



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAY 17 2007

William T. Seils,
Chief Executive Officer
Besicorp-Empire Newsprint, LLC
1151 Flatbush Road
Kingston, NY 12401

Re: Prevention of Significant Deterioration of Air Quality (PSD)
Second PSD Permit Extension for a Proposed Recycled Newsprint Facility
Owned by the Besicorp-Empire Newsprint, LLC (BENCO)

Dear Mr. Seils:

This is EPA's final Agency action under the Clean Air Act extending the effective date of the PSD permit for Besicorp-Empire Newsprint, LLC (BENCO) from March 23, 2007 until March 23, 2008, for the construction of the proposed 330,000 metric ton-per-year recycled newsprint facility. This PSD permit is effective immediately upon receipt.

Background

On September 23, 2004, the New York State Department of Environmental Conservation (NYSDEC) issued one PSD permit for a proposed project that, at the time, consisted of a cogeneration power plant and a newspaper recycling facility. Subsequently, at the request of the developer and for reasons related to securing financing from lenders, the proposed project was split into two separate and financially independent projects. The PSD permit was bifurcated into two PSD permits on December 8, 2005. However, the bifurcation did not change the original expiration date of March 23, 2006. By that time, these two proposed projects had not obtained all the necessary permits to start construction. In addition, these two proposed projects had not secured the necessary financing to start construction. In anticipation of the March 23, 2006 expiration date, BENCO requested a PSD permit extension on January 10, 2006. EPA and NYSDEC granted a 12-month extension after allowing for a public comment period during which no comments were received. A new PSD permit expiration date was set for March 23, 2007.

On January 18, 2007, EPA received a second request from BENCO to extend their PSD permit expiration date for commencement of construction from March 23, 2007 until March 23, 2008. A number of reasons were provided for this extension request.

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based inks on Recycled Paper (Minimum 50% Postconsumer content)

On March 28, 2007, after reviewing the reasons provided, EPA issued a preliminary determination to grant an additional one-year extension, subject to public review. On EPA's behalf, the NYSDEC published a public notice in the Environmental Notice Bulletin (ENB) which allowed for a 30-day public comment period. No public comments were received.

Discussion

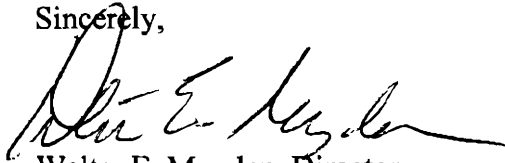
Pursuant to 40 C.F.R. § 52.21(r)(2), a PSD permit becomes invalid if construction does not commence within 18 months after permit issuance. EPA may exercise its discretion to extend the 18-month period "upon a satisfactory showing that an extension is justified" provided certain requirements are met. EPA and NYSDEC had previously granted a permit extension of 12 months for this project. In determining whether a second permit extension should be granted, EPA reviewed the information submitted by BENCO regarding the continued viability of this proposed recycled newsprint facility. Based on the information submitted by BENCO, this proposed recycled newsprint facility continues to appear viable based on the company's representations about the pending financing and contractual arrangements. In addition, all of the remaining unresolved issues appear to be heading to a likely resolution no later than the end of this year. Furthermore, EPA agrees that the proposed air pollution control equipment and air quality impact analyses remain current and appropriate. Therefore, based on the information provided by BENCO, EPA proposed to extend the effective date of this permit by one year (until March 23, 2008) conditioned on completion of the public review process. As mentioned above, no public comments were received by the NYSDEC or EPA regarding the PSD permit extension request.

Please note that the PSD permit conditions have been contained in a merged PSD/Part 201 permit issued by the NYSDEC. These conditions were developed by the NYSDEC under a PSD delegation of authority in effect at that time. As the NYSDEC is no longer operating under that delegation, I am hereby exercising my authority to implement the PSD program under 40 CFR §52.21 by re-issuing the PSD permit with the revised expiration date. Attachment I contains the final PSD permit with the revised condition. Please be advised that today's modifications relate solely to the PSD requirements in the merged permit. Any changes pursuant to Part 201 must be addressed independently with NYSDEC.

