

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Stone Container Corporation)	Director's Final Findings
D.B.A. Smurfit-Stone Container Corporation)	and Orders
500 North Fourth Street)	
Coshocton, Ohio 43812)	

PREAMBLE

It is hereby agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Stone Container Corporation, D.B.A. Smurfit-Stone Container Corporation ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent, or of the facility owned by Respondent and as hereinafter defined, shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC § 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a paper product manufacturing plant ("the facility"), which is located at 500 North Fourth Street in Coshocton, Ohio, and is identified by Ohio EPA facility identification number 06-16-01-0001.

2. As part of the paper manufacturing process at the facility, Respondent operates a boiler, which is identified by Ohio EPA as emissions unit B006.

3. Emissions unit B006 is co-fired with wood residue, natural gas, wastewater treatment sludge, and/or wastepaper rejects, and particulate emissions ("PE") from the boiler are controlled with a cyclone and venturi wet scrubber.

4. Pursuant to 40 CFR, Part 60, Subpart D for New Source Performance Standards for Fossil Fuel Fired Steam Generators, and Permit to Install ("PTI") #06-04159 as modified and issued on May 3, 2000 pursuant to OAC § 3745-31, emissions unit B006 was subject to a PE limitation of 0.08 pound per million British Thermal Units ("lb/mmBtu").

5. Since emissions unit B006 is a major source, the facility is a "Title V source," as defined in OAC Rule 3745-77-01(LL).

6. On June 13, 2001, Ohio EPA issued a Title V Permit to Respondent that contains a PE limitation of 0.08 lb/mmBtu for emissions unit B006. PTI #06-04159 specifies that a PE limit of 0.08 lb/mmBtu of heat input represents the best available technology.

7. On October 22, 2002, Air Compliance Testing performed a PE compliance test at the facility for emissions unit B006. The test results revealed the PE from emissions unit B006 as 0.091 lb/mmBtu of heat input, which is approximately 14% above the limit allowed by the PTI, in violation of PTI #06-04159, the Title V Permit, and ORC § 3704.05(C).

8. Respondent reported this test result to Ohio EPA, Southeast District Office ("SEDO") in a telephone call on October 29, 2002 and scheduled to retest on November 19, 2002.

9. Respondent shut down emissions unit B006 for two days (i.e., on November 19-20, 2002) while investigating the cause of the excess emissions with the original equipment manufacturer ("OEM"). The investigation revealed abnormal air flow and a leak in the tubular air heater of the boiler as part of the problem. Both problems were fixed.

10. Further PE testing by Air Compliance Testing on November 27, 2002, showed a lower PE of 0.086 lb/mmBtu of heat input from emissions unit B006 (i.e., 7.5% above the limit allowed by the PTI), in violation of PTI #06-04159, the Title V Permit, and ORC § 3704.05(C). This slight reduction in excess emissions necessitated further investigation by Respondent and OEM to bring the facility into compliance. The results of the investigation indicated the need to improve the fuel mixing procedure.

11. On December 20, 2002, Air Compliance Testing performed PE compliance testing on emissions unit B006 using a new fuel mixture procedure in addition to adjusting the air flow.

12. In a letter dated January 14, 2003, SEDO noted the excess emissions from emissions unit B006 as revealed by the test results of November 27, 2002, and cited Respondent for violating PTI #06-04159, the Title V Permit, and ORC § 3704.05(C). SEDO further requested Respondent to submit a compliance plan and schedule for bringing the facility into compliance with the applicable rules.

13. On February 14, 2003, Respondent informed SEDO of the results obtained from the December 20, 2002 emissions test on emissions unit B006 and the details of the new procedure used in obtaining the results. The new fuel mixture procedure dropped the PE from emissions unit B006 to 0.048 lb/mmBtu of heat input, which is 40% below the limit allowed by the PTI. The Respondent indicated that this procedure would be used to ensure that emissions unit B006 is operated in continuous compliance with the PE limit in the Title V Permit issued on June 13, 2001.

14. In a letter dated March 6, 2003 to Respondent, SEDO noted the past excess PE from emissions unit B006 as revealed in the test results, and also accepted Respondent's outlined operational changes as an adequate compliance plan and schedule for bringing the facility into compliance with the applicable rules.

15. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Order:

Within fourteen (14) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of twenty-one thousand six hundred dollars (\$21,600) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$21,600. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

A copy of the check shall be sent to James A. Orlemann, Assistant Chief, Enforcement

Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to Respondent's conduct and operation of the source emissions unit B006 specified in these Orders.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by mutual agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency

Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attention: Daniel J. Canter

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216 - 1049
Attention: Felix Udeani

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones
Director

Date

IT IS SO AGREED:

Stone Container Corporation

Signature

Date

Printed or Typed Name

Title