

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

AFIN: 46-00005

LIS No. 22-090

COOPER TIRE & RUBBER COMPANY  
3500 EAST WASHINGTON ROAD  
TEXARKANA, AR 71854

**CONSENT ADMINISTRATIVE ORDER**

This Consent Administrative Order (CAO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this CAO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (the Act), Ark. Code Ann. § 8-4-101 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 7, APC&EC Rule 8, APC&EC Rule 18, APC&EC Rule 19, and APC&EC Rule 26.

The issues herein having been settled by agreement of Cooper Tire & Rubber Company (Respondent) and the Chief Administrator of the Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

**FINDINGS OF FACT**

1. Respondent owns and operates a tire manufacturing facility located at 3500 East Washington Road in Texarkana, Miller County, Arkansas.
2. There are two Air Permits referenced in this CAO. 0957-AOP-R18 (Permit R18)

was issued on September 11, 2019, and voided on August 30, 2021. 0957-AOP-R19 (Permit R19) was issued on August 30, 2021.

3. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

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(3) Violate any provisions of this chapter or of any rule or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Division of Environmental Quality;

4. Ark. Code Ann. § 8-4-103(c)(1)(A) provides, “Any person that violates any provision of this chapter and rules, permits, or plans issued pursuant to this chapter may be assessed an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.”

5. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B) as referenced by Ark. Code Ann. § 8-4-304, “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

6. Specific Condition 12 of Permit R18 requires Respondent to test the Mixer #8 (SN-133) Regenerative Thermal Oxidizer (RTO) for VOC. Testing shall be conducted with the source operating at least at 90% of its permitted capacity of 3750 lbs of silica ingredient per hour. Emission testing results shall be extrapolated to correlate with 100% of the permitted capacity to demonstrate compliance. Failure to test within this range shall limit Respondent to operating within 10% above the tested rate. Respondent shall measure the operation rate during the test and if testing is conducted below 90% of the permitted capacity, records shall be maintained at all times to demonstrate that the source does not exceed operation at 10% above the tested rate.

7. Specific Condition 15 of Permit R18 requires Respondent to maintain the bed

temperature of the SN-133 RTO at or above 1500 °F while operating. This temperature may be adjusted based upon data gathered during testing which demonstrates an alternative temperature is sufficient to achieve 98% destruction efficiency, and after Department approval.

8. Plantwide Condition 3 of Permit R18 requires Respondent to submit compliance test results to DEQ within sixty (60) calendar days after completing the testing.

9. APC&EC Rule 18.301 provides that no person shall cause or permit the operation, construction, or modification of a stationary source without first obtaining a permit.

10. On January 12, 2021, Respondent conducted compliance testing of the SN-133 RTO. Based on the requirement of Plantwide Condition 3 of Permit R18, the compliance test results are due no later than March 13, 2021.

11. On March 24, 2021, Respondent conducted compliance testing of the SN-133 RTO. Based on the requirement of Plantwide Condition 3 of Permit R18, the compliance test results were due no later than May 23, 2021.

12. On July 30, 2021, DEQ received two (2) reports containing the compliance test results of tests that were conducted on January 12, 2021, and March 24, 2021, at the SN-133 RTO. The reports were submitted after their due dates as referenced in paragraphs 10 and 11 of the FINDINGS OF FACT of this CAO. Such acts violate Plantwide Condition 3 of Permit R18 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

13. On September 8, 2021, DEQ personnel conducted a compliance inspection of Respondent's facility for the time period of March 1, 2019, through July 31, 2021.

14. During the inspection, it was revealed that Respondent operated a gas operated

portable industrial vacuum without a permit. Such act violates APC&EC Rule 18.301 and therefore violates Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

15. In correspondence dated October 7, 2021, DEQ personnel informed Respondent that it had reviewed the compliance testing reports of tests that were conducted on January 12, 2021, and March 24, 2021, at the SN-133 RTO. The review revealed that the report for testing conducted in January 2021 did not contain the throughput rate of silica ingredient in pounds per hour and did not contain bed temperature data. The report for testing conducted in March 2021 did not contain any throughput data. The report did contain the bed temperatures of the SN-133 RTO, but the bed temperatures were not reconciled to give an average temperature. Thus, these test results were inconclusive and compliance could not be determined. Such acts violate Specific Condition 12 and Specific Condition 15 of Permit R18 and therefore violate Ark. Code Ann. § 8-4-217(a)(3) as referenced by Ark. Code Ann. § 8-4-304.

16. In DEQ's Preliminary Inspection Findings correspondence dated November 19, 2021, Respondent was informed of the compliance issues identified during the September 8, 2021 compliance inspection. The letter was intended to provide Respondent with the opportunity to review the violations and submit any additional information Respondent deemed appropriate regarding the compliance issues.