The revised PSD permit conditions are effective immediately upon receipt. This determination is final Agency action under the Clean Air Act. No administrative review is possible since no comments were received on the proposed changes and EPA made no changes to the permit conditions after the period for public review.

If you have any questions regarding this letter, please call Mr. Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at (212) 637-4074.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter E. Mugdan". The signature is fluid and cursive, with a large initial "W" and "M".

Walter E. Mugdan, Director
Division of Environmental Planning and Protection

Attachment

cc: David Shaw, Director, Division of Air Resources, NYSDEC (w/attachment)
Robert Stanton, NYSDEC - Albany (w/attachment)
Leon Sedefian, NYSDEC - Albany (w/attachment)
Kevin Bernstein, Bond, Schoeneck & King, PLLC (w/attachment)

RNF PSD PERMIT
BESICORP - EMPIRE NEWSPRINT, LLC
36 Riverside Avenue
Rensselaer, NY 12144

I. Facility Wide PSD Emission Limits

The Besicorp-Empire Recycled Newsprint Facility (RNF) will consist of stock preparation and paper mill and finishing and shipping. The RNF will process approximately 430,000 metric tons/year of waste newspapers and magazines to produce 330,000 metric tons/year of 100 percent-recycled newsprint. The facility will also include an auxiliary boiler to supply steam for the RNF processes. The auxiliary boiler will be located on a parcel of land adjacent to the proposed Besicorp-Empire Power Generating Facility (PGF) and will be fired with natural gas and low-sulfur distillate oil as a secondary fuel (limited to no more than 1.03 million gallons per year). Until or unless the aforementioned PGF is built and is operating, the auxiliary boiler will be allowed to operate up to full time (8,760 hours/year), within the facility wide emission limits below. If or when the PGF is built and is operating the auxiliary boiler will be limited by the Alternative Operating Scenario emission limits stated below.

The RNF shall meet the following facility wide emission limits (all rolled daily) for the base case (full-time operation of the auxiliary boiler) and the Alternative Operating Scenario which reflects part-time simultaneous operation of the auxiliary boiler and the PGF, or operation of the auxiliary boiler in the event that a single combustion turbine, both combustion turbines, and/or a single steam turbine is unavailable.

Pollutant	Full-Time Aux. Boiler (tons/yr)*	Alt. Operating Scenario (tons/yr)**
SO ₂	3.2	2.65
CO	74.7	17.4
PM	6.17	2.4
PM-10	6.17	2.4
VOC	43.5	40.4
NO _x	11.9	3.65
Ammonia	4.49	1.05
Sulfuric Acid	0.49	0.4

* - Based on 360 hours firing oil @ 220 kpph, 4200 hours firing gas @ 182 kpph, and 4200 hours firing gas @ 207.2 kpph

** - Based on 360 hours firing oil @ 240 kpph, and 1260 hours firing gas @ 240

II. Emission Unit Conditions

A. *(Emission Unit 1-RNMP): Recycled Newsprint Facility*

The RNF produces paper from 100% recycled newsprint and magazines. This emission unit consists of processes associated with the RNF, located in the deinking building and the paper machine building. Deinking processes include a drum pulper, flotation cells and disc filters. Processes in the paper machine building include the wet end process sources and the dry end sources. Wet end process sources include a saveall system, formers, a press pit pulper, two presses and a machine vacuum system. Dry end process sources include a paper machine dryer, a calendar pulper, a reel pulper and a winder pulper.

A.1) *Emission Limit Controls for (Emission Unit 1-RNMP):*

This facility shall use the following control measures in order to meet BACT requirements:

VOC - Emissions of VOC shall be controlled by using low-VOC chemicals.

A.2) *Emission Limits for (Emission Unit 1-RNMP): VOC-LAER Requirements*

Process	Emission Limit (as propane)
RO1- Deinking	1.7 ppm _{dv}
RO2- Paper Machine	1.7 ppm _{dv}
Total Annual Limit for:	
RO1 & RO2	39.5 tons

(Emission Unit 1-AXBLR): Auxiliary Boiler

The auxiliary boiler (AB) will provide steam to the RNF in the event that the PGF is not constructed or is not operating, or that a single combustion turbine, both combustion turbines and/or a single steam turbine are unavailable. NO_x are controlled with the use of selective catalytic reduction. SCR also may produce ammonia emissions. The auxiliary boiler is subject to Federal New Source Performance Standards for Industrial Commercial-Institutional Steam Generating Units (40 CFR Part 60 Subpart Db).

