



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
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CHICAGO, IL 60604-3590

Joseph A. Jaskowski
AQD Warren District Office
Michigan Department of Environment, Great Lakes, and Energy
27700 Donald Court
Warren, Michigan 48092-2793

Dear Mr. Jaskowski,

This letter is in reply to your July 22, 2020 letter to Sara Breneman, Enforcement and Compliance Assurance Division, Environmental Protection Agency (EPA) Region 5, requesting an applicability determination for Jackson Cleaners located at 24 North Huron Street, Ypsilanti, Michigan. Specifically, your letter requests a clarification regarding Title 40 Code of Federal Regulations, Part 63 National Emission Standards for Hazardous Air Pollutants (NESHAP), Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, as it applies to co-located dry cleaners, specifically 63.322 Standards, (o) Additional requirements: (5)(i). This section provides that “[a]fter December 21, 2020, the owner or operator shall eliminate any emission of perchloroethylene (PCE) from any dry-cleaning system that is located in a building with a residence.” Your letter seeks input on whether this requirement applies to Jackson Cleaners. The letter poses three questions to EPA related to the PCE emitting equipment at Jackson Cleaners and the building in which it is located. We address each of your questions below.

As background, on September 22, 1993, EPA promulgated technology-based emission standards to control emissions of PCE from dry cleaning facilities. On July 27, 2006, EPA published a Federal Register (FR) notice (71 FR 42724) promulgating revised standards to limit emissions of PCE from existing and new dry-cleaning facilities. In the preamble to this 2006 rulemaking, EPA addresses some of your questions related to Jackson Cleaners and the residential apartment unit co-located with it.

According to Part 63.320 (a)(2)(ii), each dry cleaning system that commences construction or reconstruction on or after December 21, 2005, but before July 13, 2006, and is located in a building with a residence, shall be in compliance with the provisions of this subpart, except §63.322(o), immediately upon startup; shall be in compliance with the provisions of §63.322(o)(5)(ii) beginning on July 27, 2006; and shall be in compliance with the provisions of §63.322(o)(5)(i) beginning on July 27, 2009. *Dry cleaning facility* means an establishment with one or more dry-cleaning systems.

On page 42728, the FR notice states:

C. What Are the Requirements for Transfer Machines at Existing Major and Area Sources?

The final rule prohibits the use of all existing transfer machines two years from the effective date of the final rule by requiring owners or operators to eliminate any PCE emissions from clothing transfer between the washer and dryer. The installation of new transfer machines was prohibited by the 1993 Dry Cleaning NESHAP. We estimate that about 200 transfer machines remain in use within the population of 28,000 PCE dry cleaning sources. Most of these machines are near the end of their useful economic lives. The typical useful life of a dry-cleaning machine is 10 to 15 years. By the end of 2008, the newest transfer machines in the industry will be 15 years old.

D. What Are the Requirements for Co-residential Sources?

For co-residential area sources, the final rule effectively prohibits new PCE machines in residential buildings by requiring that owners or operators eliminate PCE emissions from dry cleaning systems that are installed after December 21, 2005. This requirement applies to any newly installed dry-cleaning system that is located in a building with a residence, regardless of whether the dry-cleaning system is a newly fabricated system or one that is relocated from another facility. In addition, the final rule revisions include a “sunset date” for the use of PCE at currently operating co-residential sources: All existing PCE machines in co-residential facilities are prohibited after December 21, 2020. This sunset date allows owners of existing co-residential sources to operate their machines for their maximum estimated useful life, 15 years, assuming they were first installed no later than the date of the proposed rule. We have concluded that it is reasonable to establish the sunset date at that point to allow such owners to recoup the cost of their investment in their current machines. We also decided not to allow for a later sunset date since on the date of our proposal owners were first placed on notice that we were considering a sunset provision for co-residential sources. This sunset period, during which existing machines will be required to comply with the same revised requirements that apply to other existing area sources, will provide adequate time for source owners and operators to switch to non-PCE equipment or move their PCE equipment to a non-residential location. In the interim before the sunset date, existing co-residential sources are subject to the same requirements that apply to all other existing area sources under the final rule revisions (i.e., enhanced LDAR and elimination of transfer machines).

Your letter raised three questions regarding the PCE equipment and the co-residential unit(s) at the Jackson Cleaners facility. The first question is, “Does this apply to a dry-cleaning facility with an apartment located above it, that is unoccupied?” While the rulemaking as described above does not address whether an apartment is occupied or unoccupied, the existence of the apartment in and of itself does place the Jackson Cleaners situation into the category of having

the PCE equipment in a co-residential source. The owner/operator of the cleaners may or may not have control over the residency of the co-residential apartment unit(s). As long as the residential unit exists co-located, it may become occupied and as long as the apartment continues to be a co-residential site with the cleaners, the rule applies to the PCE emission unit.

Your second question is, “Does this apply to a dry-cleaning facility that is not operating their dry-cleaning machine (the machine is inactive; the location is a pick-up / drop-off store)?” As mentioned in the excerpt above regarding the final rulemaking action, EPA provided for a sunset provision period for existing PCE equipment, *this sunset period, during which existing machines will be required to comply with the same revised requirements that apply to other existing area sources, will provide adequate time for source owners and operators to switch to non-PCE equipment or move their PCE equipment to a non-residential location.* After the December 21, 2020 deadline, the owner/operator is expected to have either switched to non-PCE equipment or have moved their PCE equipment to a non-residential location. In your question, the PCE equipment is described as being inactive and not being operated. Other than a switch to non-PCE equipment or moving the PCE equipment to a non-residential location, EPA is concerned with the practical enforceability of the PCE equipment being claimed as “inactive” and “not operating” at any particular point in time, without any additional restrictions or enforceable conditions.

This leads us to your last question, “Does this mean that the dry-cleaning machine must be removed, or can it be left in place if inactive?” In the 2006 rulemaking, EPA addressed comments and concerns regarding existing co-residential PCE equipment and provided owner/operators with sufficient opportunity to fully utilize the expected life of the PCE equipment while planning for its eventual phase out and removal by December 21, 2020. The preamble describes the specific PCE equipment requirement as “All existing PCE machines in co-residential facilities are prohibited after December 21, 2020.” As we mentioned in response to the previous question, the practical enforceability of having the PCE equipment in place in an “inactive” status raises concerns with the applicability of this rule. If removal of the PCE emitting equipment is not possible, or the equipment cannot be switched to non-PCE use, the existing affected PCE equipment to be kept at the location must be rendered physically and operationally disabled and non-functioning. This could include, but is not limited to, removing motors, pumps, and/or electrical service connections, and ensuring the site and PCE emission units have no remaining residual PCE chemicals. This would provide a practically enforceable and readily verifiable operational condition to ensure that any remaining PCE equipment stays “inactive” and not operational. Lastly, the permitting authority should revoke and cancel any permits allowing the operation of the PCE equipment at this site.

On a related note, you are likely aware that our respective agencies are investigating dry cleaning solvent vapor intrusion at the Jackson Cleaners facility and at nearby apartments. Mary Miller of your Agency's Remediation and Redevelopment Division can provide more information, if needed.

Thank you for your applicability determination clarification request. We hope these responses to your questions provide EGLE and the affected PCE entities sufficient flexibility, based on the current economic climate caused by the COVID-19 pandemic, to address the applicable requirements which have been in place since 2006. If you have any further questions, please feel free to contact Constantine Blathras at (312) 886-0671.

Sincerely yours,

Compher,
Michael

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Michael Compher, Acting Chief
Air Programs Branch