



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 19 2000

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copy Bruce
Sent to: Chris K

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SEP 21 2000

DIVISION OF AIR
RESOURCES MANAGEMENT

Howard L. Rhodes, Director
Department of Environmental Protection
Division of Air Resources Management
Mail Station 5500
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

SUBJ: EPA's Objection to Proposed Title V Permit for
Jefferson Smurfit Corporation, Permit Number 0310003-001-AV

Dear Mr. Rhodes:

The purpose of this letter is to acknowledge the receipt of the State of Florida's proposed changes to the Jefferson Smurfit Corporation, proposed title V permit, dated September 1, 2000, which was the subject of a U.S. Environmental Protection Agency (EPA) title V objection on June 2, 2000. EPA Region 4 has completed its review of the proposed changes to the permit and believes that the State has adequately addressed each of the issues enumerated in the objection. Therefore, EPA considers the objection to be resolved. Once the State's proposed changes are incorporated into the permit, the State may proceed with permit issuance. Please note, however, that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that were not raised during permit review. After final issuance, this permit may be reopened if EPA or the permitting authority later determines that it must be revised or revoked to assure compliance with applicable requirements.

We commend the efforts of your staff for facilitating the resolution of the permit issues. If you have any questions about this letter, please contact Mr. Gregg Worley, Chief, Operating Source Section at (404) 562-9141.

Sincerely,

Winston A. Smith
Director
Air, Pesticides and Toxics
Management Division

cc: Mr. Hollis H. Elder
Jefferson Smurfit Corporation

Mr. Christopher L. Kirts, P.E.
FDEP - NE District

8-31-2000
~ noon
Gray called and said that
she had spoken to Leslie
and it looks like all
issues have been
resolved.
Ben

Attachment
Response to
U.S. EPA Region 4 Objection
Proposed Part 70 Operating Permit
Jefferson Smurfit Corporation
Jacksonville Mill
Permit no. 0310003-001-AV

I EPA Objection Issues

1. Periodic Monitoring - Capacity: Conditions A.1, B.1, C.1, D.1, D.3, and E.1 specify the maximum capacity for the units at this facility. For all the conditions listed above, periodic monitoring requirements sufficient to assure compliance with these capacity limitations need to be included in the permit. However, if the capacity conditions are being included to ensure that stack testing is representative of normal operation, then a permitting note must be added to this condition to clarify that it is not intended as an enforceable limit, as stated in previous permits issued by the State.

Response:

This note has been added to each-

{Permitting note: The heat input limitations have been placed in each permit to identify the capacity of each unit for the purposes of confirming that emissions testing is conducted within 90 to 100 percent of the unit's rated capacity (or to limit future operation to 110 percent of the test load), to establish appropriate emission limits and to aid in determining future rule applicability.}

2. Methods of Operation: Condition A.2 of the permit describes alternative fuel usage combinations for unit 013, which include the use of no. 2 and 6 fuel oils. However, a review of condition 10 of the construction permit for this unit (no. AC16-234532) indicates that the usage of fuel oil no. 6 is limited to startup, shutdown and malfunctions. Also, the use of fuel oil no. 2 is not addressed in the construction permit referenced above or in the title V permit application for Jefferson Smurfit. EPA is not aware of any permit modifications associated with this unit and could not find any documentation as to whether this change was evaluated to determine its effect on the emissions from the no. 10 power boiler. The permit must be revised to include the limitation for the use of no. 6 fuel oil for startup, shutdown and malfunctions only and to delete the references to the use of no. 2 fuel oil. However, if the facility wants to use these fuels in the manner described in condition A.2 of the title V proposed permit, the appropriate documentation must be provided in the statement of basis to support these

changes in operation.

Response:

This phrase has been added to Condition A.2. – No. 6 fuel oil is limited to start-up, shutdown and malfunctions only. The reference to the use of no. 2 fuel oil has been deleted.

3. Parametric Monitoring - Particulate Matter and Sulfur Dioxide: Conditions A.19 and C.7 of the permit specify parametric monitoring that may be indicative of the compliance status with the particulate matter and sulfur dioxide limits for unit 013 and the particulate matter limit for unit 004. However, the statement of basis fails to describe how the parameters selected and the numeric values assigned to them correlate to the emissions from these units. To resolve this deficiency, the statement of basis must contain an adequate demonstration (historical data, performance test, etc.) to support the numeric values being used to assure compliance with the emission limitations. The procedure used to establish the parametric range that is representative of proper operation of the control equipment and the frequency for re-evaluating the range must be specified in the permit. Also, the permit must include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department must set the appropriate percentage of the operating time that would serve as trigger for this testing requirement.

Response:

Condition A.19 addresses parametric monitoring as an alternate to the requirement for continuous opacity monitoring to demonstrate compliance with particulate matter and opacity emissions limitations for EU 013.

The Statement of Basis shall be revised to include: Particulate matter and opacity tests were conducted by Exeter Engineering on EU013 during April 1 through 3, 1985. A report, "Particulate/Opacity Emissions Investigation", was submitted to the Department on April 2, 1986. The objective of the tests was to determine the minimum scrubber flow rate and the minimum venturi pressure drop required to comply with the opacity and particulate emission requirement. The unit was operated with venturi flow rates of 0 to 2400 gallons per minute and a venturi pressure drop of 10.5 to 20 inches. At a venturi scrubber flow rate of 240 gpm and a venturi pressure drop of 10.5 inches, an opacity of 3% was determined and the PM emission was 34% of allowable. It was recommended that a venturi pressure drop of 10.5 inches or greater be established as a surrogate parameter for the continuous opacity monitoring requirement of the construction permit. On September 3, 1987 the Department modified Construction Permit No. AC16-33885 with the addition of Specific Condition 19 (new) which provided as follows: " A minimum pressure drop of 10.5 inches of water and a minimum

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does not
once/shift
PROPOSED: continuously

think

venturi flow rate of 400 gallons per minute of water shall be required. The pressure drop and venturi flow rate shall be monitored and recorded once per shift. Should either parameter be less than the requirement for two consecutive shifts the Department may require and emission performance test. Copies of the report required by 40CFR 60.7 shall be submitted to the ~~BESD~~ RESD.”

Condition A.19 shall be revised to include the following statement: The pressure drop and venturi flow rate shall be monitored and recorded once per shift. Should either parameter be less than the requirement for two consecutive shifts the Department may require and emission performance test.

Response: Specific Condition A.25 has been added...

A. 25. Periodic Monitoring. Within 60 days from the date operation commences the permittee shall submit a sulfur dioxide periodic monitoring plan for Department approval. The periodic monitoring plan must demonstrate reasonable assurance of compliance with the permit standards. Once approved by the Department, the permit will be modified to incorporate the periodic monitoring plan. If reasonable assurance can not be demonstrated, the permittee shall conduct quarterly compliance testing until a periodic monitoring plan has been approved by the Department.

[Rule 62-213.440(4), F.A.C.]

*** NOTE**

The Periodic Monitoring Plan must contain:

1. The parameters to be monitored
2. The methodology for determining acceptable ranges for these parameters
3. The frequency of the monitoring

C.7. The Smelt Dissolving Tank (EU004) is discussed in objection issue7.

4. **Emission Limits:** Conditions A.4 to A.6, B.4, B.5, C.4, D.5, D.6, D.8, D.12, E.4 contain equivalent emissions for the NO_x, SO₂, TRS and PM limits. It is not clear whether the facility is required to demonstrate compliance with these equivalent emissions and what the basis for these limits are. Based on the review of several of the construction permits for this facility, it appears that the limitations are separate and that compliance with all the limitations shall be demonstrated by the facility. The permit conditions must be revised to delete the term “equivalent emissions” since it appears that the facility is required to demonstrate compliance with all the limitations.

Response: The term equivalent emissions have been removed from Conditions A.4 to A.6,

B.4, B.5, C.4, D.5, D.6, D.8, D.12 and E.4.

- 5 Operation and Maintenance Plans: Conditions A.10, C.6, D.10, D.13 require the facility to comply with the Operation and Maintenance Plans for the units. Some of the plans were included in the permit application for the facility. Based on the review of the available plans, it appears that they are the monitoring plans for the various units. If this is the case, these plans do not fully meet the criteria outlined in EPA's December 24, 1998, letter to all the States addressing the use of monitoring plans in title V operating permits (see attachment 1). Also, these documents have not been made part of the permit as an attachment or incorporated by reference. At a minimum, these plans must be made part of the permit so they can undergo the appropriate review by the public and EPA and they need to be revised to conform with the criteria described in the EPA letter referenced above.

