

MODIFICATION OF ADMINISTRATIVE ORDER BY CONSENT  
FOR RESPONSE ACTIVITY

This Modification ("Modification") of Administrative Order by Consent for Response Activity ("AOC") is made and entered into between the Michigan Department of Environmental Quality ("MDEQ") and Jennifer Granholm, Attorney General for the State of Michigan (collectively, the "State"), and ITT Automotive, Inc. ("ITTA"). This modification concerns the AOC, MDEQ Reference No. AOC-ERD-98-004, which became effective on May 5, 1998, and which is attached as Appendix 1.

1. Paragraph 7.10 of Section VII (Implementation of Response Activities) of the AOC requires ITTA to file with the Oakland County Register of Deeds the appropriate deed restriction, using the form attached to the AOC as Attachment D, "within twenty-one (21) days of the approval of the RAP" ("Remedial Action Plan").
2. Section 20120b(4) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("NREPA"), provides that a deed restriction may be filed "within 21 days of the department's selection or approval of the remedial action plan, or within 21 days of the completion of construction of the containment or barrier, as appropriate to the circumstances."
3. ITTA has requested modification of Paragraph 7.10 of Section VII of the AOC to allow the restrictive covenant for the Property to be filed with the Oakland County Register of Deeds within twenty-one (21) days after completion of construction of the permeable reactive walls to be installed pursuant to the RAP, instead of within twenty-one (21) days of the approval of the RAP, and MDEQ has concurred in this request.
4. Section VIII (Financial Assurance Mechanism) of the AOC requires ITTA to "provide a financial assurance mechanism ("FAM") in the form of a financial test/corporate guarantee to assure ITTA's ability to pay for monitoring, operation and maintenance, oversight, and other costs determined by the MDEQ to be necessary to assure the effectiveness and integrity of the remedial action . . . ."
5. Paragraph 8.4 of Section VIII of the AOC allows for the use of an alternate FAM; but requires that Section VIII of the AOC must be modified to do so and that the modification "shall include, but is not limited to, the type of FAM and amount of funds to be secured by the alternate FAM and any time schedules needed to implement the FAM."
6. ITTA desires to utilize a FAM other than the financial test/corporate guarantee mechanism provided for under Paragraph 8.1 and has further requested that Section VIII of the AOC be modified to allow for the use of alternate FAMs in the future without the need to modify the AOC in order to do so, and MDEQ has concurred in this request.

7. Section XVI (Progress Reports) of the AOC requires ITTA to provide quarterly progress reports relating to response activities. ITTA has proposed to modify the quarterly reporting schedule in the AOC to the schedule contained in the RAP submitted to MDEQ. Therefore, ITTA has requested that the AOC be modified to provide for reporting on the schedule set forth in the MDEQ-approved RAP, and MDEQ has concurred in this request.
8. Section XVIII (Modifications) of the AOC provides that the AOC may be modified, but inadvertently omits part of the procedures for modification, and the State and ITTA agree that such procedures should be set forth therein.
9. Based upon the recitals set forth in Paragraphs 1 – 8, above, the State and ITTA agree to the following modifications to the AOC:
  - a. Paragraph 7.10 of Section VII of the AOC is hereby modified to read as follows: “ITTA shall use its best efforts to obtain the written approval of the owner of the Property to file with the Oakland County Register of Deeds the appropriate deed restriction within twenty-one (21) days after the completion of construction of the permeable reactive walls to be installed pursuant to the RAP. The form and content of the restrictive covenant are subject to approval by the department and shall include provisions to accomplish the requirements of Section 20120b(4)(a)-(f). If, after using its best efforts, ITTA is unable to secure the approval of the owner of the Property within twenty-one (21) days after the completion of construction of the permeable reactive walls to be installed pursuant to the RAP, ITTA shall promptly notify the MDEQ. For the foregoing purposes, construction will be deemed complete after the permeable reactive walls have been installed and prior to any performance testing. A true copy of the recorded restrictive covenant shall be provided to the MDEQ within ten (10) days after receiving a copy from the Register of Deeds. If institutional controls in the form of the enactment of an ordinance are included in the approved RAP, then ITTA shall take all steps within its control to ensure that the ordinance is enacted by the appropriate governmental authority. A true copy of documentation that the ordinance has been enacted shall be provided to the MDEQ within ten (10) days after the date of such enactment.”
  - b. Paragraphs 8.1 through 8.6 of Section VIII of the AOC are hereby deleted and replaced by the following language, which is added as new Paragraph 8.1: “If ITTA chooses to perform a RAP that relies on the cleanup criteria established under Section 20120a(1)(f)-(j) or (2) of the NREPA and a financial assurance mechanism (“FAM”) is a necessary component of that RAP, ITTA shall establish and maintain financial assurance that will ensure ITTA’s ability to pay for monitoring, operation and maintenance, oversight, and other costs that are determined by the MDEQ to be necessary to assure the effectiveness and integrity of the remedial action as set forth in the MDEQ-approved RAP (collectively referred to as “O&M Costs”). The proposed FAM and amount thereof shall be submitted to the

