

US EPA ARCHIVE DOCUMENT

**AUTOLIV XL PROJECT**

**FINAL PROJECT AGREEMENT**

**DRAFT**

**July 31, 2000**

**Final Project Agreement (FPA)  
Autoliv ASP, Inc.**

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## **I. Introduction to the Agreement**

### **A. Project Signatories**

The Project Signatories to this Final Project Agreement (FPA or Agreement) are Autoliv ASP Incorporated, located in Promotory, Utah, the U.S. Environmental Protection Agency (EPA), the State of Utah's Department of Environmental Quality (UDEQ), and Box Elder County. All of those listed are referred to collectively as Project Signatories; the three regulatory agencies mentioned above are referred to collectively as the Agencies.

### **B. Purpose of the XL Program**

This FPA states the intentions of the Project Signatories to carry out a pilot project as part of EPA's Project XL which tests innovative approaches to environmental protection. Project XL is an EPA initiative to test the extent to which regulatory flexibility, and other innovative environmental approaches, can be implemented to achieve both superior environmental performance and reduced economic and administrative burdens. (See 60 FR 27282).

### **C. Purpose of this FPA**

This FPA is a joint statement of the Project Signatories' plans and intentions with respect to the Autoliv XL Project. This FPA outlines the details of how this project will be implemented and measured and sets forth the regulatory flexibility (conditional exemption from the definition of hazardous waste) to be specified in the Project XL Site-Specific Rulemaking for the Autoliv Facility.

This FPA sets forth the plans of the Project Signatories and represents the firm commitment of each signatory to support the XL process, to implement the necessary regulatory flexibility in a timely fashion and to follow the terms of this FPA. This FPA is not, however, intended to create legal rights or obligations and is not a contract, a final agency action or a regulatory action such as a permit or rule. This FPA does not give anyone a right to sue the Project Signatories for any alleged failure to implement its terms, either to compel implementation or to recover damages.

This FPA and materials relating to this project are available on the Project XL Web Site at [www.epa.gov/projectxl](http://www.epa.gov/projectxl).

## II. Description of the Project

Autoliv ASP, Inc. is a manufacturer of automobile safety products. The pyrotechnic (explosive) materials used to deploy an air bag inflator are manufactured at Autoliv's Pyrotechnic Processing Facility located in Promontory, Box Elder County, Utah. Autoliv is proposing to develop, evaluate and implement, an alternative to open burning of certain wastes generated at its facility.

This waste is reactive only, and contains no appreciable levels of hazardous constituents. These reactive hazardous wastes are presently treated through open burning at a RCRA Interim Status facility.

Autoliv currently operates a \$3 million Metals Recovery Facility (MRF) designed to recover aluminum and steel from inflator units containing live pyrotechnic material as well as previously fired units. The MRF is capable of recovering 2000 pounds per hour of recyclable aluminum and steel from off-spec commercial inflator units and their components while minimizing the waste to the environment. Autoliv's XL Project proposes to process small volumes of its waste pyrotechnic materials within the MRF rather than sending the materials to a RCRA regulated treatment, storage or disposal facility (TSDF) for open burning. Specifically, the company is asking EPA to grant a conditional exemption from the definition of hazardous waste for the pyrotechnic materials processed through the MRF.

The MRF has an extensive air pollution train which is capable of capturing the particulate emissions produced by the waste pyrotechnic materials. The proposed project will demonstrate that it is feasible to utilize existing equipment to process certain hazardous wastes in a more efficient and environmentally sound manner, under a more flexible regulatory framework. With minimal modifications to the operation, Autoliv believes that it can achieve a safer, cleaner, and more effective method of treatment than the current method of open burning.

EPA anticipates that this project will provide information on how to develop alternative approaches to handling waste. This information would be useful to EPA in learning more about alternative treatment approaches for airbag manufacturing wastestreams.

### **III. Regulatory Relief Requested Conditional Exemption from the Definition of Hazardous Waste Relating to RCRA Part B Permitting Requirements - On-Site Treatment of Pyrotechnic Wastes.**

Autoliv is proposing that EPA explore the benefits of more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry

that are treated in industrial furnaces. The project signatories agree that this application can be characterized as a conditional exemption from the definition of hazardous waste. In effect, EPA acknowledges that these particular pyrotechnic wastes do not need to be regulated as hazardous waste, due to its low potential risks and treatment in an industrial furnace rather than an open burning/open detonation (OB/OD) unit.