Response:

The Operation and Maintenance (O&M) ^P ^{incorporate} plans for Conditions A.10, C.6, D.10 and D.13 have been made a part of the Title V Permit as ~~attachments~~ ^{plans} and referenced in the Specific Conditions. The Placard page will ~~state~~ ^{list} the O&M ~~attachments~~ ^{plans}. The O&M ~~plans~~ ^{plans}, along with the periodic monitoring plans have been checked for consistency with the EPA guidance letter and should provide reasonable assurance ~~of compliance with the permit standards.~~

Specific Condition D.23 has been added ...

Periodic Monitoring. Within 60 days from the date operation commences the permittee shall submit a particulate matter, sulfur dioxide and V.E. periodic monitoring plan for Department approval. The periodic monitoring plan must demonstrate reasonable assurance of compliance with the permit standards. Once approved by the Department, the permit will be modified to incorporate the periodic monitoring plan. If reasonable assurance can not be demonstrated, the permittee shall conduct quarterly compliance testing until a periodic monitoring plan has been approved by the Department.

[Rule 62-213.440(4), F.A.C.]

* See Periodic Monitoring note under Objection Issue No. 3.

6. Missing Applicable Requirement - SO₂ and NO_x: Certain provisions of condition 9 from permit AC16-234532, dated July 1, 1995, have not been incorporated in the title V permit. The condition outlines how the facility will calculate the ton per year emissions for SO₂ and NO_x and how to determine the emissions for periods during CEM outages. These conditions appear to be separate from the first two sentences of the condition, which outline the monthly reporting of emissions of SO₂ and NO_x until the SNCR became operational. Therefore, the

remaining portions of condition 9 must be incorporated in the title V permit for this facility.

Response: **Specific Condition A.25** has been added to Monitoring of Operations.
A.25. SO₂ and NO_x emissions in tons per month, for compliance with the tons per year requirements, shall be determined using CEMS, Method 19 and the actual operating hours. Emissions for periods of CEMS outages in excess of 2% of the operating hours in the month shall be determined by using the highest 24 hour in the (00:00AM-11: 59PM) emissions rate for the period.

7. Parametric Monitoring - TRS: Condition C.7 states the following: “The permittee shall comply with the surrogate parameter of 25 gpm of weak wash flow to the scrubber.” According to the description of the unit, the wet scrubber is used to control both particulate matter and TRS. Based on the rule cited as basis for this condition, it appears that the pollutant being evaluated is TRS. However, the permit does not provide any information about the correlation developed between the gallons per minute of weak wash flow and the pollutant for which it is being used as surrogate. The permit condition must be revised to clearly establish which pollutant this parameter is assuring compliance. Also, the permit must include a condition establishing the frequency for re-evaluating the weak wash flow rate and requiring a performance test to be conducted if an emission unit operates outside of the acceptable weak wash flow rate. In accordance with rule 62-296.404(5)(d), F.A.C., the source must provide an adequate demonstration (historical data, performance test, etc.) to support the use of this parameter to assure compliance with the TRS emission limit. Such information needs to be included in the statement of basis for the permit.

In addition, the Department needs to clarify the requirements of this subsection regarding TRS monitoring. Condition C.14 appears to imply that TRS emissions will be continuously monitored, and condition C.7 appears to require that a surrogate parameter be monitored to assure compliance with the TRS emission limitations. Rule 62-296.404(5)(d), F.A.C. does not require that the parameter(s) selected as surrogates for TRS be continuously monitored but that a frequency be established by the source and the permitting authority. If the weak wash flow rate is being continuously monitored, the condition must be clarified to specifically state that it is the weak wash flow rate that it is being continuously monitored not TRS. Further, since this unit is not subject to NSPS, subpart BB requirements, the reference to 40 CFR 60.284 in condition C.14 needs to be deleted.

Response: **Condition C.7-** Jefferson Smurfit Corporation addressed the Surrogate Parameter Determination, Total Reduced Sulfur (TRS) Emissions for the smelt dissolving tank. Tests were conducted by Technical Services, Inc., Source Test Report dated

June 6, 1989. The tests and a summary were submitted in September 1989. This phrase will be added to the Statement of Basis: A Total Reduced Sulfur (TRS) emission test was conducted on the smelt dissolving tank while varying the flow of weak wash to the scrubber system. The objective of the test was to determine if, and at what weak wash flow rate the TRS emission exceeded the maximum allowable emission rate of 0.048 lbs TRS per 3000 pounds of black liquor solids. The No. 9 Recovery Boiler was operating at a firing rate of 116,648 dry pounds black liquor solids per hour, or 97.1% of the permitted load. The weak wash flow rates were 123, 100, 75, 50, 25 and 0 gallons per minute. The average TRS emission at 25 gpm of weak wash to the I.D. fan was 0.0227 pounds per 3000 pounds of black liquor solids, or about 47% of the allowable TRS emission limitation. It was recommended that the 25 gpm of weak wash flow be established as the surrogate parameter to indicate compliance with the TRS limiting standard of Chapter 17-2.600 (4)(c)4 F.A.C.

This phrase has been added to **Condition C.7.** – ...to demonstrate compliance with TRS emission limitation. The scrubber pressure drop shall be a minimum of 2 inches of water. Should this parameter be less than the requirement for two consecutive shifts the Department may require an emission performance test.

Condition C.14 has been changed to the following: The weak wash flow rate shall be frequently monitored and recorded once per shift. Should the weak wash flow rate be less than the required flow rate for two successive shifts the Department may require a TRS emission performance test.

The reference to 40CFR 60.284 in condition C.14 has been deleted.

Specific Condition C.16 has been added...

C.16. Periodic Monitoring. Within 60 days from the date operation commences the permittee shall submit a particulate matter periodic monitoring plan for Department approval. The periodic monitoring plan must demonstrate reasonable assurance of compliance with the permit standards. Once approved by the Department, the permit will be modified to incorporate the periodic monitoring plan. If reasonable assurance can not be demonstrated, the permittee shall conduct quarterly compliance testing until a periodic monitoring plan has been approved by the Department.

[Rule 62-213.440(4), F.A.C.]

* See Periodic Monitoring note under Objection Issue No. 3.

8. Missing Applicable Requirements: The following specific conditions from permit AC16-142989, dated December 31, 1991, must be incorporated in the title V permit: 18, 19, 21, 26, 30, 34 and 35. These conditions describe several monitoring and recordkeeping requirements, as well as operational limitations for the lime kiln and the lime storage silo. We are not aware of any modifications to this construction permit, therefore, these conditions and monitoring and recordkeeping requirements that will assure compliance with the conditions, as appropriate, must be included in the title V permit for this facility.

Condition 19 of the construction permit referenced above establishes that the maximum input to the lime storage silo shall not exceed 21.2 tons per hour of lime. The title V permit application for the lime handling system uses the same value to identify the maximum throughput rate for the unit. However, the title V permit limits the maximum throughput rate for the lime handling system at 50 tons/hr of lime. The Department needs to clarify which is the correct limitation for this unit and incorporate it in the title V permit.

Response: The following specific conditions (18, 19, 21, 26, 30, 34 and 35) from permit AC16-142989 has been added to the Title V permit:

No. 18 Maximum lime production rate of the lime kiln shall not exceed 11.5 tons per hour, 275 tons per day, and 100,375 tons per year. Lime production shall be verifiable on a daily basis and monthly basis. On an annual basis, lime production shall be reported in the AOR and submitted to RESD.

No. 19 Maximum input to the lime storage silo shall not exceed 21.2 tons per hour of lime product (24-hour average). The deliveries of purchased lime shall be verifiable on a monthly basis. The annual amount of purchased lime shall be reported in the AOR and submitted to RESD. The Title V permitted maximum throughput rate for the lime handling system has been changed to 21.2 tons per hour (24-hour average).

No. 21 A compliance test shall be conducted for the lime storage silo to demonstrate compliance with the permitted pollutant emissions standards. For the compliance test, two of the test runs shall be conducted while receiving 21.2 tons per hour (TPH) of purchased lime and one of the test runs shall be conducted while simultaneously receiving 11.2 TPH of lime from the lime kiln and 10 TPH of purchased lime.

No. 26 All process equipment, except for the lime storage silo, that will be a part of the operational causticizing system, shall be vented to the lime kiln.

No. 30 The lime handling system, i.e., conveyors, chutes, elevators, and storage bins shall be enclosed and negative pressure maintained.

No. 34 A fuel flow gauge shall be installed on each of the fuel lines, i.e., fuel oil, TRS NCG (noncondensable gas) handling system etc., to the lime kiln.

