

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

IN THE MATTER OF:)
COOPER TIRE & RUBBER COMPANY) **Docket No. 09-003-P**
TEXARKANA, ARKANSAS)
NPDES PERMIT NO. AR0038822)

PERMIT APPEAL RESOLUTION

This Permit Appeal Resolution ("PAR") is entered into for the purpose of resolving this proceeding pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101, *et seq.*, and the regulations promulgated thereunder. All issues involved in this proceeding have been settled by agreement of Cooper Tire & Rubber Company ("Cooper") and the Director of the Arkansas Department of Environmental Quality ("ADEQ"). It is therefore agreed and stipulated that the following Findings of Fact and Order and Agreement be entered herein.

FINDINGS OF FACT

1. Cooper operates an industrial facility located at 3500 East Washington Road, Texarkana, Arkansas 71854 (the "Facility"). At the Facility, Cooper manufactures tires for light trucks and passenger cars.
2. ADEQ previously issued the Facility the Permit, effective date July 1, 2003, for the discharge of air conditioner condensate and storm water, the Facility was also subject to a Consent Administrative Order ("CAO") 07-013 which established certain interim limits for zinc which expired on April 10, 2009. Additionally, Cooper and ADEQ, during the pendency of the Permit and prior to this decision, were developing an additional CAO which would have established interim limits for zinc through April 30, 2011. Ultimately, Cooper was informed by ADEQ that the Permit would be issued and no supplemental CAO would be issued.
3. Cooper timely filed an application for renewal of the Permit.
4. On or about February 13, 2009, ADEQ issued a draft renewal permit for public notice.
5. Cooper timely submitted comments to the draft renewal permit on March 16, 2009.

6. On or about March 31, 2009, ADEQ issued its final permitting decision in the renewal of Permit No. AR0038822 (the "Permit").

7. On April 29, 2009, Cooper timely filed a Request For Commission Review and Adjudicatory Hearing regarding the allegations contained in the Notice of Violation and Permit Revocation. *In the Matter of Cooper Tire & Rubber Company*, Docket No. 09-003-P (the "Appeal").

8. Cooper and ADEQ have now agreed to a resolution of all issues raised in the Appeal, the terms of which are embodied in this PAR.

ORDER AND AGREEMENT

Cooper and ADEQ hereby stipulate and agree that ADEQ will issue a modification of the Permit in accordance with the terms and conditions set forth in Paragraph 1 below, and that ADEQ will support the modification in the event of any challenge to the modification or appeal thereof.

1. ADEQ will issue the following modifications to Permit No. AR0038822.
 - ✓ a. Change the limit for Total Suspended Solids ("TSS") in Part I, Section A Interim Effluent Limitations and Monitoring Requirements, Table 1 from 20.0 mg/l Monthly Average and 30.0 mg/l Daily Max to 53.0 mg/l Daily Max.
 - ✓ b. Change the limit for TSS in Part I, Section A Final Effluent Limitations and Monitoring Requirements, Table 1 from 20.0 mg/l Monthly Average and 30.0 mg/l Daily Max to 53.0 mg/l Daily Max.
 - ✓ c. Mercury, Total Recoverable will be withdrawn as a discharge limitation in Part I, Section A, Interim Effluent Limitations and Monitoring Requirements Table 1.
 - ✓ d. Mercury, Total Recoverable will be withdrawn as a discharge limitation in Part I, Section A, Final Effluent Limitations and Monitoring Requirements Table 1.
 - e. All references to Mercury, Total Recoverable will be removed from the Permit.
 - ✓ f. Change the limit for Zinc, Total Recoverable in Part I, Section A Interim Effluent Limitations and Monitoring Requirements, Table 1 from 116 µg/L monthly average to 133 µg/L monthly

average and from 232 µg/L daily maximum to 266 µg/L daily maximum to reflect a seasonal flow allowance from December until May. From June to November the seasonal flow allowance shall not apply and the monthly average and daily maximum shall remain as stated in the permit.

✓ g. Change the limit for Zinc, Total Recoverable in Part I, Section A Final Effluent Limitations and Monitoring Requirements, Table 1 from 116 µg/L monthly average to 133 µg/L monthly average and from 232 µg/L daily maximum to 266 µg/L daily maximum to reflect a seasonal flow allowance from December until May. From June to November the seasonal flow allowance shall not apply and the monthly average and daily maximum shall remain as stated in the permit.

h. The Sample Type listed in Table I of the permit for flow is being revised from “totalizing meter” to “calculate”. The daily effluent flow will be calculated using the equation submitted to ADEQ previously with the calculated flow data and specified below. This method shall apply to any flow reference contained in the Permit. The base flow (currently 12 gpm (0.0267 cfs)) will be added to the calculated flow from precipitation to yield a total daily flow. If the baseflow value changes in the future due to process changes, plant modifications, etc., Cooper Tire has the option to document this change to the Department and use the revised value in future calculations. Cooper Tire shall install a rain gauge at the facility to determine the daily precipitation.

$$Q = CRAU + \text{Baseflow (in CFS)}$$

$$0.646317 \text{ MGD} = 1 \text{ CFS}$$

where,

Q = flow (cfs)

C = runoff coefficient, 0.9 (unitless)

R = daily rainfall at facility (inches)

A = watershed area = 49.7 acres

U = Units Conversion Factor = 0.042 cubic feet day/inches acres seconds

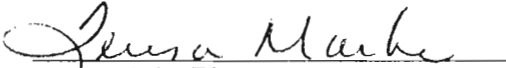
✓ i. The requirement found in Part I, Section B to conduct an engineering study on the flow measurement method has already been completed by Cooper Tire and approved by the Department. The requirement shall be removed from the Permit.

2. This PAR will follow the notice and comment procedures found in Regulation 8.207 through 8.211 in accordance with the settlement process set forth in Regulation 8.615. The modification will not change any other provision in Permit No. AR0038822.

3. This PAR shall in no way limit the rights of Cooper to comment upon or appeal the modification issued by ADEQ under this PAR if the modification differs in any respect from the agreed terms and conditions set forth in this PAR.

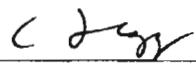
4. This PAR is subject to public notice and a 30-day period for submission of public comments. Cooper shall be responsible for the costs associated with the public notice. ADEQ retains the right and discretion to set aside this PAR based on issues raised in public comments filed within the 30-day public comment period. ADEQ's right to set aside the PAR shall be limited to reasons related to issues raised in public comments filed within the public comment period; and ADEQ's right to set aside the PAR shall expire 30 days after the close of the public comment period. If this PAR is set aside, the Appeal shall be simultaneously reinstated. In accordance with APCEC Regulation No. 8, Reg. 8.615, the Request for Commission Review and Adjudicatory Hearing in this matter is hereby withdrawn.

ENTERED this 17th day of November, 2009.



Teresa Marks, Director
Arkansas Department of Environmental Quality

APPROVED AS TO FORM AND CONTENT:



Name: **C.F. NAGY**
ASS'T TREASURER

Title
Cooper Tire & Rubber Company