MDEQ within seven (7) days after the date this Modification is signed by ITTA and the State for approval and the FAM shall be in an amount sufficient to cover O&M Costs at the Facility for a thirty (30)-year period. If the RAP submitted on April 2, 2001 pursuant to Paragraph 7.9 of this Order is denied or found to be administratively incomplete by the MDEQ and the RAP is resubmitted, a proposed FAM and amount must be included as part of the resubmitted RAP. ITTA may submit to MDEQ for approval a revised O&M costs estimate for the FAM at least thirty (30) days prior to the completion of construction of the permeable reactive walls to be installed pursuant to the MDEQ-approved RAP. ITTA may utilize one or more of any of the FAMs authorized for use by MDEQ under Part 201 of NREPA, now or in the future, including, a certificate of deposit, escrow/trust agreement, financial test/corporate guarantee, or letter of credit, provided the MDEQ finds that the FAM is sufficient to comply with Part 201 of the NREPA and this Order. The FAM shall become effective no later than the date of completion of construction of the permeable reactive walls to be installed pursuant to the MDEQ-approved RAP, which is an attachment to this Order. For the foregoing purposes, construction will be deemed complete after the permeable reactive walls have been installed and prior to any performance testing. Every five (5) years after the initial effective date of the FAM, ITTA shall provide to the MDEQ an update of the thirty (30)-year O&M Costs estimate. The updated O&M Costs estimate shall include documentation of O&M Costs for the previous five (5)-year period and shall be signed by an authorized representative of ITTA, who shall confirm the data. ITTA shall revise the amount of funds secured by the FAM in accordance with the updated thirty (30)-year O&M Costs estimate unless otherwise directed by the MDEQ. If at any time the MDEQ reasonably determines that the FAM does not adequately secure sufficient funds in accordance with the then current estimate, ITTA shall capitalize or revise the existing FAM or establish a new FAM acceptable to the MDEQ. If ITTA demonstrates that the FAM provides funds in excess of those needed to cover O&M Costs for the Facility or if ITTA wishes to use a FAM other than the one then in effect, ITTA may submit a request to the MDEQ to reduce the amount of funds secured by the FAM or to use an alternate FAM. ITTA shall maintain the FAM until the MDEQ approves of ITTA's Certificate of Completion according to the procedures set forth in Section XXVIII (Certification). Any modification of a FAM will be considered to be a modification of a RAP, and any such modification must be made in accordance with the last sentence of the first paragraph of Section XVIII (Modifications) of this Order." Paragraphs 8.7 and 8.8 of Section VIII (Financial Assurance Mechanism) remain unchanged.

- c. Section XVI of the AOC is hereby modified to read as follows:

"ITTA shall provide to the MDEQ Project Coordinator written progress reports relating to response activities that shall: (a) describe the activities that have been taken toward achieving compliance with this Order during the previous reporting period; (b) describe data collection and activities

scheduled for the next reporting period; and (c) include all results of sampling and tests and other data received by ITTA, its employees or authorized representatives during the previous reporting period relating to the response activities performed pursuant to this Order. The first progress reports shall be submitted to the MDEQ within thirty (30) days following the effective date of this Order and quarterly thereafter until completion of construction of the permeable reactive walls to be installed pursuant to the RAP.

After the completion of construction of the permeable reactive walls to be installed pursuant to the RAP, ITTA shall provide progress reports to the MDEQ Project Coordinator according to the schedule contained in the MDEQ-approved RAP in lieu of the quarterly progress reporting frequency. The required contents of the progress reports shall remain unchanged and will be submitted until the issuance of the Certificate of Completion as provided in Section XXVIII (Certification). For the foregoing purposes, construction will be deemed complete after the permeable reactive walls have been installed and prior to any performance testing.”

- d. A second paragraph is added to Section XVIII that reads as follows: “Modification of any provision of this Order shall be made by written agreement between ITTA’s Project Coordinator or other authorized representative of ITTA, the Chief of the MDEQ Environmental Response Division, and the Michigan Department of Attorney General.”

- 10. In all other respects, the AOC remains unchanged.

IT IS SO AGREED AND ORDERED BY:

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



Andrew W. Hogarth, Acting Chief  
Environmental Response Division

4/9/02

Date

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL



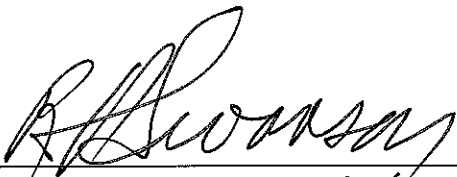
Robert P. Reichel [P31878]  
Assistant Attorney General  
Natural Resources and Environmental Quality Division

4/9/02

Date

IT IS SO AGREED BY:

ITT AUTOMOTIVE, INC.



By: R. D. SWANSON  
Its: VICE PRESIDENT

4-8-02

Date