No. 35 PM₁₀ emissions shall not exceed 20.7 lbs/hr (90.6 TPY), and is assumed to be 98.3% of the PM emissions.

Note from Jefferson Smurfit: Specific Condition 21 specifies a purchased lime input rate of 10.0 to 21.2 tons per hour during compliance tests. This was based on an assumed normal unloading rate from lime trucks rather than the capacity of the lime silo to receive purchased lime. We have since determined that lime trucks are set up to unload a 50- ton load within an hour. Unloading at this rate will not significantly impact maximum hourly particulate emissions from the lime silo and will have no impact on daily or annual particulate emissions. Since typically only one truck of purchased lime is unloaded in any one day, the average input rate over any period longer than two hours will be less than the 21.2 tons/hour specified in the Construction Permit

9. Appropriate Averaging Times: In order for the emissions standard for particulate matter (conditions A.4, B.4, D.5, D.6, D.12 and E.4), sulfur dioxide (conditions A.5 and D.7), carbon monoxide (condition A.8), TRS (condition C.4), VOC's (condition A.7) and nitrogen oxides (condition A.6) contained in the permit to be practicably enforceable, the appropriate averaging time must be specified in the permit. An approach that can be used to address this deficiency is to include general language in the permit to indicate that the averaging times for all specified emission standards are tied to or based on the run time of the test method(s) used for determining compliance.

Response: This phrase has been added to Conditions A.4, B.4, D.5, D.6, D.12, and E.4. – (based on the test method time period).

10. Periodic Monitoring - TRS: Condition C.4 states that the emission of total reduced sulfur from each smelt dissolving tank shall not exceed 0.048 pounds per 3000 pounds of black liquor solids as hydrogen sulfide. However, the permit does not require the source to keep records of the black liquor solids throughput for each smelt dissolving tank. In order to determine compliance with the TRS limit, the amount of black liquor solids processed will be required. Therefore, the permit must contain a condition that requires the source to keep records of the amount of black liquor solids sent through each smelt dissolving tank.

Response: The permit now contains **Condition C.15:** which requires the source to keep records of the amount of black liquor solids sent through each smelt dissolving tank.

11. Federally Enforceable Requirements: Section II, conditions numbers 2 and 3 are labeled as “not Federally enforceable.” However, these conditions are Federally enforceable because they are contained in the Federally approved portion of the Florida SIP. Therefore, the permit must be changed to reflect that these conditions are Federally enforceable. In addition, condition number 6 appears to be based on F.A.C. rule 62-296.320(4)(c). If this is the case, this condition must be identified as Federally enforceable since rule 62-296.320(4)(c) is part of the FL SIP and the appropriate rule citation must be added to this requirement.

Response: Section II, condition numbers 2, 3 and 6 have been changed to Federally enforceable. Rule 62-296.320(4)(c) F.A.C. has been added to the requirement of No. 6.

12. Permit Shield: Appendix R provides a list of requirements that are either applicable or not applicable to the source and the justification for those requirements identified as non-applicable. While the appendix appears to be intended as a permit shield, the permit does not actually state that a shield from any requirement is provided. A mere summary of the requirements that are or are not applicable to the source does not constitute, by itself, a permit shield. Therefore, the Department must rewrite conditions 11-13 of Section II to explicitly provide for a permit shield if that is the intent of these conditions and the appendix. Also, Appendix R must be identified in the cover page of the permit as part of the permit.

Moreover, please note that the purpose of the permit shield provision at 40 C.F.R. §70.6(f)(1)(ii) is to clarify the applicability of certain requirements where that applicability is questionable or unclear. Region 4 recommends that the permitting authority not include a permit shield consisting of an extensive account of all requirements that are obviously not applicable to the source. The accuracy of such a shield is difficult to confirm, and appropriate enforcement action may be thwarted where errors are made.

Response: As per the discussion between Bruce Mitchell and Gracy Danois: Appendix R has been identified in the cover page of the permit as part of the permit. Rule 62-213.460, F.A.C. (Permit Shield) has been cited in the justification block/rule under facility-wide conditions 11, 12, and 13.

II General Comments

1. General Comment: Please note that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that have not been raised in these comments. After final issuance, this permit shall be reopened if EPA or the permitting authority determines that it must be revised or revoked to assure compliance with applicable requirements.

Response: The Department acknowledges the above statement.

2. Compliance Certification: Section II, condition 9 of the permit should specifically reference condition 51 of Appendix TV-3, which lists the compliance certification requirements of 40 C.F.R. §70.6(c)(5)(iii), to ensure that complete certification information is submitted to EPA. Also, please replace “Operating Permits Section” with “Air Enforcement Section” and add the following phone and fax numbers: 404/562-9155, Fax 404/562-9163 or 404/562-9164.

Response: This phrase has been added to the beginning of Section II, condition 9 – Statement of Compliance. The permittee shall submit a statement of compliance with all terms and conditions of the permit. {See condition 51, APPENDIX TV-3, TITLE V CONDITIONS}
[Rule 62-213.440(3), F.A.C.]

The “Operating Permits Section” has been replaced with “Air Enforcement Section”. The phone and fax numbers have been added as requested.

3. Section II, Condition 10: Please add the following word to the sentence: . . . after beginning operations or April 15, 2002, . . .

Response: The word or has been added to Section II, Condition 10.

4. Section III, Subsection B, Condition B.5: It appears that the correct citation for this permit condition should be “Rule 62-296.404(3)(c)1.a., F. A. C.” Please verify.

Response: The rule has been verified and corrected.

5. Subsection B., Conditions B.10 and B.11: Since this unit is not subject to NSPS, Subpart BB requirements, the reference to 40 CFR 60.284 needs to be deleted from these conditions.

Response: The rule cited has been removed from these conditions.

6. Subsection C, Condition C.5: The rule cited as basis for this condition does not provide the support for the restrictive opacity limit for this unit, only for the testing waiver for units with wet scrubbers. Please add the citation for the limitation.

Response: The previous permit AO16-170502, with the 10% opacity limit, has been added to the basis of the condition.

7. Subsection C, Condition C.7: Please revise the rule citation for this condition to read 62-296.404(5)(d), F.A.C., which is the correct citation for units that are required to monitor TRS emissions but not required to be equipped with a continuous TRS monitor.

Response: The rule above will replace the one cited in condition C.7.

8. Subsection D, Conditions D.22 and D.23: These conditions are duplicates of conditions D.18 and D.19. Please delete them.

Response: conditions D.22 and the old D.23 have been removed.

9. Subsection F, Condition F.10: This condition contains a direct copy of the regulations regarding required title V permit content. While the permit must contain requirements that meet these regulations, it is not necessary to repeat these regulations. The specific requirements, such as unit-specific emissions limits and periodic monitoring requirements, are supposed to be present in the main body of the permit, and standard condition requirements are provided in Appendix TV-3. This condition should be removed from the permit, as it is not necessary.

Response: Condition F.10 has been removed from the permit.

10. Statement of Basis: Permitting note (I) states that the incineration of the non-condensable gases (NCG) from the multiple effect evaporator is being done at boiler no. 10 instead of at the lime kiln, as required by permit no. AO16-178432. The statement of basis does not go into any details as to whether this change was evaluated to determine if it would cause a significant change in the emissions from this unit. The Department should include information in the statement of basis describing how this operational change was evaluated.

Response: The No. 10 Boiler also meets the requirements of combustion and subjecting gases from the MEE to a minimum temperature of 1200⁰ F for a minimum of 0.5 seconds. This change does not affect emissions. NCG gases can be vented to the

power boiler per 40 CFR 60.283(a)(1)(iii); consequently, the permit intent is satisfied.

11. Periodic Monitoring: As you are aware, on April 14, 2000, the U.S. Court of Appeals for the D.C. Circuit issued an opinion addressing industry's challenge to the validity of portions of EPA's periodic monitoring guidance. See, Appalachian Power Co. v. EPA, No. 98-1512 (D.C. Cir., April 14, 2000). The Court found that "State permitting authorities [] may not, on the basis of EPA's guidance or 40 C.F.R. 70.6(a)(3)(i)(B), require in permits that the regulated source conduct more frequent monitoring of its emission than that provided in the applicable State or federal standard, unless that standard requires no periodic testing, specifies no frequency, or requires only a one-time test." While the permit contains testing from "time to time," as discussed in the court opinion, EPA does not consider these conditions sufficient to ensure compliance. In light of the court case, EPA is withholding formal objection on the following items:

- a. Particulate Matter: The permit does not contain adequate periodic monitoring for particulate matter emissions from units 005, 023, 024 and 026. Although the permit requires particulate matter annual testing for units 005 and 023, and testing upon Department's request for units 024 and 026, this infrequent testing is not sufficient to provide a reasonable assurance of compliance with emission limits. All Title V permits must contain monitoring that is sufficient to assure compliance with the applicable permit requirements. In particular, 40 C.F.R. Part 70.6 (a)(3)(B) requires that permits include periodic monitoring that is sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable emission limits. In addition to demonstrating compliance, a system of periodic monitoring will also provide the source with an indication of their emission unit's performance, so that periods of excess emissions and violations of the emission limits can be minimized or avoided. Therefore, the permit should include a periodic monitoring scheme that will provide data which is representative of the source's actual performance.

