

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)
)
Smurfit-Stone Flexible) **FINDING OF VIOLATION**
Packaging)
Schaumburg, Illinois) **EPA-5-03-15-IL**
)
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)

FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Smurfit-Stone Flexible Packaging (Smurfit) is violating Sections 112, 114 and 502 of the Clean Air Act (the Act), 42 U.S.C. §§ 7412, 7414 and 7661a, and applicable regulations. As discussed more fully below, Smurfit is violating: the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Printing and Publishing at 40 C.F.R. Part 63, Subpart KK; requirements contained in a Request to Provide Information Pursuant to the Clean Air Act; and regulations governing operating permits issued under Title V of the Act.

Statutory and Regulatory Authority

1. The NESHAP for the Printing and Publishing Industry at 40 C.F.R. Part 63, Subpart KK (Subpart KK), apply to publication rotogravure, product and packaging rotogravure and wide-web flexographic printing presses.
2. Under 40 C.F.R. §63.820(a)(1), owners and operators of each new and existing facility that is a "major source" of hazardous air pollutants (HAP), as defined in 40 C.F.R. § 63.2, at which publication rotogravure, product and packaging rotogravure, or wide-web flexographic printing press are operated must comply with the requirements of Subpart KK.
3. Under 40 C.F.R. §63.820(a)(2), owners and operators of each new and existing facility at which publication rotogravure, product and packaging rotogravure, or wide-web flexographic printing press are operated may choose to commit to and meet

the following criteria to establish the facility as an "area source":

- (i) Use less than 10 tons per each rolling 12-month period of each HAP at the facility, including materials used for source categories or purposes other than printing and publishing, and
 - (ii) Use less than 25 tons per each rolling 12-month period of any combination of HAP at the facility, including materials used for source categories or purposes other than printing and publishing.
4. Under 40 C.F.R. § 63.820(a)(5), each facility for which the owner or operator commits to the conditions of 40 C.F.R. § 63.820(a)(2) to become an area source, but subsequently exceeds either of the thresholds in 40 C.F.R. § 63.820(a)(2) for any rolling 12-month period shall be considered in violation of its commitment for that 12-month period and shall be considered a major source of HAP beginning the first month after the end of the 12-month period in which either of the HAP-use thresholds was exceeded. As a major source of HAP, each facility would be subject to the requirements of the NESHAP and can no longer be an area source eligible to use the criteria of (a)(2).
 5. Methyl ethyl ketone (MEK) is a HAP, as defined in Section 112(b)(1) of the Act, 42 U.S.C. §7412(b)(1).
 6. Section 114 of the Act, 42 U.S.C. 7414, authorizes the Administrator to require any person who owns or operates any emission source to, among other things, sample such emissions in such a manner as the Administrator shall prescribe.
 7. Title V of the Clean Air Act, 42 U.S.C. §§ 7661 et seq., establishes an operating permit program for major sources or air pollution. Section 502(d) of the Act, 42 U.S.C. 7661a(d), provides that each state must submit to the Administrator of U.S. EPA a permit program meeting the requirements of Title V.
 8. Pursuant to Section 502(b) of the Act, 42 U.S.C. §7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. Part 70, providing for the establishment of Title V permitting programs.
 9. The regulation at 40 C.F.R. §70.6(c)(5) provides that all Title V permits must require the permittee to certify compliance with the terms and conditions contained in the

permit.

10. U.S. EPA promulgated final approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg.12478), and the program became effective on that date.
11. On October 12, 2001, U.S. EPA approved 35 Ill. Admin. Code Part 205, Emissions Reduction Market System (ERMS), as part of the federally enforceable SIP for Illinois. This rule establishes a trading program for major sources of VOC emissions. 66 Fed. Reg. 52359.