Autoliv will comply with many of the general facility standards of RCRA, and is not seeking relief from all RCRA management protections. Through this project Autoliv intends to be able to treat its waste pyrotechnic materials on-site without obtaining a RCRA Part B permit from the State of Utah that is normally required for thermal destruction. The waste as referenced in Autoliv's Project Proposal is reactive only and does not contain significant amounts of hazardous constituents (See the Environmental Performance Summary Calculations section of the Autoliv Proposal at <http://www.epa.gov/projectxl/Autoliv/page2.htm>. for more detailed information on waste composition).

In order to implement this project, EPA will grant a conditional exemption from the definition of hazardous waste, for the specific waste that is subject to this agreement. The effect of EPA granting the conditional exemption is that a RCRA Part B permit will not be required. In summary, the waste pyrotechnics, generated on-site at the Autoliv facility, will be exempted from regulation as hazardous wastes and thus, 40 CFR Part 262 through Part 270 when treated in the MRF in accordance with the provisions in the Site-Specific Rule. The facility will continue to comply with certain general RCRA conditions on facility

operations, as described in this agreement, and which will be specified in the Project XL Site-Specific Rulemaking for the Autoliv Facility and any State of Utah regulations that grant the conditional exemption. The project signatories believe that processing pyrotechnic materials in the MRF can be both cost-effective and achieve superior environmental results as compared to open burning. Project signatories believe that this project meets the intent of Project XL.

During the 5 year project term, Autoliv will comply with the following provisions which will be enforceable and implemented via a site specific rulemaking:

1. Autoliv will comply with the Project XL Site-Specific Rulemaking for the Autoliv Facility and the requirements specified in 40 CFR Part 262, Part 265, Subparts B, C, D, E, G, H, I, and O, and Part 268. Waste material will still be managed and stored as hazardous waste. Autoliv will comply with the RCRA 90-day storage requirements.
2. All waste materials processed will be characterized and an initial stack test as described in the Site-Specific Rule will be conducted by Autoliv to evaluate the safety and efficiency of the MRF system.
3. The amounts of waste pyrotechnics treated will be reported to EPA and UDEQ at each Periodic Performance Review Conference conducted at least every six months.
4. Due to the dynamic and ever changing nature of the airbag industry, it will be pertinent to allow for new development and provide flexibility for future materials. Emission product limitations will comply with airbag industry emissions standards listed in the Superior Environmental Performance section.
5. The Utah Division of Air Quality under authority delegated by EPA has agreed that a separate Approval Order will be issued for the pyrotechnic waste disposal process which will serve as an amendment to the existing Approval Order which covers the current operation of processing airbag inflators and their components. No regulatory flexibility or modification of Federal regulations is required for the new approval order to be issued by the Division of Air Quality.
6. No off-site pyrotechnic wastes will be received or

processed at this location and in the MRF which is the subject of this FPA.

7. An MRF Operating Record, including waste feed composition, feed rates, temperatures, pressures, upset conditions, spills and releases, etc. will be maintained at the facility and made available for the Agencies review and copying and for enforcement purposes if necessary.

8. The agencies will be notified of any upset conditions, such as, spills and releases of hazardous or toxic substances at the MRF. The information will be reported orally within 24 hours from the time Autoliv becomes aware of the circumstances. A written submission will also be provided within five days of the time Autoliv becomes aware of the circumstances of the noncompliance. The severity and type of upset condition that would trigger the reporting threshold will be described in the Site-Specific Rule.

For EPA Region VIII, notifications should be made to:

Kerrigan G. Clough  
Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance  
U.S. Environmental Protection Agency  
999 18<sup>th</sup> St.  
Denver, Colorado 80202  
(800) 227-9441 (303) 312-6312

For UDEQ-DSHW notifications, should be made to:

Dennis Downs  
Executive Secretary  
Division of Solid and Hazardous Waste  
Utah Department of Environmental Quality  
P.O. Box 144880  
Salt Lake City, Utah 84114-4880  
(800) 538-6170

9. Upon project completion or termination, Autoliv will submit a proposal for the Agencies' review and comment to assess releases from the unit during the life of the project and any unit modifications.