17. In correspondence dated January 3, 2022, Respondent addressed the non-compliance issues contained in DEQ's Preliminary Inspection Findings correspondence dated November 19, 2021.

18. Regarding Specific Condition 12 and Specific Condition 15 of Permit R18, Respondent stated that while the report for the second test, completed in March, did not contain

production values, it included bed temperature values that would have been representative of conditions during the January testing event. Additionally, Respondent included production data as a supplement to the second test report. However, a review of the supplemental production data revealed that Respondent failed to report the throughput rate of silica ingredient in pounds per hour.

19. Regarding Plantwide Condition 3 of Permit R18, Respondent stated that the initial testing of the source was completed on January 12, 2021; however, the line was not able to reach its design/permitted throughput during this test.

20. Regarding APC&EC Rule 18.301, Respondent stated that they were unclear as to why the gas operated portable industrial vacuum is no longer listed as an insignificant source in its permit. The unit had been included in previous application materials, and the unit was listed as an insignificant source up until Permit 0957-AOP-R9. A review by DEQ personnel of the permit application material dated July 23, 2010, that led to the issuing of Permit 0957-AOP-R9, found no mention of the gas operated portable industrial vacuum.

21. In correspondence dated January 31, 2022, DEQ informed Respondent that formal enforcement action was proceeding in this matter.

### **ORDER AND AGREEMENT**

WHEREFORE, Respondent, neither admitting nor denying the factual and legal allegations contained in this CAO, and DEQ do hereby agree and stipulate as follows:

1. Within ninety (90) calendar days of the effective date of this CAO, Respondent shall submit a permit application to DEQ to include the gas operated portable industrial vacuum referenced in paragraph 14 of the FINDINGS OF FACT of this CAO.

2. Within ninety (90) calendar days of the effective date of this CAO, Respondent shall conduct testing of the SN-133 RTO for the purpose of demonstrating compliance with Specific Condition 12 and Specific Condition 15 of Permit R19. The test results shall include the throughput rate of silica ingredient in pounds per hour. Furthermore, the bed temperature data, during testing, shall be reconciled to report an average temperature.

3. Respondent shall provide DEQ with the compliance test results within sixty (60) calendar days after completing the testing.

4. In compromise and full settlement of the violations specified in the FINDINGS OF FACT, Respondent agrees to pay a civil penalty of **SEVEN THOUSAND SIX HUNDRED DOLLARS (\$7,600.00)**. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to:

DEQ, Fiscal Division  
5301 Northshore Drive  
North Little Rock, Arkansas 72118-5317.

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection.

5. All applicable submissions required by this CAO are subject to approval by DEQ. In the event of any deficiency, Respondent shall, within fifteen (15) calendar days of notification by DEQ, submit any additional information requested. Failure to respond adequately to the notice of deficiency within fifteen (15) calendar days constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

6. Failure to meet the limits, requirements, or deadlines of this CAO or the applicable approved schedules provided for herein constitutes a violation of this CAO. If

Respondent fails to meet any limits, requirements, or deadlines, Respondent shall pay, on demand, to DEQ civil penalties according to the following schedule:

- (a) First day through the fourteenth day: \$100 per day
- (b) Fifteenth day through the thirtieth day: \$500 per day
- (c) More than thirty days: \$1000 per day

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of DEQ's demand to Respondent for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with the requirements of this CAO. DEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

7. If any event, including, but not limited to, an occurrence of nature, causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this CAO, Respondent shall notify DEQ in writing as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates have passed. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

8. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that

any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify DEQ promptly, as provided in the previous Paragraph of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.

9. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d), and therefore is not effective until thirty (30) calendar days after public notice of the CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty (30) day public comment period.

10. As provided by APC&EC Rule 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this CAO is granted by the Commission.

11. Nothing contained in this CAO shall relieve Respondent of any obligations imposed by any other applicable local, state, or federal laws. Except as specifically provided herein, nothing contained in this CAO shall be deemed in any way to relieve Respondent of responsibilities contained in the permit.


12. Nothing in this CAO shall be construed as a waiver by DEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO neither exonerates Respondent from any past, present, or future conduct that is not expressly addressed herein, nor relieves Respondent of the responsibilities for obtaining any necessary permits.

13. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent



shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 23rd DAY OF August, 2022.

  
JULIE LINCK, CHIEF ADMINISTRATOR  
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT,  
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

COOPER TIRE & RUBBER COMPANY

BY: J. Coll. (Signature)

Tom Collins (Typed or printed name)

TITLE: Plant Director

DATE: 8-19-22