

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:)	Permit No.: 0050009-032-AV
)	
Smurfit-Stone Container Corporation)	
Panama City Mill)	
)	
Petitioner)	File No.: 11-A-AP

ORDER ON REQUEST
FOR
ALTERNATE PROCEDURES AND REQUIREMENTS

Pursuant to Rule 62-297.620, Florida Administrative Code (F.A.C.), Smurfit-Stone Container Corporation (Petitioner), a Kraft pulp and paper mill, has petitioned for approval of a variance request for several stack sampling facility requirements in the Title V permit for the Panama City Mill located in Okaloosa County, Florida. The Petitioner requested approval to use the current port locations in the existing stacks, Kiln Stack EU004, Slaker Stack EU005, and #2 Recovery Boiler Stack EU019 for EPA Method 5 testing. These port locations do not meet the current requirements contained in EPA Method 1, paragraph 11.3.1.2. The basis for the request is the method allows for the use of alternate locations if there is sufficient distance from the flow disturbance, subject to approval.

Smurfit-Stone Container Corporation has also petitioned for approval of alternate sampling equipment support requirements for emission units EU004, EU005, and EU019 at its Panama City Mill. Petitioner's justification for this request is its assertion that construction and installation of the eyebolts and angle brackets described in Appendix SS-1, Stack Sampling Facilities paragraph (g) of the facility's permit would not enhance the quality of stack testing data and would cause an unnecessary burden on the facility.

Petitioner's Kiln Stack EU004 does not comply with Appendix SS-1 (d) Work Platforms section of the facility's permit. The sampling platform does not extend 110 degrees around the stack and currently ranges from 24 to 34 inches wide, not 36 inches required in Petitioner's permit. The basis of the request is neither the length or width of the sampling platform has prevented or impaired normal stack testing activities. The construction of a new platform would be a considerable expense to the facility without enhancing the current quality of stack testing data.

Having considered Petitioner's written request and all supporting documentation, the following Findings of Fact, Conclusions of Law, and Order are entered:

FINDINGS OF FACT

1. Smurfit-Stone Container Corporation conducted an audit for compliance with Appendix SS-1, Stack Sampling Facilities of its facility's Title V permit. The Petitioner discovered several items which did not comply with the facility's permit and a variance request was made. The Department received Petitioner's request for approval of a variance pursuant to Rule 62-297.620, F.A.C. on stacks EU-004, EU-005, and EU-019. The Petitioner's emission units which are affected by this request are subject to the requirements of 40 CFR 63, Subpart MM, 40 CFR 64, CAM Plan for SO₂, 40 CFR 60, Subpart BB and Rule 62-296.404, F.A.C.

2. The Petitioner conducted an audit for compliance with Appendix SS-1, Stack Sampling Facilities and found Emission Units (EU) 004, 005, and 019 do not comply with paragraph (g) Sampling Equipment Support section of Appendix SS-1. The stacks are not compliant with the eyebolts and angle brackets described in paragraph (g).

3. As a basis for the request, the Petitioner's emissions sampling team, which has conducted emissions test at the mill since 2002 has never seen the need to require the installation and use of any special "L" type brackets to support monorails for the purpose of emissions sampling. The sampling locations thus far have lent themselves to the usage of probe stands or other probe support equipment.

4. Petitioner's Kiln Stack EU004 does not comply with paragraph (d) of Appendix SS-1 of the facility's Title V permit. The sample platform is not 110 degrees around the stack and the width does not meet the 36 inch requirement. The sample platform ends right at one sample port and extends slightly beyond the other. The ports are located 90 degrees apart. Once again, the stack configuration has posed no problem for the emissions test team or impaired the quality of stack emission data.

5. Kiln Stack EU004, Slaker Stack EU005, and #2 Recovery Boiler Stack EU019 port locations do not meet the current requirements contained in EPA Method 1, paragraph 11.3.1.2. The Petitioner requested approval to use the current port locations in the existing stacks for EPA Method 5 testing.

6. Slaker Stack EU005 is the original equipment and is too short to meet the 2 stack diameters downstream and 0.5 stack diameters upstream of any flow disturbance criteria. The sampling ports are currently located at 1.1 stack diameters downstream and 1.4 stack diameters upstream of the nearest flow disturbance. The facility could relocate the ports, which still would not meet the disturbance criteria and this would necessitate moving sampling platform at a considerable expense.

