



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

REPLY TO THE ATTENTION OF:

AR-18J

Steven S. Pak, P.E.
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

Re: Sappi Cloquet LLC, Cloquet, MN Facility

Dear Mr. Pak:

This letter provides the U.S. Environmental Protection Agency's response to two questions posed by Sappi Cloquet, LLC (Sappi) regarding its Cloquet, Minnesota facility. This response is based on information provided in Sappi's letter to EPA dated June 9, 2009, the Minnesota Pollution Control Agency's (MPCA) letter to EPA dated June 24, 2009, as well as applicable regulations. Specifically, by its letter dated June 9, 2009, Sappi requested EPA's position on the following two questions regarding its proposed project at its Cloquet facility:

1. Should condensable particulate matter (PM) be included in Prevention of Significant Deterioration (PSD) applicability analyses when analyzing emissions of particulate matter of less than 2.5 microns in size (PM_{2.5})?
2. If Sappi's proposed project is subject to PSD requirements, does the environmental review analysis which Sappi submitted to MPCA in support of its construction permit application meet the requirements for an Endangered Species Assessment?

A. PSD Applicability Analysis

In June 2008, Sappi applied to MPCA for a construction permit for its Cloquet facility for a project that would increase its PM_{2.5} emissions by 7 tons per year if condensable PM is not included in its emissions. If condensable PM is included in its emissions calculations, its PM_{2.5} emissions would increase by 22 tons per year. The PSD significance threshold for PM_{2.5} is 10 tons per year.

On May 16, 2008, EPA promulgated its final rule on implementation of PSD for PM_{2.5}. MPCA is the delegated authority to implement this rule on behalf of the federal government. In its June 9, 2009 letter, Sappi asserts that although PM_{2.5} emissions are now included in the PSD applicability analysis, condensable PM should not be included in PSD applicability analysis prior to January 1, 2011. Sappi bases its position on the May 16, 2008 rulemaking, and specifically, on the provisions of 40 C.F.R. 52.21 (b) (50) (vi):

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

73 Fed. Reg. 28321, 28334-35, 28349 (May 16, 2008).

Notwithstanding the above regulatory language, the May 16, 2008 rulemaking specifically provides discretionary authority to states to control condensable PM and to require condensable PM in PSD applicability analyses prior to the regulatory deadline. Specifically, the preamble to the May 16, 2008 rulemaking states as follows:

After January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), EPA will require that NSR permits include limits of condensable emissions, as appropriate. Prior to this date, States are not prohibited from establishing emissions limits in NSR permits that include the condensable fraction of direct PM_{2.5}.

.....

States that have developed the necessary tools are not precluded from acting to measure and control condensable PM emissions in NSR permit actions prior to the end of the transition period, especially if it is required in an applicable SIP.

.....

Notwithstanding the issues and uncertainties related to condensable PM, we encourage States to begin immediately to identify measures for reducing condensable PM emissions in major NSR permit actions, particularly where those emissions are expected to represent a significant portion of total PM emissions from a source.

73 Fed. Reg. at 28334-35.

Correspondingly, by memorandum dated July 18, 2008, and titled "MPCA Plan Implementing PM_{2.5} Rule in PSD Program," the MPCA confirmed its SIP implementation practice:

Condensable Particulate Matter (CPM)

Under the Rule, condensable PM (which begins in gaseous form and condenses when cooled) does not need to be regulated until EPA has completed an assessment of test methods or no later than January 1, 2011. This determination applies to both PM_{2.5} and PM₁₀ and allows states not to include CPM in PSD applicability decisions or emission limits. However, the rule gives states the ability to include CPM.

The MPCA currently regulates condensables under PM₁₀, and the MPCA will continue to include condensable particulate matter, both organic and inorganic, when evaluating

PM_{2.5} and PM₁₀ for PSD applicability and emission limits.

Based on the above, it is EPA's position that condensable PM should be included in PSD applicability determinations, and, therefore, the proposed project at the Sappi Cloquet facility will result in an increase in PM_{2.5} emissions by 22 tons per year, which is an amount which exceeds the PSD threshold.

B. Endangered Species Act

Because this project is subject to federal PSD permit requirements, it is also subject to the requirements of the Endangered Species Act (ESA). Sappi asserts that the environmental review analysis which Sappi submitted to MPCA in support of its construction permit application indicates that the proposed project will not cause any discernable change from baseline conditions, and does not have the potential to affect listed species or critical habitat. Sappi therefore asserts that the EPA should not require an ESA consultation. Correspondingly, by its June 24, 2009 letter, MPCA states that the analysis done for the Environmental Assessment Worksheet, which is part of the environmental review analysis, should suffice as a substitute for the ESA consultation. Nonetheless, the type of information provided in the Environmental Assessment Worksheet would not typically provide the level of detail required for an evaluation under the ESA. Based on available information, a federally listed species may be present in the area. Therefore, EPA will work with the U.S. Fish and Wildlife Service to determine the potential for the listed species to be present in the action and, if necessary, what information might be necessary to complete any consultation requirements under the ESA. EPA has begun discussions with the U.S. Fish and Wildlife Service and will contact Sappi directly if any additional information is determined to be necessary.

If you have any questions please feel free to contact Genevieve Damico, of my staff, at (312) 353-4761.

Sincerely,

A handwritten signature in cursive script that reads "Susan Castellano for P/B".

Pamela Blakley, Chief
Air Permits Section