

The Minnesota Chemical Co.

Laundry & Dry Cleaning - Supplies, Equipment, Parts & Service - Since 1915

2285 Hampden Avenue • St. Paul, MN 55114-1294 • (Phone) 651-646-7521 • 800-328-5689 • (Fax) 651-649-1101

April 28, 2009

US EPA Region 5
Nathan Frank
AE-175
77 West Jackson Boulevard
Chicago, IL 60604

Phone 312-886-3850

RE: National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities; Final rule; withdrawal; revision. 73 FR 39871, July 7, 2008, 40CFR Part 63. And Title 40, Section 63.322 Standards.

Dear Nathan:

The Minnesota Chemical Co. is in the business of selling and repairing dry cleaning machinery in the states of MN, IA, SD, ND, and WI.

We are seeking clarification for our dry cleaning customers on the rules as they apply to owners and operators of PCE cleaning machines for area sources in non-residential applications. There are a large number of area sources PCE machines in non residential settings that have a refrigerated condenser but do not have a non-vented carbon adsorber.

For area sources, do the rules prohibit sale of or relocation of a PCE cleaning machine with a refrigerated condenser installed after December 21, 2005, that does not have a carbon adsorber as described in the above rule, reference Section 63.322(o)(2)? What if that machine has a refrigerated condenser and no carbon adsorber but was initially installed *prior to* December 21, 2005? Can this machine be sold or relocated?

We appreciate your guidance and assistance to our customers.

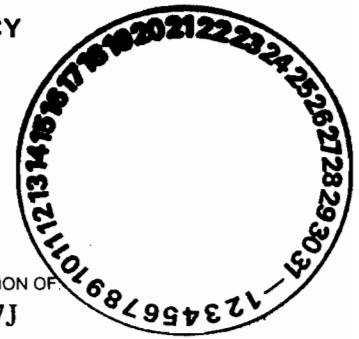
Sincerely,

Michael F. Baker

Encls: Title 40, Section 63.320-63.326; EPA 40 CFR Part 63
CC: Kim Grosenheider, MN PCA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



JUL 27 2009

REPLY TO THE ATTENTION OF
AE-17J

Michael F. Baker
The Minnesota Chemical Company
2285 Hampden Avenue
St. Paul, Minnesota 55114-1294

RE: Applicability Determination for 40 C.F.R. Part 63 Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities – applicability of secondary carbon adsorption requirements for resold equipment

Dear Mr. Baker,

The U.S. Environmental Protection Agency has reviewed your letter dated April 28, 2009. In your letter, you ask for guidance from EPA concerning the applicability of the secondary carbon adsorption requirements for dry cleaning equipment constructed after December 21, 2005 at a non-residential area source under 40 C.F.R. §63.322(o)(2), which is part of 40 C.F.R. Part 63 Subpart M – National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (Dry Cleaner NESHAP). Specifically, you ask whether dry cleaning equipment that was initially installed prior to December 21, 2005 but was removed from its original location, sold to a new owner, and relocated to a new location subsequent to December 21, 2005 is subject to the area source, non-residential carbon adsorption requirements at 40 C.F.R. §63.322(o)(2). In summary, we have determined that reselling *and* relocating dry cleaning equipment constitutes installation. Therefore dry cleaning equipment that is resold *and* relocated is subject to the secondary carbon adsorption requirements at 40 C.F.R. §63.322(o)(2). However, we intend to maintain our existing position that relocation of dry cleaning equipment *by its owner* does not constitute installation under 40 C.F.R. §63.322(o)(2) and the Dry Cleaner NESHAP. This position was set forth in a March 5, 1994 memo between John B. Rasnic, Director, Stationary Source Compliance Division, OAQPS to William A. Spratlin, Director, Air and Toxics Division, Region 7 (Rasnic Memo) and upheld in a December 14, 2006 letter from EPA Region 1 to United States Surgical specifically regarding 40 C.F.R. §63.322(o)(2).

The Dry Cleaner NESHAP was originally promulgated on September 22, 1993. The original rule required that all dry cleaning equipment installed after September 22, 1993 be equipped with a with a refrigerated condenser. Since the time of original promulgation, there have been numerous revisions to the rule. The most relevant revision was promulgated on July 27, 2006 after a finding that both a residual risk to human health and advances in practices, processes, and control technologies warranted more stringent requirements than the original rule in accordance with Section 112 of the Clean

promulgation, there have been numerous revisions to the rule. The most relevant revisions were promulgated on July 27, 2006, and included a requirement that all dry cleaning equipment “installed” after December 21, 2005, be equipped with a refrigerated condenser *and* a non-vented carbon adsorption system. This requirement is located at 40 C.F.R. § 63.322(o)(2). The 2006 rule left unchanged the definitions of “construction” and “reconstruction” in 40 C.F.R. § 63.321.