10. Public access to relevant compliance assurance information will be provided.

#### IV. Project XL Acceptance Criteria

##### A. Anticipated Superior Environmental Performance

This project will likely produce superior environmental results as compared to open burning for several reasons. The major benefit to the environment will be from reduced air emissions due to the minimization of open burning of hazardous waste. The company estimates that it has open burned 183,557 lbs. of pyrotechnic material that were not able to be recovered or recycled during 1998 and 1999. The uncontrolled particulate emissions are a point of concern for all parties involved. Although open burning is an approved method for destruction of pyrotechnic wastes it does not utilize any air pollution controls. The same pyrotechnic materials, if processed at the MRF, would pass through an extensive air pollution control system rather than being emitted, thus achieving a significant reduction of air pollutants released to the environment, accomplishing superior environmental performance compared to open burning. The company projects that it can eliminate the open burning of 158,000 lbs. of waste pyrotechnic material in the first year of project participation. It also estimates that a net reduction of 22,876 lbs./yr of particulate emissions would be accomplished.

Additional environmental benefits are achievable due to the fact that certain pyrotechnic formulations contain materials (e.g., copper) that could be potentially recovered in the slag as well as in the baghouse. These materials could then be recycled back to Autoliv's raw material suppliers. The distinctive properties of the waste pyrotechnic materials enable these materials to be treated more efficiently and in a manner that creates fewer air emissions than open burning which precludes recycling or recovery of any kind.

The specifications governing the air bag industry are very stringent and do not allow the use of toxic materials. The major gases produced by gas generants are water, carbon dioxide, and nitrogen. The percentage of each of these gases can vary depending on the formulation but a typical analysis would be approximately 40% nitrogen, 40% water, and 20% carbon dioxide. Other gaseous and particulate (metal) compounds are present at ppm levels. These include gaseous carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), nitric oxide (NO), and ammonia (NH<sub>3</sub>), and particulate matter containing the metals copper, cobalt, boron, and aluminum. The MRF is

presently permitted by Utah (DAQE-549-97) to operate 24 hours/day, 365 days/year. Actual operation is estimated to be 50 percent of the permitted production capacity. A portion of the processing capacity will be absorbed by pyrotechnic waste disposal. Minimal changes to the emission streams are expected because the pyrotechnic materials are also present within the recycled inflator units themselves.

**B. Cost Savings, Paperwork Reduction and Operational Flexibility**

This project will result in cost savings and paperwork reduction in several key areas. These include a decrease in paperwork through a streamlined processes for approval of hazardous waste treatment, elimination of paperwork related to transporting the waste off-site to a permitted facility, and a reduction in the disposal costs that the company would pay to a RCRA treatment or disposal facility. Autoliv disposed of 82,361 lbs. of pyrotechnic waste in 1998 at an incurred cost of \$164,722. The pyrotechnic waste could easily have been processed in the MRF with minimal additional operating cost. The projected scrap numbers estimate that 158,000 lbs. of waste material will be generated in the year 2000. The contracted disposal fee at present time is \$2.00 per pound. Through Project XL, Autoliv will save an estimated \$316,000 in disposal costs in the first year. Autoliv has estimated that issuance of a RCRA permit may take three to five years and may cost the facility in excess of \$500,000. Part of Autoliv's cost savings from the XL project will be used to fund an Environmental Reinvestment Project (ERP). The ERP is described in Appendix A.

In addition, the following changes would be anticipated:

Waste pyrotechnics would no longer be transported across public roads, reducing liability and associated costs, and increasing public safety.

The paperwork burden would be reduced because hazardous waste manifests and shipping papers would not be required or needed. Operational flexibility would allow materials to be processed more regularly, which further reduces paperwork as well as the amount of pyrotechnics stored at any given time.

### **C. Stakeholder Involvement and Support**

Both local and regional stakeholders have expressed support for this project. They see this as a unique opportunity to improve the air quality in Box Elder County and surrounding communities. Participation in Project XL provides Autoliv, the Box Elder County, the Utah Division of Environmental Quality and the EPA the opportunity to explore new ways to improve the environment. The neighboring community of Howell and the surrounding area would benefit by reducing emissions associated with open burning. The highly visible nature of open burning tends to heighten awareness of the associated environmental impacts.

