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AR-18J

Roger Fritz, HAP Team Leader
Bureau of Air Management
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, Wisconsin 53707

Dear Mr. Fritz:

This letter responds to your May 23, 2001, letter requesting clarification on the applicability of the perchloroethylene (perc) dry cleaner standard, 40 CFR part 63, subpart M (dry cleaner MACT), to Leather Rich, Inc. of Oconomowoc, Wisconsin. Specifically, you requested a United States Environmental Protection Agency (U.S. EPA) determination on whether this facility is a major or area source under the dry cleaner MACT. As explained below, the U.S. EPA believes that Leather Rich could be an area source, if certain supporting information is provided.

Leather Rich sent a letter to the Wisconsin Department of Natural Resources (WDNR) dated October 8, 1993, requesting an annual usage permit limit of 2,100 gallons of perc in order to maintain its status as a non-major source under the dry cleaner MACT. The WDNR issued Leather Rich a construction permit on October 12, 1993, with a potential-to-emit (PTE) limit of 17 tons per year (TPY) for volatile organic compounds (VOC). The permit did not reflect the request for the perc usage limit and apparently neither the WDNR nor the source followed up on the request.

Discussion between our offices suggested that, since the facility did not have a permit limiting its perc PTE below the major source level of 10 TPY before the first compliance date of the dry cleaner MACT, the facility could be subject to the MACT in accordance with the "Once In, Always In" policy set forth in the May 16, 1995, U.S. EPA memorandum entitled "Potential to Emit for MACT Standards -- Guidance on Timing

Issues".

Our conclusion regarding applicability of the "Once In, Always In" policy is that in this case the dry cleaner MACT provides for a specific method to determine source status. The applicability section of the dry cleaner MACT, 40 CFR 63.320(g), states in pertinent part, "In lieu of measuring a facility's potential to emit perchloroethylene emissions or determining a facility's potential to emit perchloroethylene emissions, a dry cleaning facility is a major source if: (1) It includes only dry-to-dry machine(s) and has a total yearly perchloroethylene consumption greater than 8,000 liters (2,100 gallons) as determined according to § 63.323(d)...."

It was the intent of the U.S. EPA Office of Air Quality Planning and Standards (OAQPS) to create a mechanism for smaller facilities to determine their applicability with ease, while granting a measure of regulatory certainty. The January 30, 1997, OAQPS memorandum entitled "Major Source Determinations for Dry Cleaners" states, "Those sources limiting their perc usage to less than ... 2100 gallons (dry-to-dry machines) are considered area sources as indicated in section 63.320(h)." Therefore, if a facility using dry-to-dry machines can successfully demonstrate that it has always consumed less than 2,100 gallons of perc per year, the facility qualifies for status under the rule as an area source. The memorandum further states that OAQPS intended that the dry cleaner MACT provide the method for identifying major sources under both the MACT program and Title V. Therefore, the MACT consumption applicability threshold applies for Title V purposes as well.

Leather Rich uses dry-to-dry machines. The facility states in its December 14, 1993, letter to the WDNR that the annual usage of perc solvent should not exceed 1,700 gallons in 1994. In addition, Leather Rich has submitted documentation that, since 1994, its 12-month rolling total consumption has always been less than 2,100 gallons per year. A fact that has yet to be reconciled with Leather Rich's stated intention to use less than 1,700 gallons of perc in 1994, is that the source reported to the WDNR that its 1994 VOC emissions were 19.2 tons. In developing the dry cleaner MACT, U.S. EPA determined that some of the total perc used is disposed of as waste and that staying under the threshold value of 2,100 gallons consumed per year ensures that perc emissions are less than 10 tons per year. To emit 19.2 tons of perc in 1994, the

facility would have had to consume about 1.92 times the 2,100 gallon threshold, or over 4,000 gallons of perc that year. If this fact is found to be in error, the facility may yet successfully claim it has remained an area source.

The facility did have a one-time purchase of 2,255 gallons of perc for initial start-up in 1993. Region 5 discussed this matter with OAQPS staff, who indicated that the consumption thresholds are intended to be surrogates for annual perc emissions which determine source status. The initial fill does not indicate perc emissions, since perc has been neither consumed nor emitted. Only perc added to the machine after the initial fill reflects perc consumption and perc emissions. Therefore, the initial fill does not count in establishing the MACT and Title V applicability status.

If the facility demonstrates that VOC emissions reported in 1994 were in error or that these emissions were not indicative of perc emissions, and that perc usage was below the 2,100 gallon threshold, the U.S. EPA would conclude, based on the accuracy of other facts already presented, that Leather Rich is an area source, not a major source, under both the dry cleaner MACT and Title V.

If the source truly emitted 19.2 tons of perc in 1994, then it violated its 1993 permit limit of 17 tons, has not represented its perc purchases accurately in this matter, and has been, and continues to be, in violation of major source requirements of the dry cleaner MACT and Title V.

If you have any questions on this matter, please contact John Kelly of my staff at (312) 886-4882.

Sincerely,

/s/

Steve Rothblatt, Chief
Air Programs Branch

cc: Hai Shen J. Chou (via electronic copy)
Wisconsin Department of Natural Resources
Southeast District

Fred Porter, OAQPS (via electronic copy)