

OHIO E.P.A.

APR 15 2002

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Tenneco Automotive Inc.,
Clevite Elastomers
33 Lockwood Road
Milan, Ohio 44846**

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tenneco Automotive Inc., Clevite Elastomers, ("Respondent"), pursuant to the authority vested in the director of the Ohio Environmental Protection Agency ("Ohio EPA") under §§ 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership relating to the Facility shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the director of Ohio EPA.

III. DEFINITIONS

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in ORC Chapter 3734. and the rules promulgated thereunder.
2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA director's journal.

IV. FINDINGS OF FACT

The director of Ohio EPA has determined the following findings of fact:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code ("OAC") rule 3745-50-10(A).
2. Respondent, located at 33 Lockwood Road, Milan, Erie County, ("Facility"), is an original equipment manufacturer of elastomeric vibration control components, including bushings and engine mounts for the automotive light truck and heavy truck markets. Clevite Elastomers was acquired in 1996 by Tenneco Automotive, Inc., as part of Tenneco Automotive Inc.'s purchase of the Pullman Company. Tenneco Automotive Inc. is a Delaware corporation, which is licensed to do business in Ohio.
3. The Facility notified Ohio EPA of its hazardous waste activities on June 17, 1994 and was issued U.S. EPA identification number OHD 022969653.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent generates hazardous waste adhesives (D001, D008, D035, D038, D039, F003 and F005), mixed dry chemical waste (P205, U190, U244), spray booth filters (D001, D008, D019, D035, D039, F003), treatment ash (D008), caustic and acid wastes (D002, D007) and waste paint/cleaning solvents (D001, D018, F003, F005).
5. On November 21, 2000, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Failed, for at least three years, to inspect and maintain inspection records of emergency equipment, in violation of OAC rule 3745-65-33;
 - b. Failed to perform and maintain records of weekly inspections of the hazardous waste accumulation areas, in violation of OAC rule 3745-66-74; and
 - c. Failed, for at least three years, to provide annual personnel training, in violation of OAC rule 3745-65-16.

6. By letter dated January 9, 2001, Ohio EPA notified Respondent of the violations referenced in Finding No. 5.
7. By letters dated February 22, March 12, and May 4, 2001, Respondent provided information in response to Ohio EPA's January 9, 2001, letter.
8. On May 3, 2001, Ohio EPA conducted a follow-up inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had failed to date one container of hazardous waste, in violation of OAC rule 3745-52-34(A)(2).
9. By letter dated May 23, 2001, Ohio EPA notified Respondent of the violation referenced in Finding No. 8. Ohio EPA further notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.a. and 5.b, had partially abated the violation referenced in Finding No. 5.c., and requested additional information in order to abate the remaining violations.
10. By letter dated June 4, 2000 (*sic* 2001) and facsimile dated August 17, 2001, Respondent provided additional information in response to Ohio EPA's May 23, 2001 letter.
11. By letter dated August 21, 2001, Ohio EPA notified Respondent that it had abated all violations referred to above and was returned to compliance.
12. By letter dated August 10, 2001, Ohio EPA initiated this formal enforcement action seeking payment of a civil penalty from Respondent in the amount of \$53,726.

V. ORDERS

Respondent shall maintain compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following schedule:

1. Monthly, for one year from the effective date of these Orders, Respondent shall submit documentation demonstrating that Respondent is in compliance with the hazardous waste rules cited in Finding Nos. 5.a. and 5.b.
2. Annually, for three years from the effective date of these Orders, Respondent shall submit documentation demonstrating that Respondent is in compliance with the hazardous waste rule cited in Finding No. 5.c.

3. Within forty-five (45) days from the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of fourteen thousand two hundred forty dollars (\$14,240) in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by tendering a certified check for \$14,240 to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this demonstration and certification.

This certification shall be submitted by Respondent and shall be signed by a responsible official of Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders 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 signatory to these Orders, for any liability arising out of or relating to the operations of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
347 North Dunbridge Road
Bowling Green, Ohio 43402

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building and courier services:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
122 South Front Street
Columbus, Ohio 43215

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

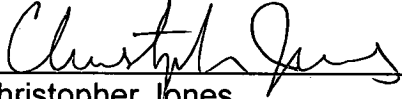
X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to RC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:



Christopher Jones
Director

APR 15 2002

Date

XII. WAIVER

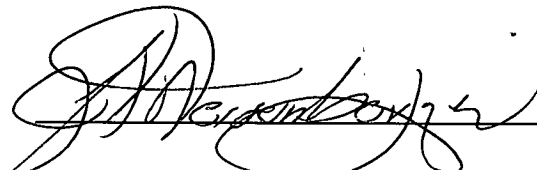
In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that these Orders are 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 these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

IT IS SO AGREED:

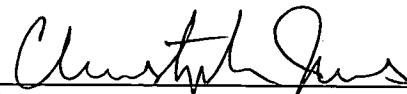
**Tenneco Automotive Inc.,
Clevite Elastomers**



Executive Director Engr/MFG
Title

3/28/07
Date

Ohio Environmental Protection Agency



Christopher Jones
Director

APR 15 2002
Date