A Kickoff meeting and site tour held on June 8th, 1999 garnered stakeholder support and input for the project plan. Additional stakeholder meetings will be held as appropriate.

Stakeholders that have been active in the project and have given oral or written support are:

Utah Division of Environmental Quality  
Bear River Health Department  
Howell City  
Box Elder County

Additional stakeholders Autoliv has notified but have not participated directly in project negotiations:

Ducks Unlimited  
Golden Spike Monument  
Bear River Bird Refuge

Stakeholders have been made aware of Autoliv's intentions and the environmental benefits associated with Project XL. Autoliv will continue to provide the stakeholder group with any information regarding the project including semi-annual project updates and will encourage them to meet on a regular basis.

### **D. Innovative Approach and Multi-media Pollution Prevention**

The Autoliv XL Project is innovative from technical, scientific and regulatory perspectives. The approach to be tested under this project would be to explore the efficacy of treating waste on-site in cases where there is a clear benefit to the environment for doing so. This would entail the substitution of current RCRA permitting requirements

outlined in 40 CFR Part 264 and Part 266 with those for Interim Status facilities. EPA is interested in testing and evaluating alternative approaches to regulating RCRA facilities that can achieve superior environmental performance while reducing costs and paperwork burden. Autoliv has a history of implementing waste minimization techniques and practices with control over manufacturing with emphasis on quality and waste minimization

#### **E. Transferability of the Approach to Other Entities or Sectors**

This project contains several elements that will potentially be transferable. It could help demonstrate that this technology may be transferable to other air bag manufacturers. Autoliv proposes to demonstrate the feasibility of utilizing existing equipment to process hazardous materials in a more efficient and environmentally sound manner than current regulatory and hazardous waste treatment methods allow. In addition, the process technology might be transferable to other manufacturers of air bags.

#### **F. Feasibility of the Project**

The Metals Recovery Furnace (MRF) can accommodate the processing of waste pyrotechnic materials with minimal process modifications. The proposed processing scheme utilizes the existing combustion chamber that ties directly to the existing gas cleaning train. The gas cleaning train will effectively capture the distinctive emissions of the waste pyrotechnics without the need for additional pollution control equipment. Pyrotechnic materials will be delivered to the combustion chamber in a manner similar to that used for inflator processing. This design will allow for maximum processing capability without restricting current metal recovery operations. The ability to control the pyrotechnic processing independently but similar to the metal recovery processing facilitates greater consistency and system control, thus enhancing overall system safety.

Autoliv Management views this project as an opportunity and has given it high priority, committing the resources necessary to execute and maintain the project. Preliminary engineering activities are currently underway and the detailed engineering will begin upon approval of the project. The engineering design is technically and administratively feasible and process feed rates will be

established to ensure worker safety and maximize process efficiency. The Agencies, by signing this FPA, agree to support the project, subject to any public review procedures necessary to implement the legal mechanism for the project.

#### **G. Monitoring, Reporting, Accountability, and Evaluation Methods to be Used**

EPA expects, and the rest of the Project Signatories agree, that project information will be made available to stakeholders in a form that is accessible and easy to understand. Autoliv will make all data from the development, implementation and evaluation of the project available to stakeholders. This will include an Initial Project Evaluation Report that includes the results of initial stack testing that will be submitted to EPA and UDEQ 90 days after official start-up of the project.

In addition, project performance data and information, including the quantity of material processed and the quantity of natural gas consumed, will be made available to stakeholders on a yearly basis (day and month to be agreed upon) or whenever requested by the agencies. Records accounting for all materials processed through the MRF will be maintained. Stack testing will be conducted initially at the start of the project and periodically thereafter to ensure that emission levels are within UDEQ's Approval Order limitations and air pollution equipment is functioning properly (to be described in the site specific rule). Any other project information, which will allow the EPA and the public to evaluate the success of the project and enforce its terms, will be made available as needed, or will be made publicly available at the Box Elder library, the town hall, or the UDEQ.