A.3 *Emission Limit Controls for (Emission Unit 1-AXBLR)*

This facility shall use the following control measures in order to meet BACT requirements:

Nitrogen Oxides - Emission control shall consist of dry low NO_x combustion technology in combination with a selective catalytic reduction (SCR) system.

Particulate - PM and PM₁₀ emissions shall be controlled by the use of clean burning (low ash) fuel and by efficient combustion techniques.

Carbon Monoxide - Emissions of carbon monoxide shall be controlled by good combustion control.

Sulfur Dioxide and Sulfuric Acid Mist - Emissions of sulfur dioxide and sulfuric acid mist shall be controlled by using natural gas and very low sulfur content distillate oil as fuels for combustion.

A.4 Emission Limits for (Emission Unit 1-AXBLR)

a. Auxiliary Boiler firing natural gas: (Process C11)

	Limits	Applicable Requirement
NO _x	4.65 lbs/hr & 1.099E-1 lb/mmBTU	LAER
CO	31.7 lbs/hr & 0.50 lb/mmBTU	BACT
PM	2.11 lb/hr & 0.005 lb/mmBTU	BACT
PM ₁₀	2.11 lb/hr & 0.005 lb/mmBTU	BACT
NH ₃ slip	5.0 ppmdv @ 15% oxygen	NYCRR Subpart 200.7
VOC (as propane)	0.004 lbs/mmBTU	LAER
SO ₂	0.353 lbs/hr	BACT
H ₂ SO ₄	0.054 lbs/hr	BACT

b. Auxiliary Boiler firing very low sulfur content distillate oil: (Process C12)

	Limits	Applicable Requirement
NO _x	11.31 lbs/hr & 2.02E-1 lb/mmBTU	LAER
PM	12.0 lb/hr & 0.03 lb/mmBTU	BACT
PM ₁₀	12.0 lb/hr & 0.03 lb/mmBTU	BACT
CO	30.0 lbs/hr & 0.075 lb/mmBTU	BACT
NH ₃ slip	5.0 ppmdv @ 15% oxygen	NYCRR Subpart 200.7
VOC (as propane)	0.004 lbs/mmBTU	LAER
SO ₂	20.16 lbs/hr	BACT
H ₂ SO ₄	3.08 lbs/hr	BACT

B. Operational Restrictions**Emission Unit: RNMP**

1. VOC emissions (as propane) may not exceed 1.7 ppm_{dv} on a rolling monthly basis.
2. In order to comply with the LAER requirements for NO_x, the Fire Pump shall operate only with the use of turbochargers with aftercoolers and electronic ignition timing retard. In addition, the operations of each engine shall not exceed 52 hours per 12 month rolling period during equipment testing. Equipment specifications, logs of operating hours and maintenance logs shall be maintained on site.

Emission Unit: AXBLR:

1. Sulfur dioxide and sulfuric acid mist emissions from fuel oil combustion comply with the best available control technology (BACT) requirements through the use of low sulfur distillate oil with a sulfur content of 0.05% by weight or less. Compliance shall be demonstrated through fuel oil sampling and analysis - one sample per supplier per day when deliveries are being made.
2. The auxiliary boiler is limited to firing no more than 1.03 million gallons/year of fuel oil on a rolling daily basis. Fuel oil flow to the boiler shall be continuously monitored and recorded to demonstrate compliance with this requirement.
3. When two turbine trains at the Besicorp-Empire PGF are online, the auxiliary boiler may only operate if the combustion turbines are operating at 100% load and the duct burners are operating at 100% load or as necessary to prevent overheating of the reheat circuit. The maximum load for the auxiliary boiler is 207,200 pounds per hour of steam (1-hr Avg.) while the combustion turbines are operating at 100% load and the duct burners are operating at 100% load or as necessary to prevent overheating of the reheat circuit. The RNF shall continuously record auxiliary boiler loads coincident with the PGF's continuously recording combustion turbine and duct burner loads in order to demonstrate compliance with this requirement.
4. When only one turbine train at the Besicorp-Empire PGF is online, the auxiliary boiler may only operate a minimum load (10% load firing natural gas and 14% load firing distillate oil), unless the combustion turbine and the duct burner are operating at 100 percent load. The maximum load for

auxiliary boiler is 207,200 pounds per hour of steam (1-hr avg.) while the combustion turbine and the duct burner are operating at 100 percent load. The RNF shall continuously record auxiliary boiler loads coincident with the PGF's continuously recording combustion turbine and duct burner loads in order to demonstrate compliance with this requirement.