Since some of the emission units are equipped with a control device to control particulate matter emissions, the best approach to address the periodic monitoring requirements is to utilize parametric monitoring of the control equipment. In order to do this; a correlation needs to be developed between the control equipment parameter(s) to be monitored and the particulate

emission levels. The source needs to provide an adequate demonstration (historical data, performance test, etc.) to support the approach used. In addition, an acceptable performance range for each parameter that is to be monitored should be established. The range, or the procedure used to establish the parametric ranges that are representative of proper operation of the control equipment, and the frequency for re-evaluating the range needs to be specified in the permit. Also, the permit must include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department must set the appropriate percentage of the operating time that would serve as trigger for this testing requirement.

- b. Visible Emissions: Conditions A.16, B.9, D.7, D.17 and E.3 of the permit require that Method 9 tests are conducted annually. Condition C.10 requires VE testing only at the Department's request. In most cases, this infrequent testing does not constitute adequate periodic monitoring to ensure continuous compliance with the visible emissions standard. Since most of these units have control equipment, it may be assumed that under normal operating conditions, no opacity may be observed. If this is the case, the permit should require the source to conduct visible emissions observations on a daily basis (Method 22), and that a Method 9 test be conducted within 24 hours of any abnormal qualitative survey. However, if the units normally operate under conditions where opacity can be observed, then the permit must require that Method 9 testing be conducted on a frequent basis. As an alternative to the approach described above, a technical demonstration can be included in the statement of basis explaining why the State has chosen not to require any additional visible emissions testing for these units. The demonstration needs to identify the rationale for basing the compliance certification on data from a short-term test performed once a year.
- c. Carbon Monoxide and VOC's: Condition A.8 requires that testing be conducted upon request by the Department for CO and condition A.7 requires testing for VOC's once every 60 months. These testing frequencies do not constitute adequate periodic monitoring to ensure continuous compliance with the emissions limits for these pollutants. In order to approve the infrequent testing for these pollutants, the Department must provide a

technical demonstration supporting the decision to not require additional monitoring to ensure compliance with the limits. If it is determined that additional monitoring is necessary to ensure compliance with the permit conditions, more frequent testing requirements should be included in the permit.

Response: The Department acknowledges that EPA is withholding formal objections on these issues. The Department considers the permit to contain adequate periodic monitoring for the above emissions units. However, we offer these comments:

11.a. and b. Periodic Monitoring. Within 60 days from the date operation commences the permittee shall submit a PM and V.E. periodic monitoring plan for Department approval. The periodic monitoring plan must demonstrate reasonable assurance of compliance with the permit standards. Once approved by the Department, the permit will be modified to incorporate the periodic monitoring plan. If reasonable assurance can not be demonstrated, the permittee shall conduct quarterly compliance testing until a periodic monitoring plan has been approved by the Department.
[Rule 62-213.440(4), F.A.C.]

The Periodic Monitoring Plan must contain:

1. The parameters to be monitored
2. The methodology for determining acceptable ranges for these parameters
3. The frequency of the monitoring

11.c. The historical data shows actual emissions for VOC and CO to be ^{well} below ~~the 50% of the test~~ allowable emissions rates. This test data has been added to the Statement of Basis for the No. 10 Power Boiler (EU013):

Pollutant	Test Date	Test Allowable	^{50%} Actual ^{J.F.C.}	% below Test Allowable
CO	23-Sept-1998	65.00 pounds/hr	12.30 pounds/hr	-81.08
VOC	11-Aug-1995	38.00 pounds/hr	0.131 pounds/hr	-99.66

Since these pollutants generally are controlled by good combustion techniques, and then it ~~appears~~ ^{appears} that this ~~one~~ boiler is being properly operated based on actuals. Therefore, ~~it does not seem~~ ^{it does not seem} ¹⁴ appropriate to impose ~~any additional testing other than~~ ^{annual} testing when the actuals are at these reported levels. ~~It is not appropriate to impose annual testing when the actuals are at these reported levels.~~ ^{TCV} ^{See either} ^{that 50 TCV, standard} ^{minor.}

General Comments Of the Permittee

Statement of Basis:

Permitting Notes:

- VI. Line 1- please correct coal holding to read coal handling
Line 3- please correctly identify to read identified

Page 12, C.1. Permitted Capacity.

Please insert “virgin” in (BLS) to read (virgin BLS) to be consistent with page 10, B.1. Permitted Capacity.

Page 14, D.3.

Please add “(24 hour average)” at the end of the sentence to be consistent with other permitted capacities. See response to EPA objection I.8.

Bruce Mitchell,

Please see the attached EPA objections to Jefferson Smurfit's Proposed Title V Permit. We have resolved several of the objections. However, 3 issues remain. It appears that the 3 involve periodic monitoring. At this point NED needs DARMS guidance to solve EPA's concerns.

We would like to set up a teleconference to discuss and prepare a response to EPA. Please note that there are 18 days from today, left to resolve these objections.

Please contact me as soon as possible. Thank you,

Leslie Maybin

Post-it	Date	# of pages
Fax Note R7873	16 Aug 00	15
To	Bruce Mitchell	
Fax#	850) 292 6979	
From	Leslie Maybin NED	
Phone#	904) 448-4310 ex 242	

INTEROFFICE MEMORANDUM

Date: 14-Aug-2000 03:47pm
From: Danois.Gracy
Danois.Gracy@epamail.epa.gov
Dept:
Tel No:

Subject: Jefferson Smurfit Objection Resolution

Leslie:

Here are the items that we discussed today:

1. Objection Issues # 3 and 7: In your response you stated that condition C.7 is intended to demonstrate compliance with the TRS limit for the smelt dissolving tank. If that is the case, then the permit does not contain periodic monitoring for particulate matter for the smelt dissolving tank. We need language to address the periodic monitoring for particulate matter.

2. Objection Issue # 5: Your response to this issue is that the O&M plans are not to be taken as monitoring plans. However, for the smelt dissolving tank, it appears that the gpm requirement to demonstrate compliance with TRS comes from the O&M plan (Also, the O&M plan establishes a 2 inches of water pressure drop. Is there a reason for not including this in the permit?) Using the O&M plan, along with the parametric ranges in the permit, satisfies periodic monitoring for this unit. If you want to keep the O&M plan out of the permit, then some of the monitoring addressed in it needs to be incorporated in the permit to satisfy periodic monitoring. We can go over the items that should be included later.

For the lime kiln, the O&M plan does not contain the ranges for the parameters. In our view, if you add permit conditions that outline how the parametric ranges are going to be determined and use the O&M plan to address the monitoring of the parameters, then periodic monitoring for the kiln will be satisfied.

3. General Comment # 11: It is our understanding that the State of Florida will use the language in its rules to address the adequacy issues outlined in this comment. We are withholding objections on adequacy issues until we receive written confirmation from EPA-HQ on the Agency's position. However, EPA's position is that we have adequate authority to object on these issues because the effect of the court case only affected the use of the Periodic Monitoring Guidance and 40 C.F.R. section 70.6(a)(3). Our overarching regulatory obligation under 70.6(c)(1) is still that all part 70 permits contain "testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit." Based on that authority, we can evaluate the adequacy of a periodic monitoring scheme in a title V permit.

I hope this helps you with your write-up. Call me if you need to discuss these issues further.

Gracy

**Attachment
Draft
Response to**

**U.S. EPA Region 4 Objection
Proposed Part 70 Operating Permit
Jefferson Smurfit Corporation
Jacksonville Mill
Permit no. 0310003-001-AV**

I EPA Objection Issues

1. Periodic Monitoring - Capacity: Conditions A.1, B.1, C.1, D.1, D.3, and E.1 specify the maximum capacity for the units at this facility. For all the conditions listed above, periodic monitoring requirements sufficient to assure compliance with these capacity limitations need to be included in the permit. However, if the capacity conditions are being included to ensure that stack testing is representative of normal operation, then a permitting note must be added to this condition to clarify that it is not intended as an enforceable limit, as stated in previous permits issued by the State.

