

New York State Department of Environmental Conservation

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In the Matter of Violations of Article 19 of the
Environmental Conservation Law

CONSENT
ORDER

By:

Case No. 24-35
R9-20241125-128

The Goodyear Tire & Rubber Company,
Respondent.

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WHEREAS:

Jurisdiction

1. The New York State Department of Environmental Conservation (the "Department") is an Executive Agency of the State of New York (the "State") with jurisdiction over the environmental policy and programs of the State pursuant to the provisions of the New York State Environmental Conservation Law ("ECL") and Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York ("6 NYCRR" or the "Regulations").
2. The Department's jurisdiction includes, *inter alia*, the abatement and control of air pollution in the State pursuant to the provisions of ECL Article 19 and the regulations promulgated thereunder at 6 NYCRR Part 200, *et seq.*
3. This Consent Order (the "Order") is issued in accordance with the Department's enforcement authority pursuant to ECL Articles 3, 19 and 71.

Parties

4. The Goodyear Tire & Rubber Company ("Goodyear") is an active foreign business corporation, authorized to do business in New York, maintaining a place of business at 5500 Goodyear Drive, Niagara Falls, New York ("Facility"), and is a "person" as defined in ECL §§ 19-0107(1).
5. Respondent produces antioxidants that are used in tires and other products to prevent deterioration in the product.

Facts

6. The Facility operates pursuant to the terms and conditions of an Air State Facility permit, DEC ID 9-2911-00036/00151 ("Permit").

7. Respondent performed a stack test of Elimination Tank 2 on November 1 and 2, 2022 and of the Tri-Mer Scrubber on November 10 and 14, 2022 to provide updated emission information for use in the Permit renewal process.
8. Respondent submitted the initial stack test report to Department staff on February 15, 2023 and a final report on July 7, 2023.
9. By letter dated September 22, 2023, Department staff rejected the stack test report due to certain anomalies that affected the test data used to evaluate Respondent's compliance with control efficiency requirements in the Permit.
10. A Notice of Violation, dated July 14, 2023, was issued to Respondent.

Provisions of Law

11. 6 NYCRR 202-1.3(a) requires the submission of the emission test report to the Department within 60 days after completion of the tests.
12. Permit condition 2-6 requires a minimum of 90% control efficiency for diphenylamine.
13. Pursuant to ECL § 71-2103, any person who violates ECL Article 19, or any rule or regulation promulgated thereto, shall be liable for a civil penalty of up to \$18,000 for each violation, and an additional penalty not to exceed \$15,000 for each day that the violation continues. In the case of a second or any further violation, the liability shall be for a penalty not to exceed \$26,000 for the violation and an additional penalty not to exceed \$22,500 for each day that the violation continues. In addition, such person may be enjoined from continuing such violation as hereinafter provided.

Violations

14. Respondent failed to submit the stack test report within 60 days following the completion of the stack test in violation of 6 NYCRR 202-1.3(a).
15. Respondent was unable to evaluate compliance with the control efficiency set forth in Permit Condition 2-6.
16. Respondent violated the provisions listed herein, affirmatively waives its right to a hearing as provided by law, and consents to the issuing and entry of this Order pursuant to the provisions of Articles 19, 27 and 71 of the ECL and agrees to be bound by the provisions, terms, and conditions contained in this Order and attachments thereto.

NOW, having considered this matter, and to avoid the cost, time, and expense of an administrative hearing, and in exchange for the material provisions set forth herein, **IT IS ORDERED THAT:**

- I. **Compliance.** Respondent is bound by, and agrees to follow and comply with, the terms, provisions and requirements set forth in this Order, including Appendix A, which is incorporated and made enforceable herein.
- II. **Civil Penalty.** With respect to the violations identified in this Order, the Department hereby assesses against the Respondent a civil penalty in the amount of fifteen thousand dollars (\$15,000), which is to be paid as follows:
 - A. **Payable Penalty:** Five thousand dollars (\$5,000) shall be paid when Respondent signs this Order and returns it to the Department, by electronic payment at <http://www.dec.ny.gov/about/61016.html#On-Line> or by check made payable to the order of the "New York State Department of Environmental Conservation," with the enclosed invoice and the Case Number of this Order on Consent written in the memo section of the check, which shall be sent to the Department of Environmental Conservation, Division of Management and Budget Services, 625 Broadway, 10th Floor, Albany, NY 12233-4900. This Order on Consent, along with any applicable submissions shall be sent to the Department of Environmental Conservation, Office of General Counsel, 700 Delaware Avenue, Buffalo, New York 14209, attention: Terri Mucha, Esq., Acting Regional Attorney.
 - B. **Suspended Penalty:** The remaining amount, ten thousand dollars (\$10,000), shall be suspended, and shall not be payable provided that Respondent fully complies with the requirements of this Order, including all incorporated Appendices and Attachments. If, in the Department's sole discretion, Respondent violates any term of this Order, including the Schedule of Compliance, the whole amount of the suspended penalty, or any portion thereof, shall be due from Respondent within 30 days of receiving written notice from the Department that penalties are due.
- III. **Default of Payment.** The penalty assessed in this Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty becomes due.