Factual Background

12. Smurfit owns and operates a printing facility located at 1228 East Tower Road, Schaumburg, Illinois.
13. Smurfit's Schaumburg, Illinois facility contains packaging rotogravure and wide-web flexographic printing presses which are equipped with a capture system and control device.
14. On July 11, 2002, U.S. EPA issued a Request for Information to Smurfit under Section 114 of the Act. The Request for Information required Smurfit to conduct capture and destruction efficiency testing on all the rotogravure and flexographic presses at its Schaumburg facility to determine compliance with applicable SIP requirements. This included testing on the thermal oxidizer that controls rotogravure unit numbers 100, 110, 200 and 210, and the catalytic incinerator which controls flexographic printing line 410. Smurfit received the Request for Information on July 18, 2002. Under the Request for Information, Smurfit was required to test within 60 days of receipt, i.e., September 16, 2002, and submit the test report to U.S. EPA within 90 days of receipt, i.e., October 16, 2002.
15. Smurfit conducted the requested testing September 23-25, 2002; it submitted the test report to U.S. EPA on January 29, 2003, with follow-up information submitted on February 6, 2003.
16. On November 26, 2002, U.S. EPA issued a Request for Information to Smurfit under Section 114 of the Act. The Request for Information required Smurfit to submit information about its HAP emissions and how Smurfit calculated them.
17. According to information Smurfit supplied to U.S. EPA on

December 23, 2002, Smurfit calculates the HAP emissions from its packaging rotogravure presses using a capture efficiency of 95% and a destruction efficiency of 96.3%, based on 1990-1991 stack tests for the thermal oxidizer.

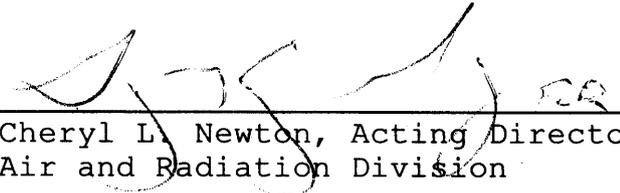
18. According to information Smurfit supplied to U.S. EPA on December 23, 2002, the HAP emitted by the packaging rotogravure presses is MEK.
19. The testing performed by Smurfit on September 22-25, 2002 indicated that the thermal oxidizer is operating with an average destruction efficiency of 87.1%.
20. Based on this average destruction efficiency, Smurfit has used and emitted 10 tons or more of MEK per rolling 12-month period.
21. On April 28, 1999, the Illinois Environmental Protection Agency issued a Title V permit to Smurfit.
22. Smurfit's Title V permit (condition 5.5.2) requires that emissions of HAPS be less than 10 tons/year for each individual HAP and less than 25 tons/year for all HAPS combined.
23. Smurfit's Title V permit contains various requirements related to the ERMS program. This includes condition 6.3 (holding ATUs in an amount not less than its VOM emissions during the preceding seasonal allotment period), and condition 6.7 (submission of Annual Emission Reports which contain actual seasonal emissions of VOM from the source).
24. Smurfit's Title V permit requires that Smurfit operate its rotogravure units numbers 100, 110, 200 and 210 with a thermal afterburner system which reduces the captured VOM emissions by at least 90 %. [condition 7.1.3(c)]

Violations

25. Smurfit is in violation of Section 112 of the Act and the regulations at 40 C.F.R. Part 63, Subpart KKK. Smurfit has used and emitted 10 tons or more of MEK per rolling 12-month period, in violation of 40 C.F.R. § 63.820(a)(2). In addition, although Smurfit's printing facility is a "major source" of HAPS, as defined in 40 C.F.R. §63.2, Smurfit has not complied with the requirements of Subpart KKK. 40 C.F.R. §63.820(a)(1).

- 26. Smurfit is in violation of Section 114 of the Act in that it was late in both performing the testing and submitting the test reports that were required by the July 11, 2002 Request for Information.
- 27. Smurfit is in violation of Title V of the Act, the regulations at 40 C.F.R. Part 70 and its Title V permit in that it is not compliance with, among other provisions, conditions 5.5.2, 6.3, 6.7 and 7.1.3(c) of its Title V permit.

6/3/03
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation and Finding of Violation, No. EPA-5-03-14-IL and EPA-5-03-15-IL, by Certified Mail, Return Receipt Requested, to:

Norman Humitz
Environmental Manager
Smurfit Stone Flexible Packaging
1228 East Tower Road
Schaumburg, Illinois 60173

I also certify that I sent copies of the Notice of Violation and Finding of Violation , by first class mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

on the 4th day of June, 2003.


Betty William, Secretary
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0178 3141