Response: This note has been added to each-
{Permitting note: The heat input limitations have been placed in each permit to identify the capacity of each unit for the purposes of confirming that emissions testing is conducted within 90 to 100 percent of the unit's rated capacity (or to limit future operation to 110 percent of the test load), to establish appropriate emission limits and to aid in determining future rule applicability.}

2. Methods of Operation: Condition A.2 of the permit describes alternative fuel usage combinations for unit 013, which include the use of no. 2 and 6 fuel oils. However, a review of condition 10 of the construction permit for this unit (no. AC16-234532) indicates that the usage of fuel oil no. 6 is limited to startup, shutdown and malfunctions. Also, the use of fuel oil no. 2 is not addressed in the construction permit referenced above or in the title V permit application for Jefferson Smurfit. EPA is not aware of any permit modifications associated with this unit and could not find any documentation as to whether this change was evaluated to determine its effect on the emissions from the no. 10 power boiler. The permit must be revised to include the limitation for the use of no. 6 fuel oil for startup, shutdown and malfunctions only and to delete the references to the use of no. 2 fuel oil. However, if the facility wants to use these fuels in the manner

described in condition A.2 of the title V proposed permit, the appropriate documentation must be provided in the statement of basis to support these changes in operation.

Response:

This phrase has been added to Condition A.2. – No. 6 fuel oil is limited to start-up, shutdown and malfunctions only. The reference to the use of no. 2 fuel oil has been deleted.

- *
3. Parametric Monitoring - Particulate Matter and Sulfur Dioxide: Conditions A.19 and C.7 of the permit specify parametric monitoring that may be indicative of the compliance status with the particulate matter and sulfur dioxide limits for unit 013 and the particulate matter limit for unit 004. However, the statement of basis fails to describe how the parameters selected and the numeric values assigned to them correlate to the emissions from these units. To resolve this deficiency, the statement of basis must contain an adequate demonstration (historical data, performance test, etc.) to support the numeric values being used to assure compliance with the emission limitations. The procedure used to establish the parametric range that is representative of proper operation of the control equipment and the frequency for re-evaluating the range must be specified in the permit. Also, the permit must include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department must set the appropriate percentage of the operating time that would serve as trigger for this testing requirement.
- DT
PB

Response:

Condition A.19 addresses parametric monitoring as an alternate to the requirement for continuous opacity monitoring to demonstrate compliance with particulate matter and opacity emissions limitations for EU 013. Condition C.7 addresses parametric monitoring for continuous TRS emission monitoring for EU004, which is discussed in EPA Objection Issuc 7., Parametric Monitoring – TRS.

The Statement of Basis shall be revised to include: Particulate matter and opacity tests were conducted by Exeter Engineering on EU013 during April 1 through 3, 1985. A report, "Particulate/Opacity Emissions Investigation", was submitted to the Department on April 2, 1986. The objective of the tests was to determine the minimum scrubber flow rate and the minimum venturi pressure drop required to comply with the opacity and particulate emission requirement. The unit was operated with venturi flow rates of 0 to 2400 gallons per minute and a venturi pressure drop of 10.5 to 20 inches. At a venturi scrubber flow rate of 240 gpm and a venturi pressure drop of 10.5 inches, an opacity of 3% was determined and the PM emission was 34% of allowable. It was recommended that a venturi pressure

drop of 10.5 inches or greater be established as a surrogate parameter for the continuous opacity monitoring requirement of the construction permit. On September 3, 1987 the Department modified Construction Permit No. AC16-33885 with the addition of Specific Condition 19 (new) which provided as follows: " A minimum pressure drop of 10.5 inches of water and a minimum venturi flow rate of 400 gallons per minute of water shall be required. The pressure drop and venturi flow rate shall be monitored and recorded once per shift. Should either parameter be less than the requirement for two consecutive shifts the Department may require and emission performance test. Copies of the report required by 40CFR 60.7 shall be submitted to the ~~BESD~~ RESD."

Condition A.19 shall be revised to include the following statement: The pressure drop and venturi flow rate shall be monitored and recorded once per shift. Should either parameter be less than the requirement for two consecutive shifts the Department may require and emission performance test.

4. Emission Limits: Conditions A.4 to A.6, B.4, B.5, C.4, D.5, D.6, D.8, D.12, E.4 contain equivalent emissions for the NO_x, SO₂, TRS and PM limits. It is not clear whether the facility is required to demonstrate compliance with these equivalent emissions and what the basis for these limits are. Based on the review of several of the construction permits for this facility, it appears that the limitations are separate and that compliance with all the limitations shall be demonstrated by the facility. The permit conditions must be revised to delete the term "equivalent emissions" since it appears that the facility is required to demonstrate compliance with all the limitations.

Response: The term equivalent emissions have been removed from Conditions A.4 to A.6, B.4, B.5, C.4, D.5, D.6, D.8, D.12 and E.4.

5. Operation and Maintenance Plans: Conditions A.10, C.6, D.10, D.13 require the facility to comply with the Operation and Maintenance Plans for the units. Some of the plans were included in the permit application for the facility. Based on the review of the available plans, it appears that they are the monitoring plans for the various units. If this is the case, these plans do not fully meet the criteria outlined in EPA's December 24, 1998, letter to all the States addressing the use of monitoring plans in title V operating permits (see attachment 1). Also, these documents have not being made part of the permit as an attachment or incorporated by reference. At a minimum, these plans must be made part of the permit so they can undergo the appropriate review by the public and EPA and they need to be revised to conform with the criteria described in the EPA letter referenced above.

Response: The Operation and Maintenance (O&M) plans for Conditions A.10, C.6, D.10 and D.13 are not monitoring plans. Title V Permits usually require a facility to prepare and follow an O&M plan; the plan itself is not incorporated into the permit.

6. Missing Applicable Requirement - SO₂ and NO_x: Certain provisions of condition 9 from permit AC16-234532, dated July 1, 1995, have not been incorporated in the title V permit. The condition outlines how the facility will calculate the ton per year emissions for SO₂ and NO_x and how to determine the emissions for periods during CEM outages. These conditions appear to be separate from the first two sentences of the condition, which outline the monthly reporting of emissions of SO₂ and NO_x until the SNCR became operational. Therefore, the remaining portions of condition 9 must be incorporated in the title V permit for this facility.

Response: Specific Condition A.25 has been added to Monitoring of Operations. A.25. SO₂ and NO_x emissions in tons per month, for compliance with the tons per year requirements, shall be determined using CEMS, Method 19 and the actual operating hours. Emissions for periods of CEMS outages in excess of 2% of the operating hours in the month shall be determined by using the highest 24 hour in the (00:00AM-11: 59PM) emissions rate for the period.

- * 7. Parametric Monitoring - TRS: Condition C.7 states the following: "The permittee shall comply with the surrogate parameter of 25 gpm of weak wash flow to the scrubber." According to the description of the unit, the wet scrubber is used to control both particulate matter and TRS. Based on the rule cited as basis for this condition, it appears that the pollutant being evaluated is TRS. However, the permit does not provide any information about the correlation developed between the gallons per minute of weak wash flow and the pollutant for which it is being used as surrogate. The permit condition must be revised to clearly establish which pollutant this parameter is assuring compliance. Also, the permit must include a condition establishing the frequency for re-evaluating the weak wash flow rate and requiring a performance test to be conducted if an emission unit operates outside of the acceptable weak wash flow rate. In accordance with rule 62-296.404(5)(d), F.A.C., the source must provide an adequate demonstration (historical data, performance test, etc.) to support the use of this parameter to assure compliance with the TRS emission limit. Such information needs to be included in the statement of basis for the permit.

In addition, the Department needs to clarify the requirements of this subsection regarding TRS monitoring. Condition C.14 appears to imply that TRS emissions will be continuously monitored, and condition C.7 appears to require that a surrogate parameter be monitored to assure compliance with the TRS emission

limitations. Rule 62-296.404(5)(d), F.A.C. does not require that the parameter(s) selected as surrogates for TRS be continuously monitored but that a frequency be established by the source and the permitting authority. If the weak wash flow rate is being continuously monitored, the condition must be clarified to specifically state that it is the weak wash flow rate that it is being continuously monitored not TRS. Further, since this unit is not subject to NSPS, subpart BB requirements, the reference to 40 CFR 60.284 in condition C.14 needs to be deleted.