A stack-testing baseline will be conducted, as specified in the final site specific rule to verify that all waste pyrotechnic emissions are properly controlled and to ensure compliance with conditions of the Approval Order. In addition, the company will perform an initial baseline dioxin test to verify that dioxin emissions do not exceed the Hazardous Waste Combustion MACT standard of 0.4 ng per dry standard cubic meter on a toxicity equivalent quotient (TEQ) basis. Also, combustion gas temperature will be maintained below 400 degrees Fahrenheit at the baghouse inlet, as a precaution against dioxin formation.

Modifications to the Utah Approval Order will be completed if necessary. Stack testing will be conducted by Autoliv, which will perform similar tests to previous stack testing at the Metals Recovery Facility. An initial project evaluation report that includes the results of initial stack testing will be prepared by Autoliv and submitted to EPA and UDEQ within 90 days of the start of the project. All materials processed at the MRF will be recorded. Records of all waste pyrotechnic materials processed will be tracked on a daily basis. These provisions along with any other reporting requirements, which are deemed necessary to verify compliance with the terms of the conditional exemption will be provided for in the Site-Specific Rule.

The MRF combustion gas of greatest concern will be particulate and metals. Autoliv will comply with all applicable federal and state regulations if hazardous air pollutants are found present at any time in quantities that would trigger major source involvement or Title 5 permitting under the Clean Air Act. All materials processed at the MRF are currently recorded. All reporting data will be posted on the web site for this project ([www.epa.gov/projectxl](http://www.epa.gov/projectxl))

#### **H. Avoidance of Shifting the Risk Burden to Other Areas or Media**

The design and remote location of the MRF will protect worker safety and ensure that no one will be subjected to unjust or disproportionate environmental impacts. All Autoliv workers are required to receive extensive safety and explosive training. The processing of all pyrotechnic material will be incorporated into the MRF's standard operating procedures. All new waste materials will be approved before processing to ensure that no safety risks or unwanted environmental impacts are present. Autoliv's pyrotechnic expertise and operating record demonstrate the ability to safely and effectively process these materials.

The risk burden shifted to the Metals Recovery Facility will not be greater than current operations for the following reasons:

The need to transport waste pyrotechnic material off-site to the permitted OB/OD unit will be minimized. The public and other non-Autoliv employees will not be exposed to the risks associated with transportation, loading and unloading of

pyrotechnics for off-site transport. This increases public safety. Waste pyrotechnic materials will be processed more regularly, thereby reducing the risk associated with the storage of large quantities of pyrotechnic materials. In addition, all workers will have extensive explosive handling and safety training. Industrial hygiene samples will be completed to insure worker safety.

The proposed feed system is designed to prevent propagation of pyrotechnic materials, thus protecting workers and equipment. Processing capabilities, desensitizing agents, limitations, etc. will be strictly defined. By controlling the feed rates and quantities processed, the risk of processing waste pyrotechnics in the Metals Recovery Furnace will be significantly reduced. All processing will be completed as remotely as possible to minimize worker exposure.

The risk burden to the environment and general public will be reduced because all emissions will be directed through the air pollution control train before being released to the environment. Current open burning operations allow for no emission controls. Implementing best management handling training, housekeeping and engineering design practices will minimize the risk of fires and explosions. The increased use of the MRF will allow Autoliv to treat its waste in a more environmentally sound manner than what previously exists. No shifting of the risk burden will occur from one media to another.

#### **V. Intentions and Commitments of Project Signatories**

As discussed more fully within this FPA and documents attached to this FPA, Autoliv agrees to:

1. Develop, implement and evaluate the project in accordance with the terms of this

FPA, and in accordance with all regulations, including any regulatory flexibility appropriately made available to Autoliv by EPA and the State of Utah.

2. Supply monitoring and summary reports on project progress, including an Initial Project Evaluation Report that includes the results of initial stack

testing submitted to EPA and UDEQ no later than 90 days after initiation of the project, status reports every six months, and other compliance assurance, monitoring, or reporting requirements which may be included in the legal implementation mechanism.

As discussed more fully within this FPA, the Agencies (EPA and UDEQ) agree to:

Undertake the necessary procedures as expeditiously as possible, subject to all necessary notice and comment procedures, to develop state and federal regulations to provide Autoliv a conditional exemption from RCRA permitting requirements for its pyrotechnic waste stream, and to issue appropriate amendments to the existing state air quality Approval Order.