In your April 28, 2009, letter, you state that you are in the business of selling and repairing dry cleaning equipment. You ask, as a general matter, whether equipment originally installed prior to December 21, 2005, that has been removed from its place of original installation must comply with the carbon adsorption requirements of 40 C.F.R. § 63.322(o)(2) if it is resold and reinstalled in a new location after December 21, 2005. (You do not mention whether such machines would have been altered or modified before being re-installed, or whether their washer or dryer or other components would have been replaced.) After reviewing your request, we would consider that dry cleaning equipment that has been removed from its place of original installation would need to comply with the carbon adsorption requirements of 40 C.F.R. § 63.322(o)(2) upon reinstallation in a new location if it is sold to a new owner/operator. This is supported by the following points:

1. The term “construction” is defined under the Dry Cleaner NESHAP as “fabrication (onsite), erection, or installation of a dry cleaning system subject to [the Dry Cleaner NESHAP].” At the outset, this language suggests that *any* installation of dry cleaning equipment constitutes construction regardless of whether that equipment was previously installed elsewhere, unless there is some reason that a particular situation justifies an alternative reading.
2. The term “reconstruction” is defined as “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 percent of the fixed capital cost that would be required to construct a comparable new source.” Similarly, this language suggests that *any* situation in which a major component of a machine is being replaced, reconstruction is occurring, unless otherwise justified.
3. The 1994 Rasnic Memo based its finding that dry cleaning equipment may maintain “existing” status when that equipment is *relocated by its owner* on the following rationale:

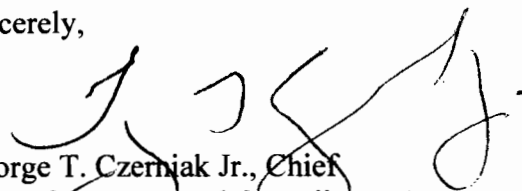
“The economic decisions made in connection with the promulgation of the [Dry Cleaner NESHAP] did not provide for costs as high as those that would result from including relocated facilities within the definition of ‘new’ facilities subject to the regulation.”

This rationale applied to the situation addressed in the Conroy Memo, where the owner was re-installing an existing operating machine in its original location

without having altered it or replaced any of its components. But it would not apply in the contexts of potential *purchasers* of previously installed dry cleaning machines that are not currently in operation and would be either: a) installed in a location that would contain dry cleaning equipment for the first time, or b) replacing dry cleaning equipment in a location with existing equipment. Both of those scenarios are essentially identical to situations in which a would-be operator is opening a new dry cleaning facility or a current operator is obtaining equipment he or she is not currently operating to replace equipment that has met the end of its useful life. A review of preamble information regarding the Dry Cleaner NESHAP shows that substantial economic analyses regarding the impacts of the added costs associated with pollution control technology to purchased equipment were conducted prior to the proposal and the promulgation of the Dry Cleaner NESHAP and its revisions (See 56 FR 64832, December 8, 1991; 58 FR 49354, September 22, 1993; 70 FR 75884, December 21, 2005; and 71 FR 42724, July 27, 2006). Allowing resold and relocated equipment to be installed by new purchasers could create an incentive to avoid the very compliance costs and emissions reductions that EPA considered in its rulemakings and upon which the promulgated standards relied.

In summary, we would consider that dry cleaning equipment that is resold and relocated to be subject to the control requirements of 40 C.F.R. 63.322(o)(2). Regarding relocated equipment that does not change ownership, we refer you to the findings of the 1994 Rasnic Memo and the 2006 Conroy Memo. Because this letter discusses new guidance, we have coordinated this response with EPA's Office of Air Quality Planning and Standards, EPA's Office of General Counsel, and EPA's Office of Enforcement and Compliance Assurance. If you have any questions on this, please contact Nathan A. Frank, P.E. of my staff at (312) 886-3850.

Sincerely,



George T. Czerniak Jr., Chief
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division

cc: Nathan Frank, Region 5
Scott Throwe, OECA/OC
Mike Thrift, OGC
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