- IV. **Scope of Settlement.** This Order shall be in full settlement of all claims for civil and administrative penalties that have been or could be asserted by the Department against Respondent, its trustees, officers, employees, successors and assigns for the above-referenced violations. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge, or which occur after the effective date of this Order.
- V. **Reservation of Rights.** This Order on Consent does not bar, diminish, adjudicate or in any way affect the Department's rights or authorities, except as set forth in the Order on Consent, including but not limited to, exercising summary abatement powers, recovery of any Natural Resource Damages, the collection of regulatory fees, and requiring the Respondent to undertake any additional measures required for the protection of human health or the environment.
- VI. **Access.** To monitor or determine compliance with this order, employees and agents of the Respondent shall provide access to any facility, site, or records owned, operated, controlled, or maintained by the Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.
- VII. **Force Majeure.** If Respondent cannot comply with a deadline or requirement of this Order on Consent, because of natural disaster, Federal or State declared national or state emergency based on an epidemic or pandemic, war, terrorist attack, strike, riot, judicial injunction, or other, similar unforeseeable event which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement. Respondent shall include in such application the measures taken by Respondent to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order on Consent pursuant to this subparagraph.
- VIII. **Default.** Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to the Respondent by the Department.

- IX. **Communication.** Except as otherwise specified in this Order, any reports, submissions, and notices herein required that pertain to the air violations shall be made to Cheryl Webster, Regional Air Pollution Control Engineer, NYSDEC, 700 Delaware Avenue, Buffalo, New York 14209.
- X. **Modification.** No change or modification to this Order will become effective except as specifically set forth in writing and approved by the Commissioner or a duly authorized representative. All modification requests shall be submitted in writing to the Commissioner, or his/her designee. All modification requests shall include the case number, the named Respondent, and an explanation for the request. Any requests to modify a milestone date must be submitted to the Department prior to the milestone date and include a justification for the requested extended timeframe.
- XI. **Indemnification.** Respondent will indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the acts and/or omissions of Respondent, its trustees, officers, employees, servants, agents, successors, or assigns, resulting from the compliance or attempted compliance with the provisions of this Order.
- XII. **Binding Effect.** The provisions, terms, and conditions of this Order shall be deemed to bind Respondent, its heirs, its employees, servants, agents, successors and assigns, and all persons, firms, and corporations acting subordinate thereto.
- XIII. **Entirety of Order.** The provisions of this Order constitute the complete and entire Order issued to the Respondent, concerning resolution of the violations identified in this Order. Terms, conditions, understandings, or agreements purporting to modify or vary any term hereof shall not be binding unless made in writing and subscribed by the party to be bound, pursuant to the Modification paragraph of this Order. No oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by the Respondent shall be construed as relieving the Respondent of its obligations to obtain such formal approvals as may be required by this Order.
- XIV. **Obligations.** This Order is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Unless otherwise allowed by statute or regulation, Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits. Respondent's compliance with this Order on Consent

shall be no defense to any action commenced pursuant to any laws, regulations, or permits, except as set forth herein.

- XV. **Effective Date and Period of Order.** The effective date of this Order ("EDO") shall be the date upon which it is signed on behalf of the Department. This Order shall terminate when all requirements imposed by this Order on Consent are completed to the Department's satisfaction.

Dated: 11/14/2025
Buffalo, New York

Sean Mahar, Interim Commissioner
New York State Department of
Environmental Conservation

By: Julie Barrett O'Neill
Julie Barrett O'Neill
Regional Director

CONSENT BY RESPONDENT

R9-20241125-128

Respondent, The Goodyear Tire & Rubber Company, hereby consents to the issuance of the foregoing order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, provisions, and conditions contained herein.

The Goodyear Tire & Rubber Company

By [Signature]: *Jeffrey Schneider*

Name [Print]: Jeffrey Schneider

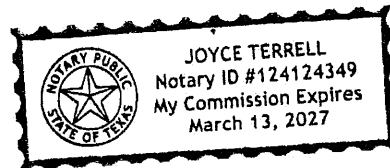
Title: GM Goodyear Chemical

Date: 01/14/25

Email: Jeffrey_Schneider@goodyear.com

Acknowledgment

_____)
) SS:
COUNTY OF Harris)



On the 14th day of January, in the year 2025, before me, the undersigned, personally appeared Jeffrey Schneider, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Joyce Terrell
Notary Public

Appendix A

COMPLIANCE SCHEDULE

The Goodyear Tire & Rubber Company

CASE NO. R9-20241125-128

MILESTONE	COMPLETION DATE
1. Submit a work plan evaluating interim control(s) and interim production limits to reduce emissions ortho-toluidine with a proposed implementation schedule that will have the equipment installed and operational within 2 months of DEC review and approval.	By January 31, 2025
2. Submit an Air Pollution Control Engineering Study ("Study"), including the details and schedule needed for the design, procurement, installation, commissioning, and ultimately, performance of emission testing of the upgraded air emission sources and permanent control technology .	Within 60 days of effective date of this order
3. Submit an application that includes the requisite information regarding the renewal and modification of the air permit detailing equipment changes and emission calculations, an AERMOD modeling protocol, CLCPA analysis following the procedures described in DAR-21 and DEP-24-1, and a Public Participation Plan pursuant to CP-29.	Within 45 days of Department acceptance of the Study.
4. Complete the installation and begin operating the permanent control equipment.	October 31, 2026
5. Submit a stack testing protocol acceptable by the Department.	December 31, 2026
6. Perform stack testing, including determining the mass emission rates and the overall removal efficiency of the control equipment, for VOC and the speciated contaminants of concern, including, but not limited to, ortho-toluidine, aniline and diphenylamine.	Within 180 days of commissioning of the installed air pollution control technology.
7. Submit the final stack test report.	Within 60 days of test completion.

MILESTONE	COMPLETION DATE
8. Perform AERMOD modeling using the approved protocol and stack test results.	Within 60 days of Department acceptance of the final stack test report.