## **VI. Legal Basis for the Project**

### **A. Authority to Enter Into the Agreement**

By signing this Agreement, the Project Signatories acknowledge and agree that they have the respective authorities, discretion and resources to enter into this Agreement and to implement all applicable provisions of this Project, as described in this Agreement.

### **B. Legal Effect of the Agreement**

This Agreement states the intentions of the Project Signatories with respect to Autoliv's XL Project. This Agreement in itself does not create or modify legal rights and obligations, is not a contract or a regulatory action such as a permit or rule, and is not

legally binding or enforceable against any Project Signatory. Rather, it expresses the plans and intentions of the Project Signatories without making those plans and intentions binding requirements. This applies to the provisions of this Agreement that concern procedural as well as substantive matters. Thus, for example, the Agreement establishes procedures that the Project Signatories intend to follow with respect to dispute resolution and termination. However, while the Project Signatories fully

intend to adhere to these procedures, they are not legally obligated to do so.

The Agencies intend to propose for public comment in the Federal Register and Utah equivalent the regulatory exemptions needed to implement this XL Project. Any rules, permit modifications or orders that implement this Project will be effective and enforceable as provided under applicable law.

This Agreement is not a "final agency action" by EPA or The State of Utah, because it does not create or modify legal rights or obligations and is not legally enforceable. This Agreement itself is not intended to be subject to judicial review or enforceable. Nothing any Project Signatory does or does not do that deviates from a provision of this agreement, or that is alleged to deviate from a provision of this Agreement, can serve as the sole basis for any claim for damages, compensation or other relief against any Project Signatory.

#### **C. Other Laws or Regulations That May Apply**

Except as provided in any rules, permits, or orders implementing this XL project, the Project Signatories do not intend that this Final Project Agreement, or actions taken pursuant to this agreement, will modify any other existing or future laws or regulations or apply to the treatment of wastes at any other facility.

#### **D. Retention of Rights to Other Legal remedies**

Except as expressly provided in the rules, permits, or orders implementing this XL project, nothing in this Agreement affects or limits EPA's, Autoliv's, The State of Utah's or Box Elder County's legal rights. These rights include legal, equitable, civil, criminal or administrative claims or other relief regarding the enforcement of present or future applicable federal and state laws, rules, regulations or permits with respect to the facility.

With regard to any EPA rulemaking or state order associated with this project, nothing in the Agreement is intended to limit Autoliv's right of administrative or judicial appeal or review in accordance with the applicable procedures for such review.

## VII. FPA implementation Issues

### A. Withdrawal From or Termination of the FPA

Because this FPA is not legally enforceable, no Project Signatory may be legally compelled to continue with the Autoliv XL Project. However, it is the desire of the Project Signatories for the FPA to remain in effect and be implemented as fully as possible, and it is not their intent to terminate or withdraw from the FPA unless there is a compelling reason to do so.

The Project Signatories agree that appropriate grounds to seek withdrawal from the FPA could include, but are not limited to:

1. Substantial failure by any party to the Agreement to:  
a) comply with the provisions of the implementing Mechanism for this Project, or b) to act in accordance with the provisions of this Agreement;
2. Substantial failure of any party to the Agreement to disclose material facts during development of this Agreement;
3. Substantial failure of the XL Project to provide superior environmental performance consistent with the provisions of this Agreement;
4. Enactment or promulgation of any environmental, health or safety law or regulation after execution of the Agreement, which renders the Project legally, technically or economically impracticable; and/or
5. Decision by US EPA or The State of Utah to reject the transfer of the Project to a new owner or operator of the facility.

Although the parties retain the right to withdraw and/or terminate this agreement at any time and without cause, the US EPA, The State of Utah and Box Elder County do not intend to withdraw from the Agreement unless actions by Autoliv constitute a substantial failure to act consistently with intentions expressed in this Agreement and its implementing Mechanism. Autoliv will be given notice and a reasonable opportunity to remedy any "substantial failure" before EPA's, The State of Utah's and/or Box Elder County's withdrawal. If there is a disagreement between the Project

Signatories over whether a "substantial failure" exists, the Project Signatories will use the dispute resolution mechanism set forth in Section VII.E of this Agreement. US EPA, The State of Utah and Box Elder County retain their discretion to use existing enforcement authorities, including withdrawal or termination of this Project, as appropriate. Autoliv retains any existing rights or abilities to defend itself against any enforcement actions, in accordance with applicable procedures.