Response: Condition C.7- Jefferson Smurfit Corporation addressed the Surrogate Parameter Determination, Total Reduced Sulfur (TRS) Emissions for the smelt dissolving tank. Tests were conducted by Technical Services, Inc., Source Test Report dated June 6, 1989. The tests and a summary were submitted in September 1989. This phrase will be added to the Statement of Basis: A Total Reduced Sulfur (TRS) emission test was conducted on the smelt dissolving tank while varying the flow of weak wash to the scrubber system. The objective of the test was to determine if, and at what weak wash flow rate the TRS emission exceeded the maximum allowable emission rate of 0.048 lbs TRS per 3000 pounds of black liquor solids. The No. 9 Recovery Boiler was operating at a firing rate of 116,648 dry pounds black liquor solids per hour, or 97.1% of the permitted load. The weak wash flow rates were 123, 100, 75, 50, 25 and 0 gallons per minute. The average TRS emission at 25 gpm of weak wash to the I.D. fan was 0.0227 pounds per 3000 pounds of black liquor solids, or about 47% of the allowable TRS emission limitation. It was recommended that the 25 gpm of weak wash flow be established as the surrogate parameter to indicate compliance with the TRS limiting standard of Chapter 17-2.600 (4)(c)4 F.A.C.

This phrase has been added to Condition C.7, ... to demonstrate compliance with TRS emission limitation.

Condition C.14 has been changed to the following: The weak wash flow rate shall be frequently monitored and recorded once per shift. Should the weak wash flow rate be less than the required flow rate for two successive shifts the Department may require a TRS emission performance test.

The reference to 40CFR 60.284 in condition C.14 has been deleted.

8. Missing Applicable Requirements: The following specific conditions from permit AC16-142989, dated December 31, 1991, must be incorporated in the title V permit: 18, 19, 21, 26, 30, 34 and 35. These conditions describe several monitoring and recordkeeping requirements, as well as operational limitations for the lime kiln and the lime storage silo. We are not aware of any modifications to this construction permit, therefore, these conditions and monitoring and

recordkeeping requirements that will assure compliance with the conditions, as appropriate, must be included in the title V permit for this facility.

Condition 19 of the construction permit referenced above establishes that the maximum input to the lime storage silo shall not exceed 21.2 tons per hour of lime. The title V permit application for the lime handling system uses the same value to identify the maximum throughput rate for the unit. However, the title V permit limits the maximum throughput rate for the lime handling system at 50 tons/hr of lime. The Department needs to clarify which is the correct limitation for this unit and incorporate it in the title V permit.

Response: The following specific conditions (18, 19, 21, 26, 30, 34 and 35) from permit AC16-142989 has been added to the Title V permit:

No. 18 Maximum lime production rate of the lime kiln shall not exceed 11.5 tons per hour, 275 tons per day, and 100,375 tons per year. Lime production shall be verifiable on a daily basis and monthly basis. On an annual basis, lime production shall be reported in the AOR and submitted to RESD.

No. 19 Maximum input to the lime storage silo shall not exceed 21.2 tons per hour of lime product (24-hour average). The deliveries of purchased lime shall be verifiable on a monthly basis. The annual amount of purchased lime shall be reported in the AOR and submitted to RESD. The Title V permitted maximum throughput rate for the lime handling system has been changed to 21.2 tons per hour (24-hour average).

No. 21 A compliance test shall be conducted for the lime storage silo to demonstrate compliance with the permitted pollutant emissions standards. For the compliance test, two of the test runs shall be conducted while receiving 21.2 tons per hour (TPH) of purchased lime and one of the test runs shall be conducted while simultaneously receiving 11.2 TPH of lime from the lime kiln and 10 TPH of purchased lime.

No. 26 All process equipment, except for the lime storage silo, that will be a part of the operational causticizing system, shall be vented to the lime kiln.

No. 30 The lime handling system, i.e., conveyors, chutes, elevators, and storage bins shall be enclosed and negative pressure maintained.

No. 34 A fuel flow gauge shall be installed on each of the fuel lines, i.e., fuel oil, TRS NCG (noncondensable gas) handling system etc., to the lime kiln.

No. 35 PM_{10} emissions shall not exceed 20.7 lbs/hr (90.6 TPY), and is assumed to be 98.3% of the PM emissions.

Note from Jefferson Smurfit: Specific Condition 21 specifies a purchased lime input rate of 10.0 to 21.2 tons per hour during compliance tests. This was based on an assumed normal unloading rate from lime trucks rather than the capacity of the lime silo to receive purchased lime. We have since determined that lime trucks are set up to unload a 50-ton load within an hour. Unloading at this rate will not significantly impact maximum hourly particulate emissions from the lime silo and will have no impact on daily or annual particulate emissions. Since typically only one truck of purchased lime is unloaded in any one day, the average input rate over any period longer than two hours will be less than the 21.2 tons/hour specified in the Construction Permit

9. Appropriate Averaging Times: In order for the emissions standard for particulate matter (conditions A.4, B.4, D.5, D.6, D.12 and E.4), sulfur dioxide (conditions A.5 and D.7), carbon monoxide (condition A.8), TRS (condition C.4), VOC's (condition A.7) and nitrogen oxides (condition A.6) contained in the permit to be practicably enforceable, the appropriate averaging time must be specified in the permit. An approach that can be used to address this deficiency is to include general language in the permit to indicate that the averaging times for all specified emission standards are tied to or based on the run time of the test method(s) used for determining compliance.

Response: This phrase has been added to Conditions A.4, B.4, D.5, D.6, D.12, and E.4. -- (based on the test method time period).

10. Periodic Monitoring - TRS: Condition C.4 states that the emission of total reduced sulfur from each smelt dissolving tank shall not exceed 0.048 pounds per 3000 pounds of black liquor solids as hydrogen sulfide. However, the permit does not require the source to keep records of the black liquor solids throughput for each smelt dissolving tank. In order to determine compliance with the TRS limit, the amount of black liquor solids processed will be required. Therefore, the permit must contain a condition that requires the source to keep records of the amount of black liquor solids sent through each smelt dissolving tank.

Response: The permit now contains a condition that requires the source to keep records of the amount of black liquor solids sent through each smelt dissolving tank.

11. Federally Enforceable Requirements: Section II, conditions numbers 2 and 3 are labeled as "not Federally enforceable." However, these conditions are Federally enforceable because they are contained in the Federally approved portion of the

Florida SIP. Therefore, the permit must be changed to reflect that these conditions are Federally enforceable. In addition, condition number 6 appears to be based on F.A.C. rule 62-296.320(4)(c). If this is the case, this condition must be identified as Federally enforceable since rule 62-296.320(4)(c) is part of the FL SIP and the appropriate rule citation must be added to this requirement.

Response: Section II, condition numbers 2, 3 and 6 have been changed to Federally enforceable. Rule 62-296.320(4)(c) F.A.C. has been added to the requirement of No. 6.

12. **Permit Shield:** Appendix R provides a list of requirements that are either applicable or not applicable to the source and the justification for those requirements identified as non-applicable. While the appendix appears to be intended as a permit shield, the permit does not actually state that a shield from any requirement is provided. A mere summary of the requirements that are or are not applicable to the source does not constitute, by itself, a permit shield. Therefore, the Department must rewrite conditions 11-13 of Section II to explicitly provide for a permit shield if that is the intent of these conditions and the appendix. Also, Appendix R must be identified in the cover page of the permit as part of the permit.

Moreover, please note that the purpose of the permit shield provision at 40 C.F.R. §70.6(f)(1)(ii) is to clarify the applicability of certain requirements where that applicability is questionable or unclear. Region 4 recommends that the permitting authority not include a permit shield consisting of an extensive account of all requirements that are obviously not applicable to the source. The accuracy of such a shield is difficult to confirm, and appropriate enforcement action may be thwarted where errors are made.

Response: As per the discussion between Bruce Mitchell and Gracy Danois: Appendix R has been identified in the cover page of the permit as part of the permit. Rule 62-213.460, F.A.C. (Permit Shield) has been cited in the justification block/rule under facility-wide conditions 11, 12, and 13.

II General Comments

1. **General Comment:** Please note that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that have not been raised in these comments. After final issuance, this permit shall be reopened if EPA or the permitting authority determines that it must be revised or revoked to assure compliance with applicable requirements.

Response: The Department acknowledges the above statement.