C. Testing and Compliance Certification Requirements

1. Compliance stack testing shall be conducted as follows:
 - a. Compliance stack testing shall be conducted in accordance with 40 CFR 60.8.
 - b. Stack testing to determine compliance with VOC emission limits shall be completed for within 180 days of RNMP startup. To demonstrate compliance with the VOC limit of 1.7 ppmvd for Emission Unit 1-RNMP, stack test results from the initial stack test shall be used to develop an emission factor in conjunction with plant production and chemical use data to calculate rolling monthly average VOC emissions in parts per million for comparison to the limit. The details of the stack test, emission factors and monthly tracking system shall be proposed in a stack test protocol approved by the Department prior to the stack test. The permittee shall submit a stack test protocol to the Department for review at least 60 days prior to conducting testing.

The permittee shall notify the Department of the scheduled test dates at least 30 days prior to such dates. The final stack test report shall be submitted to the Department within 60 days of completion of testing.

D. Reporting and Record Keeping Requirements

1. The facility shall comply with the reporting and record keeping requirements of 40 CFR 60.
2. The permittee shall maintain written records of the compliance determination required in accordance with conditions II.C.1.b. These records shall be maintained on site and shall be reported upon request.
3. The facility shall collect and keep records of process chemicals used in the production of recycled newsprint in the RNF and the VOC content of these chemicals. The facility will then use the VOC contents of the chemicals to calculate rolling monthly average VOC emissions for the RNF based on emission factors developed during the initial stack test to verify compliance with the 1.7 ppmvd limit.

E. Plant-wide Requirements

1. The VOC emission limits based on heat input correspond to the Higher Heating Value (HHV) of the fuel burned.
2. All emission limits apply at all permissible loads and modes of operation. During periods of startup, shutdown, maintenance and malfunction or emergency, the provisions of 6 NYCRR Part 201-1.4 and 1.5 apply.
3. During Facility Construction: Trucks used for transporting soil and/or gravel during construction shall be covered to avoid loss of transported material, and truck speed on site shall be controlled to minimize fugitive dust. Any spillage from trucks on paved roadways shall be cleaned regularly.
4. The approval to construct the facility shall become invalid if construction is not commenced by March 23, 2008, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time.

F. General NSPS Permit Conditions

These conditions identify the general NSPS requirements applicable to the gas turbines, duct burners and auxiliary boiler.

1. All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the following address:

Director, Division of Enforcement and Compliance Assistance
USEPA Region 2
290 Broadway, 21st floor
New York, NY 10007-1886

Copies of all correspondence to the administrator pursuant to this part shall also be submitted to the NYSDEC Regional Office issuing this permit (see address at the beginning of this permit) and to the following address:

NYSDEC
Bureau of Enforcement and Compliance Assurance
625 Broadway
Albany, NY 12233-3254

2. Any owner or operator subject to this part shall furnish the Administrator with the following information:
 - a. a notification of the date construction or reconstruction commenced, post marked no later than 30 days after such date;
 - b. a notification of the date construction or reconstruction commenced, post marked no later than 30 days prior to such date;
 - c. a notification of the actual date of initial start up, post marked within 15 days after such date;
 - d. A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless the change is specifically exempted under this part. The notice shall be post marked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature to the change, present and proposed emission control systems, productive capability of the facility before and after the change, and the expected completion date of the change. The Administrator may request additional information regarding the change;
 - e. A notification of the date upon which the demonstration of continuous monitoring system performance commences, post marked not less than 30 days prior to such date;
3. Affected owners or operators shall maintain records of occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.
4. Affected owners or operators shall submit an excess emissions report quarterly (or more frequently as required by the applicable Subpart or the Administrator), to the Administrator. These reports shall be post marked no later than 30 days after each calendar quarter (or as appropriate), and shall contain the following information:
 - a. The magnitude of excess emissions computed, any conversion factors used, the date and time of each occurrence, and the process operating time during the reported period;