7. The #2 Recovery Boiler EU019 is the original equipment and is also too short to meet the 2 stack diameters downstream and 0.5 stack diameters upstream of any flow disturbance criteria in paragraph (c) of Appendix SS-1. The current sampling port locations are 1.4 stack diameters downstream and 0.8 stack diameters upstream of the nearest flow disturbance. Moving the ports would not result in a significant improvement and the current location has not affected the quality of data produced by EPA Method 5 test.

8. The Petitioner installed a flowmeter as part of the FDEP required NO_x continuous emissions monitoring system on Kiln Stack EU004. To bring the monitoring system into compliance with Performance Specification standards, flow straightening vanes were installed to eliminate cyclonic flow. Appendix SS-1 paragraph (c) criteria was compromised with the installation of the straightening vanes and no longer met the 2 stack diameters upstream and 0.5 diameters downstream port location. The installation of the flow straightening vanes eliminated cyclonic flow, therefore the straightening vanes should not be considered a flow disturbance.

CONCLUSIONS OF LAW

1. The Department has jurisdiction to consider Petitioner's request pursuant to Section 403.061, Florida Statutes (F.S.), and Rule 62-297.620, F.A.C.

2. Petitioner has provided sufficient justification that the sampling ports are located at a sufficient distance from the last disturbance and these locations can be used for EPA Method 5 sampling.

3. Petitioner has provided sufficient justification that the lack of eyebolts and angle brackets does not impair stack testing activities nor compromise the quality of stack test data.

4. Petitioner has provided sufficient justification that the sampling platform located on Kiln Stack EU004 is adequate in conducting stack testing activities.

ORDER

Having considered Petitioner's written request and supporting documentation, it is hereby ordered that:

1. The existing locations sampling ports on EU004, EU005, and EU019 meet the requirements contained in Paragraph 11.3.1.2 of EPA Method 1.

2. The existing stack sampling platform on Kiln Stack EU004 is suitable for meeting the stack emissions testing requirements outlined in the Petitioner's Title V permit.

3. The current stack configurations, due to the lack of eyebolts and angle brackets on EU004, EU005, and EU019 are suitable for meeting Petitioner's stack testing requirements.

4. This Order shall not abrogate the Petitioner's obligation to comply with any periodic monitoring requirements established pursuant to the provisions of the Federal Clean Air Act (42 USC 1857, et seq) as amended in 1990.

5. The Petitioner shall incorporate this order into the permit at the next opening for revision or renewal.

6. If an application to incorporate this order into the permit at the next opening for revision or renewal is not made, this order shall expire on February 10, 2016.

7. When incorporated into the permit, this order shall remain in effect until the underlying rule requirement for this order is modified or changed. At that time the Petitioner shall submit a new request, if required, in accordance with Rule 62-297.620, F.A.C., "**Exceptions and Approval of Alternate Procedures and Requirements**", to the Bureau of Air Monitoring and Mobile Sources.

PETITION FOR ADMINISTRATIVE REVIEW

The Department's Proposed Agency Action will become final upon expiration of the petition period described below unless a timely petition for an Administrative Hearing is filed pursuant to Sections 120.569 and 120.57 F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Proposed Agency Action may petition for an Administrative Proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within

21 days of receipt of this Notice of Intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the Public Notice or within 21 days of receipt of this notice, whichever occurs first. Under Section 120.60(3), however, any person who asked the Department for Notice of Agency Action may file a petition within 21 days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an Administrative Determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a Motion in Compliance with Rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of how and when petitioner received notice of the agency action or proposed action;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301

Because the Administrative Hearing process is designed to formulate Final Agency Action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

NOTICE OF APPEAL RIGHTS

Any party to this order has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days after this order is filed with the clerk of the Department.

DONE AND ORDERED this 11 day of February, 2011 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Trina Vielhauer, Acting Director
Division of Air Resource Management
Mail Station 5500
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
(850) 921-9540

Clerk Stamp

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


(Clerk)

2/11/11
(Date)