2. Compliance Certification: Section II, condition 9 of the permit should specifically reference condition 51 of Appendix TV-3, which lists the compliance certification requirements of 40 C.F.R. §70.6(c)(5)(iii), to ensure that complete certification information is submitted to EPA. Also, please replace "Operating Permits Section" with "Air Enforcement Section" and add the following phone and fax numbers: 404/562-9155, Fax 404/562-9163 or 404/562-9164.

Response: This phrase has been added to the beginning of Section II, condition 9 – Statement of Compliance. The permittee shall submit a statement of compliance with all terms and conditions of the permit. {See condition 51, APPENDIX TV-3, TITLE V CONDITIONS}
[Rule 62-213.440(3), F.A.C.]

The "Operating Permits Section" has been replaced with "Air Enforcement Section". The phone and fax numbers have been added as requested.

3. Section II, Condition 10: Please add the following word to the sentence: . . . after beginning operations or April 15, 2002, . . .

Response: The word or has been added to Section II, Condition 10.

4. Section III, Subsection B, Condition B.5: It appears that the correct citation for this permit condition should be "Rule 62-296.404(3)(c)1.a., F. A. C." Please verify.

Response: The rule has been verified and corrected.

5. Subsection B., Conditions B.10 and B.11: Since this unit is not subject to NSPS, Subpart BB requirements, the reference to 40 CFR 60.284 needs to be deleted from these conditions.

Response: The rule cited has been removed from these conditions.

6. Subsection C, Condition C.5: The rule cited as basis for this condition does not provide the support for the restrictive opacity limit for this unit, only for the testing waiver for units with wet scrubbers. Please add the citation for the limitation.

Response: The previous permit AO16-170502, with the 10% opacity limit, has been added to

the basis of the condition.

7. Subsection C, Condition C.7: Please revise the rule citation for this condition to read 62-296.404(5)(d), F.A.C., which is the correct citation for units that are required to monitor TRS emissions but not required to be equipped with a continuous TRS monitor.

Response: The rule above will replace the one cited in condition C.7.

8. Subsection D, Conditions D.22 and D.23: These conditions are duplicates of conditions D.18 and D.19. Please delete them.

Response: conditions D.22 and D.23 have been removed.

9. Subsection F, Condition F.10: This condition contains a direct copy of the regulations regarding required title V permit content. While the permit must contain requirements that meet these regulations, it is not necessary to repeat these regulations. The specific requirements, such as unit-specific emissions limits and periodic monitoring requirements, are supposed to be present in the main body of the permit, and standard condition requirements are provided in Appendix TV-3. This condition should be removed from the permit, as it is not necessary.

Response: Condition F.10 has been removed from the permit.

10. Statement of Basis: Permitting note (I) states that the incineration of the non-condensable gases (NCG) from the multiple effect evaporator is being done at boiler no. 10 instead of at the lime kiln, as required by permit no. AO16-178432. The statement of basis does not go into any details as to whether this change was evaluated to determine if it would cause a significant change in the emissions from this unit. The Department should include information in the statement of basis describing how this operational change was evaluated.

Response: The No. 10 Boiler also meets the requirements of combustion and subjecting gases from the MEE to a minimum temperature of 1200° F for a minimum of 0.5 seconds. This change does not affect emissions. NCG gases can be vented to the power boiler per 40 CFR 60.283(a)(1)(iii); consequently, the permit intent is satisfied.

11. Periodic Monitoring: As you are aware, on April 14, 2000, the U.S. Court of Appeals for the D.C. Circuit issued an opinion addressing industry's challenge to the validity of portions of EPA's periodic monitoring guidance. See, Appalachian Power Co. v. EPA, No. 98-1512 (D.C. Cir., April 14, 2000). The Court found



that "State permitting authorities [] may not, on the basis of EPA's guidance or 40 C.F.R. 70.6(a)(3)(i)(B), require in permits that the regulated source conduct more frequent monitoring of its emission than that provided in the applicable State or federal standard, unless that standard requires no periodic testing, specifies no frequency, or requires only a one-time test." While the permit contains testing from "time to time," as discussed in the court opinion, EPA does not consider these conditions sufficient to ensure compliance. In light of the court case, EPA is withholding formal objection on the following items:

- 5 - #9RB
23 - Linkin
27 - Lim Hmbly Sys
26 - Coal Hmbly Sys
- a. Particulate Matter: The permit does not contain adequate periodic monitoring for particulate matter emissions from units 005, 023, 024 and 026. Although the permit requires particulate matter annual testing for units 005 and 023, and testing upon Department's request for units 024 and 026, this infrequent testing is not sufficient to provide a reasonable assurance of compliance with emission limits. All Title V permits must contain monitoring that is sufficient to assure compliance with the applicable permit requirements. In particular, 40 C.F.R. Part 70.6 (a)(3)(B) requires that permits include periodic monitoring that is sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable emission limits. In addition to demonstrating compliance, a system of periodic monitoring will also provide the source with an indication of their emission unit's performance, so that periods of excess emissions and violations of the emission limits can be minimized or avoided. Therefore, the permit should include a periodic monitoring scheme that will provide data which is representative of the source's actual performance.

Since some of the emission units are equipped with a control device to control particulate matter emissions, the best approach to address the periodic monitoring requirements is to utilize parametric monitoring of the control equipment. In order to do this, a correlation needs to be developed between the control equipment parameter(s) to be monitored and the particulate emission levels. The source needs to provide an adequate demonstration (historical data, performance test, etc.) to support the approach used. In addition, an acceptable performance range for each parameter that is to be monitored should be established. The range, or the procedure used to establish the parametric ranges that are representative of proper operation of the control equipment, and the frequency for re-evaluating the range needs to

be specified in the permit. Also, the permit must include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for a specified percentage of the normal operating time. The Department must set the appropriate percentage of the operating time that would serve as trigger for this testing requirement.

- SDT*
- b. Visible Emissions: Conditions A.16, B.9, D.7, D.17 and E.3 of the permit require that Method 9 tests are conducted annually. Condition C.10 requires VE testing only at the Department's request. In most cases, this infrequent testing does not constitute adequate periodic monitoring to ensure continuous compliance with the visible emissions standard. Since most of these units have control equipment, it may be assumed that under normal operating conditions, no opacity may be observed. If this is the case, the permit should require the source to conduct visible emissions observations on a daily basis (Method 22), and that a Method 9 test be conducted within 24 hours of any abnormal qualitative survey. However, if the units normally operate under conditions where opacity can be observed, then the permit must require that Method 9 testing be conducted on a frequent basis.

As an alternative to the approach described above, a technical demonstration can be included in the statement of basis explaining why the State has chosen not to require any additional visible emissions testing for these units. The demonstration needs to identify the rationale for basing the compliance certification on data from a short-term test performed once a year.

- H1080*
- c. Carbon Monoxide and VOC's: Condition A.8 requires that testing be conducted upon request by the Department for CO and condition A.7 requires testing for VOC's once every 60 months. These testing frequencies do not constitute adequate periodic monitoring to ensure continuous compliance with the emissions limits for these pollutants. In order to approve the infrequent testing for these pollutants, the Department must provide a technical demonstration supporting the decision to not require additional monitoring to ensure compliance with the limits. If it is determined that additional monitoring is necessary to ensure compliance with the permit conditions, more frequent testing requirements should be included in the permit.

Response: The Department acknowledges that EPA is withholding formal objections on

these issues.

General Comments Of the Permittee

Statement of Basis:

Permitting Notes:

- VI. Line 1- please correct coal holding to read coal handling
Line 3- please correctly identify to read identified

Page 12, C.1. Permitted Capacity.

Please insert "virgin" in (BLS) to read (virgin BLS) to be consistent with page 10, B.1. Permitted Capacity.

Page 14, D.3.

Please add "(24 hour average)" at the end of the sentence to be consistent with other permitted capacities. See response to EPA objection 1.8.

INTEROFFICE MEMORANDUM

Date: 22-Jun-2000 10:41am
From: Danois.Gracy
Danois.Gracy@epamail.epa.gov
Dept:
Tel No:

To: Rita.Felton-Smith (Rita.Felton-Smith@dep.state.fl.us)
To: mitchell_b (mitchell_b@dep.state.fl.us)

Subject: Re: Jefferson Smurfit Objection - AIRS ID 0310003

Rita:

What you stated in your message is correct. However, I would like for you to take a close look at the way the conditions are worded. I'm looking at the Ga-Pac permit right now and it seems to me that since the attachments do not immediately follow the conditions, the conditions may be modified to read as follows:

10. The DEP has determined that the requirements contained in Appendix SC (Specific Conditions) were identified in the permit application as applicable requirements.

11. The applicable requirements contained in the permit application are included in the permit in a correct manner to the best knowledge of the DEP and identified in the attached Appendix AR (Applicable Rules).

