

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** )  
 )  
XCTC, Limited Partnership ) **NOTICE OF VIOLATION**  
Chicago, Illinois )  
 ) **EPA-5-99-IL-20**  
Proceedings Pursuant to )  
Section 113(a)(1) of the )  
Clean Air Act, )  
42 U.S.C. § 7413(a)(1) )  
\_\_\_\_\_ )

**NOTICE OF VIOLATION**

The Administrator of the United States Environmental Protection Agency ("U.S. EPA"), by authority duly delegated to the undersigned, is issuing this Notice of Violation pursuant to Section 113(a)(1) of the Clean Air Act. U.S. EPA hereby notifies the State of Illinois and XCTC, Limited Partnership, formerly FSC Paper Company, L.P. and Chicago Tissue Company, L.P., ("XCTC") that U.S. EPA finds that XCTC has violated the Federal Implementation Plan ("FIP"), the Illinois State Implementation Plan ("SIP") and the Clean Air Act at the facility it formerly owned, which is located at 13101 South Pulaski Road, Alsip, Illinois 60658.

**Statutory and Regulatory Background**

1. On July 2, 1979, U.S. EPA promulgated 40 C.F.R. § 52.24. 44 Fed. Reg. 38471.
2. 40 C.F.R. § 52.24(a) prohibited, after June 30, 1979, the construction or modification of any major stationary source in any nonattainment area as designated in 40 C.F.R. Part 81, Subpart C to which any SIP applied, unless, at the time of application for a permit for construction, the SIP met the requirements of Part D, of the Clean Air Act, 42 U.S.C. §§ 7501, et seq. Because Illinois had not submitted an approvable plan for the regulation of construction in nonattainment areas by July 2, 1979, the construction ban established by 40 C.F.R. § 52.24 applied to nonattainment areas in Illinois.
3. 40 C.F.R. § 52.24(f)(4)(i)(a) defines "major stationary source" as any stationary source of air pollutants which emits or has the potential to emit 100 tons or more of any

pollutant subject to regulation under the Clean Air Act.

4. On June 29, 1990, U.S. EPA promulgated 40 C.F.R. § 52.741. . 55 Fed. Reg. 26856. 40 C.F.R. § 52.741(x) required compliance with its requirements on and after July 1, 1991. It applies to sources with maximum theoretical emissions of 100 tons or more of volatile organic materials ("VOM") per calendar year if no air pollution control equipment were used and which are not limited to less than 100 tons of VOM emissions per calendar year in the absence of control equipment, through production or capacity limitations contained in a federally enforceable construction permit or a SIP or FIP revision.
5. 40 C.F.R. § 52.741(x) requires in applicable part that each owner or operator of an emission source subject to this paragraph either achieve capture and control of VOM emissions of at least 81 percent or have an alternative emission control plan approved by the Administrator as a SIP or FIP revision.
6. On December 17, 1992, U.S. EPA approved Illinois Pollution Control Board rule 203: Major Stationary Source Construction and Modification codified at 35 Illinois Administrative Code ("IAC") Part 203 as part of the federally enforceable SIP for the State of Illinois. 57 Fed. Reg. 59928. 35 IAC Part 203 governs the construction of new major stationary sources and major modifications to major stationary sources in nonattainment areas. 35 IAC part 203 became effective on February 16, 1993.
7. When 35 IAC Part 203 became effective as part of the SIP, U.S. EPA revoked the restriction on construction and modification of major sources in nonattainment areas in Illinois established by 40 C.F.R. § 52.24(a).
8. 35 IAC § 203.601 provides that no person shall cause or allow the operation of a new major stationary source or major modification to a major stationary source in a nonattainment area, except in compliance with applicable lowest achievable emission rate ("LAER") provisions established pursuant to 35 IAC § 203.301 for such source or modification.

#### **Factual Background**

9. XCTC, then doing business as FSC Paper Company, constructed in 1988 and 1989 a tissue manufacturing facility at 13101

South Pulaski Road in Alsip, Illinois.

10. XCTC, initially as FSC Paper Company and then as Chicago Tissue Company, owned and operated the tissue manufacturing facility from 1988 until 1995.
11. The tissue manufacturing facility had both the potential to emit more than 100 tons per year of VOM, and maximum theoretical emissions of over 100 tons per year VOM in the absence of control equipment. VOM emissions from the tissue manufacturing facility were not limited through production or capacity limitations contained in a federally enforceable construction permit or a SIP or FIP revision.

**Findings of Violation**

12. XCTC, as FSC Company, constructed the tissue manufacturing facility in violation of 40 C.F.R. § 52.24 and the Act.
13. XCTC, as FSC Company and Chicago Tissue Company, operated the tissue manufacturing facility in violation of 40 C.F.R. § 52.741(x) and the Act from July 1, 1991 through February 15, 1993.
14. XCTC, as FSC Company and Chicago Tissue Company, operated the tissue manufacturing facility without achieving control of VOM, as required in 35 IAC § 203.301 from February 16, 1993 until it sold the facility, in violation of 35 IAC § 203.601 and the Act.

5-17-99

Date

Richard C Karl

Richard C. Karl, Acting Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Betty Williams, certify that I sent a Notice of Violation, issued pursuant to the Clean Air Act, by Certified Mail, Return Receipt Requested, to:

James Harrington  
Ross & Hardies  
150 North Michigan Avenue  
Chicago, Illinois 60601

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

David Kolaz, Chief  
Bureau of Air  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency  
2200 Churchill Road  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Kenneth W. Bosworth, President  
XCTC, L.P.  
333 West Wacker Dr.  
Chicago, Illinois 60606-9636

on the 17<sup>th</sup> day of May, 1999.

  
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Betty Williams, Secretary  
AECAS, (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P140779117