

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Meritor Heavy Vehicle Systems, LLC )</b>	<b><u>Director's Final Findings</u></b>
<b>13267 SR 68 South )</b>	<b><u>and Orders</u></b>
<b>Kenton, Ohio 43326 )</b>	

OHIO E.P.A.  
APR 12 2004  
ALTERED DIRECTOR'S JOURNAL

**PREAMBLE**

It is agreed by the parties [Parties] hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Order ("Order") are issued to Meritor Heavy Vehicle Systems, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("O.R.C.") § 3745.01 and 3751.09.

**II. PARTIES BOUND**

This Order shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility shall in any way alter Respondent's obligations under this Order.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in this Order shall have the same meaning as defined in O.R.C. Chapter 3751 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates equipment used for the manufacturing of motor vehicle parts and accessories at its facility in Kenton, Ohio.

2. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within a covered Standard Industrial Classification ("SIC") code, has 10 or more full-time employees, and manufactures, processes, and/or uses toxic chemicals listed in OAC rule 3745-100-10 in excess of the applicable threshold, must file appropriate TRI reports with the Ohio EPA and U.S. EPA on or before July 1 of the following year.
3. Respondent's facility is classified within a covered Standard Industrial Classification code, specifically SIC 3714, motor vehicle parts and accessories.
4. Respondent reported employment of 946 employees in 1999, 522 employees in 2000, and 327 employees in 2001 at the Kenton facility.
5. Manganese, Chemical Abstract Services (CAS) number 9439-96-5 and nickel, CAS number 7440-02-0, are listed toxic chemicals in OAC rule 3745-100-10.
6. Respondent reported processing 776,996 pounds of manganese and 33,743 pounds of nickel in calendar year 1999, 746,032 pounds of manganese in 2000 and 430,322 pounds of manganese in 2001.
7. On February 12, 2003, Ohio EPA inspected the Respondent's facility and reviewed TRI record keeping and reporting requirements. Information concerning metals analyses and metals use was not available at that time.
8. Respondent developed and provided additional annual chemical processing information subsequent to the inspection. Information provided by Respondent demonstrated that the facility had failed to file TRI reports for manganese and nickel, minor components of metals processed, to Ohio EPA and the U.S. EPA for calendar years 1999, 2000 and 2001 in violation of OAC rule 3745-100-07 and O.R.C. § 3751.07. (The facility reported 1,2,4-trimethylbenzene in 1999.)
9. Respondent subsequently supplemented its TRI reporting to Ohio EPA and U.S. EPA for calendar year 1999 and submitted the required reports for manganese and nickel for calendar years 2000 and 2001, on June 26, 2003.
10. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Order and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Order:

1. Within fourteen (14) days after the effective date of this Order, Respondant shall pay the amount of twenty-nine thousand dollars (\$29,000) in settlement of Ohio EPA's claims for civil penalties which may be assessed pursuant to O.R.C. § 3751.1. Payment shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

A copy of the check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

## **VI. TERMINATION**

Respondent's obligations under this Order shall terminate upon Ohio EPA's receipt of the total payment required by Section V of this Order.

## **VII. OTHER CLAIMS**

Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to this Order, for any liability arising from, or related to the operation of Respondent's Facility.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant this Order shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. This Order does not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

This Order may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

### **X. NOTICE**

Copies of all documents required to be submitted by Respondent pursuant to these Orders shall be provided and addressed to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
122 South Front Street, P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: James A. Orlemann, Manager, Engineering Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of this Order.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this Order, Respondent consents to the issuance of this Order and agrees to comply with this Order. Compliance with this Order shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this Order, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this Order either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this Order is appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with this Order notwithstanding such appeal and intervention unless this Order is stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

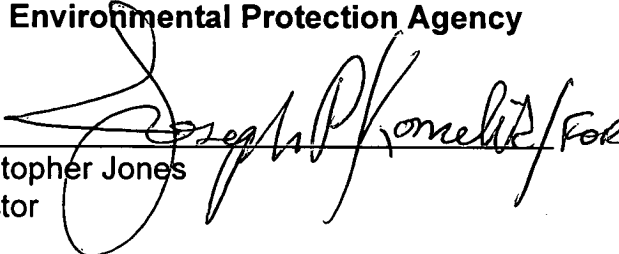
The effective date of this Order is the date this Order is entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to this Order certifies that he or she is fully authorized to enter into this Order and to legally bind such party to this Order.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

\_\_\_\_\_  
Date

4/7/04

**IT IS SO AGREED:**

**Meritor Heavy Vehicle Systems, LLC**

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

3/25/04

Linda S. Furlough  
\_\_\_\_\_  
Printed or Typed Name

Assistant General Counsel  
\_\_\_\_\_  
Title