dry cleaning system to such an extent that the fixed capital cost of the new components exceeds 50 % of the fixed capital cost that would be required to construct a comparable new source. See *id.*, definition of "reconstruction."

EPA has determined that the relocation of the dry cleaning machine discussed in the September 1, 2006, letter does not constitute construction or reconstruction under the regulation. It is not construction for the same reasons discussed in our March 5, 1994, memorandum, and it is not reconstruction because you have not altered the machine nor replaced a washer, dryer, reclaimer, or any other components in the machine that exceed the 50 % fixed capital cost threshold. Therefore, EPA has determined that because US Surgical's dry cleaning machine was neither constructed nor reconstructed on or after December 21, 2005, it is subject to the requirements for a source that commenced construction or reconstruction on or after December 9, 1991, and before December 21, 2005.

This applicability determination relies upon the accuracy of the information submitted in the September 1, 2006, letter and subsequent emails from you. Moreover, this determination does not relieve US Surgical of responsibility for complying fully with any and all applicable federal, state and local laws, regulations and permits. If you have any questions about this letter, please call Susan Lancey of my staff at (617) 918-1656.

Sincerely,

David B. Conroy, Chief
Air Programs Branch

Enclosures

cc: Ellen Pierce, CT DEP
Gary Rose, CT DEP

MAR 5 1997

OFFICE OF AIR AND RADIATION

MEMORANDUM

SUBJECT: Dry Cleaning Regulation: Clarification re Definition of Construction

FROM: John S. Seitz, Director
Stationary Source Compliance Division
Office of Air Quality Planning and Standards

TO: William A. Spratlin, Director
Air and Toxics Division
Region VII

This memorandum is in response to your memorandum of February 3, 1994, in which you requested a determination regarding the National Emission Standards for Hazardous Air Pollutants for Perchloroethylene Dry Cleaning Facilities, promulgated September 22, 1993. Specifically, you want to know whether a machine that is moved to a new location is considered a "new" machine based on the definition of "construction."

As you noted in your request, if relocation of a transfer machine constitutes a "construction," then operation of a relocated transfer machine would be a violation of the regulation. Conversely, relocating a dry-to-dry machine would subject it to the refrigerated condenser control technology requirements.

We have determined that the relocation of a machine by its owner does not constitute an installation for purposes of the term "construction." It is, therefore, not a "new" facility for purposes of the regulation, if the owner moves an "existing" transfer machine (as defined at 40 CFR section 63.321) to a new location.

The provisions of the Perchloroethylene Dry Cleaning regulation (Regulation) at issue are 40 CFR section 63.321 and 40 CFR section 63.322(b)(2). Section 40 CFR section 63.321 defines "Construction" as follows: "*Construction*, for purposes of this subpart, means the fabrication (on site), erection, or installation of a dry cleaning system subject to this subpart." New is currently defined as follows: "*New* means commenced construction or reconstruction on or after December 9, 1991." Section 40 CFR section 63.322(b) provides that

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owner or operator of each new dry cleaning system: (1) Shall route the air-perchloroethylene gas-vapor stream contained within each dry cleaning machine through a refrigerated condenser or an equivalent control device; (2) Shall eliminate the emission of perchloroethylene during the transfer of articles between the washer and dryer(s); and (3) Shall pass the air-perchloroethylene gas-vapor stream from inside the dry cleaning machine drum through a carbon adsorber or an equivalent control device immediately before or as the door of the dry cleaning machine is opened if the dry cleaning machine is located at a major source.

Although this language could be interpreted to mean that relocated machines are considered to be "new," the Agency did not intend to subject "existing" facilities to the rules applicable to "new" facilities in the event of a relocation. The economic decisions made in connection with the promulgation of the regulation did not provide for costs as high as those that would result from including relocated facilities within the definition of "new" facilities subject to the regulation. Also, while perchloroethylene emissions present health and environmental dangers, and transfer machines especially have permitted higher perchloroethylene emissions, the Agency determined that the benefits of an immediate ban were outweighed by the costs to the industry. An unanticipated event, such as a loss of lease, does not change that determination. Finally, States, to the extent they determine it necessary, are free to promulgate and enforce more stringent regulations.

If you have any questions regarding this information you may contact me at (703) 308-8600 or Ellen Rattigan, of my staff, at (703) 308-8531.