- b. Specific identification of each period of excess emissions that occur during startup, shutdown, or malfunction, where the nature, cause, and corrective action are provided for a malfunction;
 - c. The date and time identifying each period during which the continuous monitoring system was inoperative except for zero span checks and the nature of the system repairs or adjustments; and
 - d. When no excess emissions have occurred, or when the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be provided in the report.
5. An excess emissions report and/or a summary report, for each pollutant monitored, shall be sent to the Administrator quarterly (or as required), in the form prescribed in Figure 1 of subdivision 60.7(d).
 6. The following files shall be maintained at the facility for all affected sources: all measurements, including continuous monitoring systems, monitoring device, and performance testing measurements; all continuous monitoring system evaluations, all continuous monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part, recorded in permanent form suitable for inspections. The file shall be maintained for at least two years following the date of such measurements, reports, and records.
 7. Within 60 days after achieving the maximum production rate, but not later than 180 days after the initial startup of the facility, the owner or operator of the facility shall conduct performance testing and provide the results of such tests, in a written report, to the Administrator.
 8. Performance testing shall be conducted in accordance with the methods and procedures in this part or by alternative methods and procedures approved by the Administrator.
 9. Performance tests shall be conducted under such conditions specified by the Administrator, based upon representative performance data supplied by the owner or operator of the facility.
 10. The owner or operator shall provide the Administrator with prior notice of any performance test at least 30 days in advance of testing.

11. The following performance testing facilities shall be provided during all tests:
 - a. Sampling ports adequate for tests methods applicable to such facility;
 - b. A safe sampling platform;
 - c. A safe access to the sampling platform; and
 - d. Utilities for sampling and testing equipment.
12. Each performance test shall consist of three separate runs, at the specified duration required in the applicable test method. Compliance with all applicable standards shall be determined by using the arithmetic mean of the results of the three runs.
13. The availability to the public of information provided to, or otherwise obtained by, the Administrator under this part shall be governed by part 2 of this chapter.
14. Compliance with standards in 40 CFR Part 60, other than opacity standards, shall be determined in accordance with performance tests established by section 60.8 of 40 CFR Part 60 unless otherwise specified in the applicable standard.
15. At all times, including periods of startup, shutdown, and malfunction, owners and operators of this facility shall, to the extent practicable maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Department and the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.
16. No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.
17. All monitoring systems and devices shall be installed, calibrated,

maintained, and operated in accordance with the requirements of section 60.13.

18. Within 180 days of the completion of any physical or operational change (as defined in section 60.14), compliance with the applicable standards must be achieved.

19. The following shall be submitted to the Administrator prior to reconstruction (as defined in Section 60.15):
 - a. A notice of intent to reconstruct 60 days prior to the action;
 - b. Name and address of the owner or operator;
 - c. The location of the existing facility;
 - d. A brief description of the existing facility and the components to be replaced;
 - e. A description of the existing air pollution control equipment and the proposed air pollution control equipment.
 - f. An estimate of the fixed capital cost of the replacements and of constructing a comparable entirely new facility;
 - g. The estimated life of the facility after the replacements; and
 - h. A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

F. Future PSD Modifications

The Besicorp-Empire Recycled Newsprint Facility was permitted in conjunction with an adjacent Besicorp-Empire Power Generating Facility as one major source under an original PSD Permit (Permit ID: 4-3814-00052). For future PSD modification purposes, the total potential emissions from both facilities (RNF and PGF) from the original PSD permit as shown below shall be used to define the source.

The total PSD potential to emit for both facilities was originally defined as follows and shall be used to evaluate future modifications to the facility:

	Total PSD Potential for Both Plants
SO ₂	151.4 tons/year
H ₂ SO ₄	59.0 tons/year
CO	151.4 tons/year
Ammonia slip	115.4 tons/year
PM	250.9 tons/year
PM-10	250.9 tons/year
VOC	160.1 tons/year
NO _x	221.8 tons/year