

AGREED BOARD ORDER NO. 11-01

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident No. 05728

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 the University of Louisville, a non-profit Kentucky corporation (University), and is effective on the date of its adoption by the Board.

COMPANY: University of Louisville
1800 Arthur Street
Louisville, KY 40208

REGULATIONS INVOLVED:

District Regulation 5.04: Adoption of Federal Emission Standard for Asbestos
40 Code of Federal Regulations §61.145: Standard for Demolition and Renovation

NOTICE OF VIOLATION LETTER: No. 02180, dated September 13, 2010

BACKGROUND AND DISCUSSION:

The University recently began a project to upgrade light fixtures at the Belknap Campus. During the course of the project, the University allowed light fixtures to be removed without thoroughly inspecting for the presence of asbestos.

On or about March 18, 2010, the Louisville Metro Air Pollution Control District (District) received notification from the University that electrical contractors had removed light fixtures that may have contained asbestos-insulated wiring. The University indicated that 122 light fixtures had been removed from the Natural Science Building and 276 light fixtures had been removed from Ernst Hall. The University issued a stop work order to the contractors in order to determine if the wiring contained asbestos.

On or about March 23, 2010, the University began additional inspections of light fixtures that remained in the two buildings. Samples of cloth-wrapped wires were collected by a state-accredited asbestos building inspector hired by the University and submitted to a laboratory. Analytical results provided by EMSL Analytical, Inc. indicated that some cloth-wrapped wires contained 20% Chrysotile.

The University also discovered that some lighting waste from the two buildings remained in a 30 cubic yard roll-off container that was located on the campus. The University collected

samples from the lighting waste and determined that cloth-wrapped wires found in the waste also contained asbestos. Analytical results provided by McCall and Spero Environmental, Inc. indicated that the cloth-wrapped wires contained 40% Chrysotile.

While some cloth-wrapped wires tested positive for asbestos, the University and its inspector believe that its waxy quality made the material non-friable. Although the District asked to take its own samples of the materials, the materials were disposed of by the University before any samples could be taken.

On or about March 27, 2010, the University notified the District that it had contracted with National Environmental Consulting, Inc. to abate and dispose of asbestos for the remainder of the lighting project. The University has also provided asbestos surveys for the remainder of the lighting project.

To fully address the violations of District Regulation 5.04 alleged above, the parties agree to this Order assessing against the University an administrative settlement of \$15,000. On January 19, 2011, 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. The University shall pay \$15,000 to the Louisville Metro Air Pollution Control District by March 19, 2011, unless the District has approved in writing a Supplemental Environmental Project (SEP) providing for a SEP credit. If the amount of SEP credit approved by the District is less than \$15,000, the University shall have 30 days from the date of the District's written approval to submit the remaining penalty amount to the District.
2. If an asbestos training video project is approved by the District as a SEP, the University agrees to submit a copy of the video to the District for asbestos training purposes.
3. The University has reviewed this Order and consents to all its requirements and terms. The University agrees to pay the cost of publishing legal notice of the public hearing.
4. In the event that it is necessary for the District to seek a court order to enforce this Order, the University agrees to pay filing fees and costs of such action.
5. This Order fully resolves the violations alleged in District Incident No. 05728, and as alleged above in this Order.
6. Neither this Order nor the actions taken hereunder shall constitute an admission by the University of any wrongdoing regarding any of the matters referenced in this Order.

Louisville Metro Air Pollution Control Board

University of Louisville

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

By: _____
Larry Owsley
Vice President, Business Affairs

Date: _____

Louisville Metro Air Pollution Control District

By: _____
Terri Phelps
Enforcement Manager

Date: _____

Approved as to form and legality:

By: _____
Stacy Fritze Dott
Assistant County Attorney