12. Non-applicable requirements listed in the permit application and identified in the attached Appendix NAR (Non-Applicable Rules) were specifically determined to be not applicable to this facility for the reason noted for each requirement.

PLEASE, do not take this suggested language as the only way to modify the conditions. This are only my suggestions! I understand that the language in the permits was painfully negotiated with the attorney for the mills, but if you (and Bruce) can give some consideration to the suggestions made above, I believe that the conditions will read much better. If not, we'll take what we have already negotiated.

Let me know what you think about this. As I told Bruce, we will continue to make the comment eventhough we know there is not much that we can do about it since our rules are so vague.

Gracy

----->
| Rita.Felton-Smith@dep.s |
| tate.fl.us |

06/21/2000 03:54 PM

To: Gracy Danois/R4/USEPA/US@EPA
cc: Bruce.Mitchell@dep.state.fl.us,
Leslie.Maybin@dep.state.fl.us,
Johnny.Cole@dep.state.fl.us,
Hui.Liang@dep.state.fl.us
Subject: Jefferson Smurfit Objection -
AIRS ID 0310003

Gracy,

One of the Objections EPA has against the issuance of the Proposed Jefferson Smurfit Title V permit concerns the Permit Shield (Item No. 12).

If I understand Bruce Mitchell correctly, this issue has been resolved between the two of you by having us add the following language to the Proposed permit:

1. List the Appendix (in this case Appendix R) on the Placard Page of the permit; and
2. In the justification (rule basis) block for facility-wide Conditions 11, 12, and 13, cite the State Permit Shield Rule, 62-213.460.

Is my understanding correct? And will this language also resolve the anticipated, similar Permit Shield objections to the Georgia Pacific Proposed Title V permit and the upcoming Proposed Buckeye Title V permit as well? They also have similar Appendices and facility-wide conditions.

Thank you.

Rita

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

RECEIVED

FEB 04 2000

JEFFERSON SMURFIT CORPORATION,

Petitioner,

BUREAU OF AIR REGULATION

vs.

OGC CASE NO. 98-2590

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent.

**ORDER DENYING REQUEST FOR EXTENSION
OF TIME TO FILE PETITION FOR HEARING
AND DISMISSING PETITION WITH LEAVE TO AMEND**

This cause has come before the Florida Department of Environmental Protection (Department) on receipt of a request made by Petitioner, Jefferson Smurfit Corporation, to grant an extension of time to file a petition for administrative proceeding regarding draft permit number 031003-001-AV. See Exhibit 1.

Counsel for Petitioner has not discussed this request with counsel for the Respondent State of Florida Department of Environmental Protection. Because the request fails to show good cause for the extension of time,

IT IS ORDERED:

The request for an extension of time to file a petition for administrative proceeding is DENIED.

Petitioner had further requested that a formal administrative proceeding be held if Petitioner's request for extension of time was denied. To the extent that this request

for extension of time is treated as a petition for formal administrative hearing, the petition challenged the Department's decision to issue Draft Permit No. 031003-001-AV, to Jefferson Smurfit Corporation, for operation of the Jacksonville Mill located at 1915 Wigmore Street, Jacksonville, Duval County, Florida. Sections 120.54(5)(b)4 and 120.569 of the Florida Statutes, Florida Administrative Code Rule 28-106.201(2), and the notice provided to Petitioner explain what must be included in a petition for a formal administrative proceeding. This petition does not comply with Rule 28-106.201(2) and therefore does not contain sufficient information to determine whether a formal administrative proceeding should be held. Specifically, the request does not include:

(a) The name, address, and telephone number of the petitioner and an explanation of how the petitioner's substantial interests are or will be affected by the Department's decision;

(b) A statement of when and how the petitioner received notice of the Department's decision;

(c) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(d) 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;

(e) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the the agency's proposed action; and

(f) 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.


Without this information, the petition must be dismissed as required by Florida Administrative Code Rule 28-106.201(4). Therefore, IT IS ORDERED:

The petition for hearing filed by Jefferson Smurfit Corporation is DISMISSED, without prejudice to Jefferson Smurfit Corporation to amend its petition to provide the information listed above. The amended petition must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within ten (10) days from the date set forth in the certificate of service on the last page of this Order. This Order constitutes final agency action of the Department unless a timely amended petition is filed in conformance with this Order.

Any party to this Order has the right to seek judicial review of the Order under Section 120.68 of the Florida Statutes by the filing of a Notice of Appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, 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 of Appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

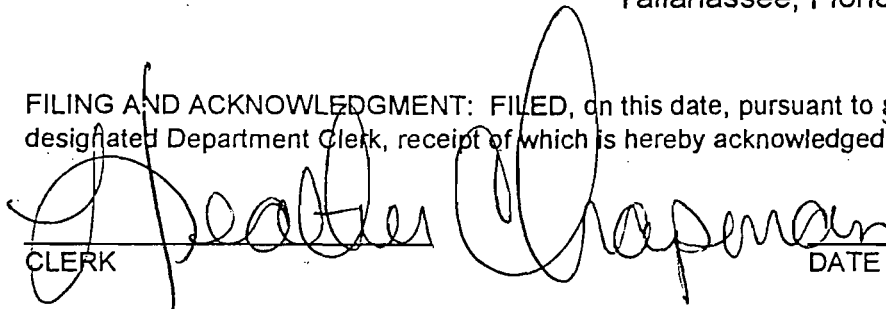
DONE and ORDERED this 2 day of ^{February} ~~January~~ 2000 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



DAVID B. STRUHS, Secretary
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

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 DATE 2/4/00

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing Order Denying Request for Extension of Time to File Petition for Hearing and Dismissing Petition With Leave to Amend was mailed to Terry Cole, Esquire, OERTEL, HOFFMAN, FERNANDEZ & COLE, P.A., Post Office Box 1110, Tallahassee, Florida 32302-1110, on this 4th day of ^{February} ~~January~~ 2000.



SCOTT A. GOORLAND
Senior Assistant General Counsel
Florida Bar No. 0066834

3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, FL 32399-3000
Telephone: (850) 488-9314

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JEFFERSON SMURFIT CORPORATION,

Petitioner,

vs.

OGC Case No. 98-2590

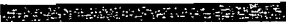
STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

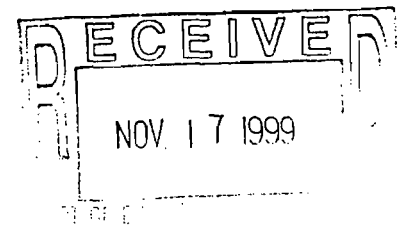
Respondent.

REQUEST FOR EXTENSION OF TIME

Jefferson Smurfit Corporation, by and through undersigned counsel, requests an extension of time from public notice of 60 days in which to file a Petition for Administrative Proceedings in the matter of the Department's Intent to Issue Title V Air Operation Permit No. 031003-001-AV and from publishing notice of the Notice of Intent to Issue. This request is made pursuant to Sections 120.569 and 120.57, Florida Statutes and Florida Administrative Code Rule 28-106.111(4) and Rule Chapter 62-103. In support of this request, Applicant states as follows:

1. The Intent to Issue Title V Air Operation was received by the Applicant on September 16, 1998.
2. This request is timely filed, and, pursuant to Florida Administrative Code Rule 28-106.111(3), serves to toll the running of the time period for filing a petition.


EXHIBIT 1




3. Additional time is needed to work on changes to the draft permit with DEP staff and to avoid the necessity of filing a petition for formal administrative proceedings. The District office has indicated to Petitioner its concurrence with this request.

4. If for any reason the Department does not grant this request or otherwise disregards this request, Applicant would specifically request, by means of this pleading, a formal administrative proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes.

WHEREFORE, Jefferson Smurfit Corporation respectfully requests that the time within which to file a petition for administrative proceeding be extended an additional 60 days.

I HEREBY CERTIFY that the foregoing has been furnished by hand delivery to Kathy Carter, Agency Clerk, Department of Environmental Protection, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and a copy by hand delivery to Scott A. Goorland, Senior Assistant General Counsel, 3900 Commonwealth Boulevard, MS35, Tallahassee, Florida, 32399-3000, this 17 day of November, 1999.

Respectfully submitted,



TERRY COLE

Florida Bar Number: 133550
OERTEL, HOFFMAN, FERNANDEZ &
COLE, P.A.
Post Office Box 1110
Tallahassee, Florida 32302-1110
(850) 521-0700

Attorneys for Jefferson Smurfit Corporation