

AGREED BOARD ORDER NO. 09-03

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident Nos. 04460 & 05048

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and American Synthetic Rubber Company, a division of Michelin North America, Inc. (Company), a New York corporation.

COMPANY: American Synthetic Rubber Company
4500 Camp Ground Road
Louisville, KY 40216

REGULATIONS INVOLVED:

- 2.03 Permit Requirements—Non-Title V Construction and Operating Permits and Demolition/Renovation Permits
- 2.16 Title V Operating Permits

NOTICE OF VIOLATION LETTERS: No. 01898, dated August 17, 2007
No. 02049, dated February 9, 2009

BACKGROUND AND DISCUSSION:

Company owns and operates a synthetic rubber manufacturing facility located at 4500 Camp Ground Road subject to District Title V Permit No. 154-97-TV.

In 1990, the District issued to Company a Prevention of Significant Deterioration (PSD) permit that included an emissions limitation on sulfur dioxide (SO₂) of 141.3 pounds per hour for its two coal-fired boilers (Boilers #1 and #2). Company agrees that the permit established emissions limitations for SO₂, but Company disputes that the permit established an emissions limitation on SO₂ of 141.3 pounds per hour. The District alleges that Company has a history of exceeding this SO₂ limitation caused in part by failure of the scrubber system that controls SO₂ emissions from the boilers. As the District was preparing Company's Title V draft permit in 2005, Company requested that the District include an averaging period of 30 days for the 141.3 lbs/hr SO₂ emissions limitation in its PSD permit. The District revised the PSD permit in December, 2005 to include an averaging period of three hours for the SO₂ emissions limitation before rolling the provisions of the PSD permit into the Title V permit, which was issued in August, 2006. Company filed petitions for administrative hearing objecting to the permits, based in part on concerns relating to the SO₂ emissions limitation for Boilers #1 and #2.

In 2007, the District issued Notice of Violation No. 01898 to Company alleging exceedance of the lbs/hr SO₂ emissions limitation for Boilers #1 and #2 on 59 occasions from

April 2002 through March 2007. On August 17, 2007, the District filed a Petition for Administrative Hearing alleging that Company had violated the lbs/hr SO₂ emissions limitation as alleged in the Notice of Violation. Company has contested the Petition. On February 9, 2009, the District issued Notice of Violation No. 02049 to Company alleging exceedance of the lbs/hr SO₂ emissions limitation on 19 occasions from April – December, 2008. The Company has contested the Notice of Violation.

By agreement of the parties, the petitions for administrative hearing have been held in abeyance while the parties attempted to settle their differences.

Company has proposed to revise its PSD permits and on December 30, 2008 submitted an analysis of the Best Available Control Technology (BACT) to support its proposed revisions. The District has approved the BACT analysis and has prepared draft PSD permits for Boilers #1 and #2 and associated control equipment that revise the current PSD permits as follows:

- a. combustion of coal containing less than 1% sulfur;
- b. lower SO₂ emissions limitation of 0.2 lbs/MMBtu on a 30-day rolling average;
- c. operation and maintenance plan for the SO₂ removal system, including root cause analysis for upset events, operator training, and operations & maintenance requirements for the system, including the baghouse associated with Boilers 1 & 2.

To fully address the violations alleged above of District regulations, the parties agree to this Order assessing against Company an administrative settlement of \$112,500, and requiring the parties to take certain actions to resolve the matter.

On June 17, 2009, a public hearing was held before the Board on this proposed Order. Based upon the information presented at that hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

NOW, THEREFORE BE IT ORDERED THAT:

1. Company shall pay \$112,500 to the Louisville Metro Air Pollution Control District by June 30, 2009. Upon receipt of the administrative settlement amount the District shall withdraw its Petition for Administrative Hearing on the alleged violations of the lbs/hr SO₂ emissions limitation.

2. Company has submitted to the District an application to revise its PSD permits incorporating its December 30, 2008 BACT analysis. Company agrees not to contest the final PSD permits issued by District, unless the permits differ materially from the proposed draft PSD permits released by the District for public notice and comment on June 17, 2009. Company shall withdraw its Petitions for Administrative Hearing on its revised PSD permits and Title V permit within 15 days after the new permits are no longer subject to administrative or judicial review by a third party.

3. If Company complies with the provisions of the proposed draft PSD permits released by the District for public notice and comment on June 17, 2009 until the final PSD permits are issued or the application to revise the permits is denied, the District will not take enforcement action for exceedances of the lbs/hr SO₂ emissions limitation governing Boilers #1 and #2 in Title V Permit No. 154-97-TV, U4 Additional Condition 1.b.i.

4. Company shall conduct and report its visible emissions surveys weekly for the ash load-out system, as provided by District Permit No. 154-97-TV, Permit Summary Condition II.5.a.iv.1 for Emission Unit U4, instead of the daily visible emissions surveys requirements set out in District Permit No. 154-97-TV, U4 Additional Condition 2.d.iv.1. This requirement shall remain in effect unless and until superseded in a permit issued by the District. If Company complies with this requirement, the District will not take enforcement action based on U4 Additional Condition 2.d.iv.1 for the ash load-out system.

5. Company shall comply with the conditions of Construction Permit No. 87-06-C for the supersack unloader (BU-1T), instead of District Permit No. 154-97-TV conditions requiring particulate matter (PM) monitoring, recordkeeping, and reporting for BU-1T. This requirement shall remain in effect unless and until superseded in a permit issued by the District. If the Company complies with this requirement, the District will not take enforcement action based on the particulate matter (PM) monitoring, recordkeeping, and reporting for BU-1T required by the District Permit No. 154-97-TV.

6. Company shall conduct and report its visible emissions surveys monthly for opacity emission from Emissions Unit U1/U2, as provided by District Permit No. 154-97-TV, Permit Summary Condition II, 5.a.i, instead of the daily visible emissions surveys requirement set out in District Permit No. 154-97-TV, U1/U2 Additional Condition 2.f.i.. This requirement shall remain in effect unless and until superseded in a permit issued by the District. If Company complies with this requirement, the District will not take enforcement action based on U1/U2 Additional Condition 2.f.i.

7. Company has reviewed this Order and consents to all its requirements and terms. Company agrees to pay the cost of publishing legal notice of the public hearing.

8. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.

9. This Order fully resolves the violations alleged in District Incident Nos. 04460 and 05048, as alleged above in this Order.

10. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of a violation of any permit condition or emissions limitation, or of any wrongdoing regarding any of the matters referenced in this Order.

Dated this 17th day of June, 2009.

Louisville Metro Air Pollution Control Board

American Synthetic Rubber Company, a
division of Michelin North America, Inc.

By: _____
Robert W. Powell, M.D.
Chair

By: _____

Title

Louisville Metro Air Pollution Control District

By: _____
Paul Aud, P.E.
Air Pollution Control Officer

Approved as to form and legality:

By: _____
Stacy Fritze Dott
Assistant County Attorney