COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ITT CORPORATION EPA ID No. VAD003123072

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455(C) and (F), between the Virginia Waste Management Board, and ITT Corporation, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.

2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.

3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.

4. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-80-120(A).

5. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

7. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

9. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.

10. "ITT" means ITT Corporation, a corporation authorized to do business in Virginia, and its affiliates, partners, subsidiaries, and parents. ITT is a "person" within the meaning of Va. Code § 10.1-1400.

11. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2,200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).

12. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

13. "Order" means this document, also known as a Consent Order.

14. "Site" or "Facility" means the electronics manufacturing facility at 7635 Plantation Road in Roanoke, Virginia that is owned and operated by ITT.

15. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

16. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).

17. "TCLP" means the Toxicity Characteristic Leaching Procedure, test Method 1311 in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,* EPA Publication SW-846, as incorporated by reference at 40 CFR § 260.11.

18. "Universal waste" means any of the hazardous wastes meeting the definition provided in 40 CFR § 273.9 that are subject to the universal waste requirements of 40 CFR Part 273, including batteries at described at 40 CFR § 273.2, pesticides as described at 40 CFR § 273.3, mercury-containing equipment as described at 40 CFR § 273.4, and lamps as described at 40 CFR § 273.5.

19. "Used oil", as defined at 40 CFR § 279.1, means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

20. "Va. Code" means the Code of Virginia (1950), as amended.

21. "VAC" means the Virginia Administrative Code.

22. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

23. "VHWMR" or "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

SECTION C: Findings of Fact and Conclusions of Law

1. ITT owns and operates manufacturing facilities in Roanoke, Virginia at 7635 Plantation Road ("Plantation Road Facility") and at 7669 Enon Drive ("Enon Drive Facility"). Operations at both of these sites are subject to the Virginia Waste Management Act and the Regulations.

2. ITT submitted a RCRA Subtitle C Site Identification Form (received August 15, 1980) that gave notice of regulated waste activity at the Plantation Road Facility as a LQG of hazardous waste. ITT was issued EPA ID No. VAD003123072 for the Plantation Road Facility.

3. ITT submitted a RCRA Subtitle C Site Identification Form (received November 14, 1980) that gave notice of regulated waste activity at the Enon Drive Facility as a LQG of hazardous waste. ITT was issued EPA ID No. VAD980550909 for the Enon Drive Facility. The generator status of the Enon Drive Facility changed to CESQG as a result of a determination made during an inspection by DEQ staff of the Enon Drive Facility on February 16, 2010. Both the February 16, 2010 inspection and a previous inspection performed on February 15, 2008 demonstrated that the Enon Drive Facility has generated hazardous waste in amounts consistent with CESQG designation during the calendar years 2008 and 2009. ITT submitted a RCRA Subtitle C Site Identification Form in February 2010 to reflect the correct CESQG generator status.

4. ITT is LQG of hazardous waste at the Plantation Road Facility. Hazardous wastes

generated at this facility include spent solvents, reactor scrubbers, scrap glass cathodes, debris containing metals, spent chromate channels, scrap tubes and grinder debris. One of the spent solvents generated at the Plantation Road Facility is isopropanol, which is classified as a characteristic (D001) hazardous waste due to its ignitability characteristic. ITT also generates universal waste (spent non-standard fluorescent bulbs) and used oil at the Plantation Road Facility.

5. On October 21, 2009, ITT staff transported ten 1-gallon containers of waste isopropanol (a D001 hazardous waste) from the Enon Drive Facility to the Plantation Road Facility. The waste isopropanol was added to a 3,000-gallon waste solvent tank in the <90 day hazardous waste accumulation area at the Plantation Road Facility. The Plantation Road Facility does not have a permit or interim status to accept hazardous waste from an off-site generator. ITT staff reported this incident to DEQ by phone on the date of discovery, October 28, 2009 and in writing on October 29, 2009.

6. On December 17, 2009, all hazardous waste that was present in the 3,000-gallon waste solvent tank in the <90 day hazardous waste accumulation area at the Plantation Road Facility was shipped to a permitted treatment, storage and disposal facility.

7. On December 18, 2009, Department staff inspected the Plantation Road Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Department staff did not observe any additional violations during the inspection.

8. 40 CFR § 270.1(c) prohibits acceptance of hazardous waste from another location without a permit or interim status to accept hazardous waste from an off-site generator.

9. March 10, 2010, based on the self-reported violation, the inspection and follow-up information, the Department issued a Notice of Violation to ITT for the violations described in paragraph C(5), above.

10. Representatives of DEQ and ITT met on March 23, 2010 to discuss the NOV. During the meeting, ITT representatives explained that in an effort to prevent recurrence of similar violations, the ITT staff who were responsible for the violation were disciplined for violating procedures and all ITT staff who handle hazardous waste have received reinforcement training on proper waste handling procedures. Additionally, this issue was discussed by all employees during a weekly safety meeting on March 26, 2010. Written material was provided to each employee during that meeting.

11. Based on the self-reported violation described in Paragraph C(5) above, the Board concludes that ITT has violated VHWMR and the Virginia Waste Management Act, as noted above. More specifically, as noted above, the Board concludes that ITT has violated 40 CFR § 270.1(c).

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455(C) and (F), the Board orders ITT, and ITT agrees to pay a civil charge of $1,800.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

ITT shall include its Federal Employer Identification Number (FEIN) (13-515-8950) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of ITT for good cause shown by ITT, or on its own motion pursuant to the Administrative Process Act after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, ITT admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. ITT consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. ITT declares that it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be

construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by ITT to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. ITT shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. ITT shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ITT shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which ITT intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and ITT. Nevertheless, ITT agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

a. ITT petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to ITT.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ITT from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by ITT and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of ITT certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind ITT to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of ITT.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, ITT voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2010.

_____
Steven A. Dietrich, Regional Director
Department of Environmental Quality

ITT Corporation voluntarily agrees to the issuance of this Order.

Date: 4/29/10 By: _____, President, ITT Defense & Information Solutions

ITT Corporation

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 29th day of April, 2010, by Dave F. Melcher.

Elizabeth C Adeson
Notary Public

7122733
Registration No.

My commission expires: 10/31/11

Notary seal: