

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
SAPPI Fine Paper) **FINDING OF VIOLATION**
North America)
Muskegon Mill) **EPA-5-04-MI-07**
Muskegon, Michigan)
)
)
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)
)

FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) finds that SAPPI North America Corporation (SAPPI) is violating Section 111(e) of the Clean Air Act (the Act), 42 U.S.C. § 7411(e). Specifically, SAPPI is violating the New Source Performance (NSPS) for Kraft Pulp Mills at 40 C.F.R. Part 60, Subpart BB as follows:

Regulatory Authority

1. Section 111(a)(2) of the Act, 42 U.S.C. § 7411(a)(2), defines the term "new source" as any stationary source, the construction or modification of which is commenced after the publication of regulations prescribing a standard of performance applicable to such source.
2. Section 111(e) of the Act, 42 U.S.C. § 7411(e), provides that after the effective date of a standard it is unlawful for any owner or operator of any new source to operate such source in violation of that standard.
3. Construction or modification is "commenced," as defined at 40 C.F.R. § 60.2, when an owner or operator of a stationary source undertakes "a continuous program of construction or modification," or enters into a "contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification."
4. 40 C.F.R. § 60.15(b) defines "reconstruction," as "the replacement of components of an existing facility to such an

extent that: (1) [t]he fixed capital cost of the new components exceed 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and (2) [i]t is technologically and economically feasible to meet the applicable standards in this part.

5. 40 C.F.R. § 60.15(c) defines "fixed capital cost" as the capital needed to provide all the depreciable components.

6. Under 40 C.F.R. § 60.15(d), the owner or operator of an existing facility who proposes to replace components, and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, shall notify the Administrator of the proposed replacements.

7. 40 C.F.R. § 60.15(a) states that upon reconstruction, an existing facility becomes a new source or affected facility irrespective of any change in the emission rate.

8. On February 23, 1978, in accordance with Section 111(b) of the Act, U.S. EPA promulgated the NSPS for the Kraft Pulp Mills, which is codified at 40 C.F.R. Part 60, Subpart BB, §§ 60.280 - 60.285 (43 Fed. Reg. 7568).

9. The U.S. EPA promulgated revisions to these regulations on May 20, 1986, at 40 C.F.R. §§ 60.280 - 60.285 (51 Fed. Reg. 18544 - 18545).

10. 40 C.F.R. § 60.281(a) defines a "Kraft Pulp Mill" as any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

11. 40 C.F.R. Part 60, Subpart BB, applies to digester systems, brown stock washer systems, multiple-effect evaporator systems, recovery furnaces, smelt dissolving tanks, lime kilns, and condensate stripper systems.

12. 40 C.F.R. § 60.7 requires that any owner or operator subject to the provisions of Part 60 provide written notification of the date of construction, the date of start up, and the date of any physical or operational change to an NSPS affected facility.

13. 40 C.F.R. § 60.8 provides that, within 60 days after achieving the maximum production rate at which the effected

facility will be operated, but no later than 180 days after the initial startup of such facility, the owner or operator of such facility must conduct a performance test and furnish the administrator a written report of the results of such performance test.

14. 40 C.F.R. § 60.282(a) provides that on and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged from any recovery furnace any gases which contain particulate matter in excess of 0.044 gr/dscf.

15. 40 C.F.R. § 60.283(a)(2) provides that no owner or operator subject to the provisions of 40 C.F.R. Subpart BB shall cause to be discharged into the atmosphere from any straight kraft recovery furnace any gases which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 8 percent oxygen.

16. 40 C.F.R. § 60.284(a) provides that any owner or operator subject to the provisions of 40 C.F.R. Subpart BB shall install, calibrate, maintain, and operate the following continuous monitoring systems: (1) a continuous monitoring system (CEM) to monitor and record the opacity of gases discharged into the atmosphere from the recovery furnace; (2) a CEM to monitor and record the concentration of TRS emissions on a dry basis and the percent of oxygen by volume on a dry basis, in the gases discharged into the atmosphere from a recovery furnace.

17. 40 C.F.R. § 60.284(c)(1) provides that any owner or operator subject to 40 C.F.R. Part 60, Subpart BB shall calculate and record on a daily basis, 12-hour average TRS concentrations for the two consecutive periods of each operating day. Each 12-hour average shall be determined as the arithmetic mean of the appropriate 12 continuous 1-hour average total reduced sulfur concentrations provided by each CEM installed under 40 C.F.R. § 60.284(a)(2).

18. 40 C.F.R. § 60.284(c)(2) provides that any owner or operator subject to 40 C.F.R. Part 60, Subpart BB shall calculate and record on a daily basis 12-hour average oxygen concentrations for the two consecutive periods of each operating day for the recovery furnace. These 12-hour averages shall correspond to the 12-hour average TRS concentrations under 40 C.F.R. § 60.284(c)(1) and shall be determined as an arithmetic mean of the appropriate 12 continuous 1-hour average oxygen concentrations provided by each continuous monitoring system installed under 40 C.F.R. § 60.284(a)(2).

19. 40 C.F.R. § 60.284(d)(1) provides that for the purpose of reports required under § 60.7(c), any owner or operator subject to 40 C.F.R. Subpart BB shall report semi-annually periods of excess emissions from any recovery furnace.

Factual Background

20. SAPPI owns and operates a recovery furnace at its kraft pulp mill located at 2400 Lakeshore Drive, Muskegon, Michigan (Muskegon Mill).

21. Between at least 1982 and present, SAPPI performed numerous life extension projects at its recovery furnace to extend its useful life. Such projects included, but are not limited to: replacing the furnace walls, furnace bottom, super heater, economizer, generating bank, drum; and adding new soot blowers, port rodders and instrumentation.

22. The fixed capital costs of the new components installed under the projects mentioned above exceeded 50% of what it would cost to build a comparable entirely new recovery furnace. Therefore, the projects have triggered the NSPS "reconstruction" provision in 40 C.F.R. § 60.15, subjecting the recovery boiler to the requirements of NSPS at 40 C.F.R. Part 60, Subpart BB.

Violations

23. Pursuant to 40 C.F.R. § 60.15(a), the recovery furnace is an affected facility and subject to the provisions of 40 C.F.R. Part 60, Subpart BB, 40 C.F.R. §§ 60.280 - 60.285, for particulate matter and total reduced sulfur.

24. SAPPI failed to notify U.S. EPA of the life extension projects which resulted in reconstruction of the recovery furnace, in violation of 40 C.F.R. §§ 60.7 and 60.15(d).

25. The recovery furnace is in violation of the compliance and performance test methods and procedures requirements for particulate matter and total reduced sulfur as set forth in 40 C.F.R. § 60.285.

26. The recovery furnace is in violation of the emission monitoring requirements for opacity and total reduced sulfur as set forth in 40 C.F.R. § 60.284.

27. SAPPI's Renewable Operating Permit issued on January 14, 2002, allows the recovery furnace to emit particulate matter at a rate of 0.096 grains per dry standard cubic foot, in violation of

the limit set forth in 40 C.F.R. § 60.282(a).

27. SAPPI's Renewable Operating Permit issued on January 14, 2002, allows the recovery furnace to emit gases containing 20 ppm TRS by volume, in violation of the limit set forth in 40 C.F.R. § 60.283(a)(2).

12/19/03
Date

for Alan P. Tupper
Stephen Rothblatt, Director
Air and Radiation Division