#### **B. Procedures for Withdrawal or Termination of the FPA**

Although not binding on any of the parties, the Project Signatories intend that the following procedures will be used to withdraw from or terminate the Project before expiration of the Project term. They also intend that the implementing Mechanism(s) will provide for withdrawal or termination consistent with these procedures.

1. Any Project Signatory that wants to terminate or withdraw from the Project is expected to provide written notice to the other parties at least sixty (60) days before the withdrawal or termination.
2. If requested by any Project Signatory during the sixty (60) day period noted above, the dispute resolution proceedings described in this Agreement may be initiated to resolve any dispute relating to the intended withdrawal or termination. If, following any dispute resolution or informal discussion, a Project Signatory still desires to withdraw or terminate, that Project Signatory will provide written notice of final withdrawal or termination to the other Project Signatories.

If any agency withdraws or terminates its participation in the Agreement, the remaining agencies will consult with Autoliv to determine whether the Agreement should be continued in modified form, consistent with applicable federal or state law, or whether it should be terminated.

3. The procedures described in this Section apply only to the decision to withdraw or terminate participation in this Agreement. Procedures to be used in modifying or rescinding any rules, permits, or orders implementing this XL project will be governed by applicable law.

### **C. Modification of the FPA**

This Agreement may be modified by mutual agreement in writing of all of the Project Signatories at any time during the duration of the Project. Any substantial modification will be subject to notice and comment in the Federal Register and Utah equivalent and must comport with XL acceptance criteria. The Project Sponsor will also provide notice to stakeholders to solicit, and incorporate to the extent feasible, their input on any proposed modifications prior to publication or notice of availability in the Federal Register. The Project Signatories recognize that modifications to this Agreement or termination of this Agreement, may also necessitate modification, rescission, or supplementation of any rules, permits, or orders implementing this Agreement.

### **D. Duration of the Agreement**

This Agreement will be in effect for five years from the date of the signing of the FPA, unless it is terminated earlier or extended by agreement of all Parties. (If the FPA is extended, the comments and input of stakeholders will be sought and a Federal Register Notice will be published.)

### **E. Dispute Resolution**

Any dispute which arises under or with respect to this Agreement will be subject to informal negotiations among the Project Signatories to the Agreement. The period of informal negotiations will not exceed twenty (20) calendar days from the time the dispute is first documented, unless that period is extended by a written agreement of the parties to the dispute. The dispute will be considered documented when one party sends a written Notice of Dispute to the other parties.

In the event that the parties cannot resolve a dispute through informal negotiations, the parties may invoke non-binding arbitration by setting forth the nature of the dispute with a proposal for resolution to the Regional Administrator for EPA Region 8. Prior to the issuance of an opinion, the Regional Administrator may request an informal hearing and may attempt to mediate the dispute. In the event the Regional Administrator issues a written opinion resolving the matter, the Parties recognize that the opinion

is not binding. Any party disagreeing with the Regional Administrator's written opinion will still have the option to terminate or withdraw from this Agreement, as set forth in Section VII A. and B.

#### **F. Transfer of Project Benefits and Responsibilities to a New Owner**

The parties expect that the implementing Mechanism will allow for a transfer of Autoliv's benefits and responsibilities under the Project to any future owner or operator upon request of Autoliv and the new owner or operator, provided that the following conditions are met:

1. Autoliv will provide written notice of any such proposed transfer to the EPA, The State of Utah, and Box Elder County at least ninety (90) days before the effective date of the transfer. The notice is expected to include identification of the proposed new owner or operator, a description of its financial and technical capability to assume the obligations associated with the Project, and a statement of the new owner or operator's intention to take over the responsibilities in the XL Project of the existing owner or operator.

2. Within forty-five (45) days of receipt of the written notice, the Project Signatories expect that EPA, The State of Utah, and Box Elder County, in consultation with stakeholders, will determine whether: a) the new owner or operator has demonstrated adequate capability to Meet EPA's requirements for carrying out the XL Project; b) is willing to take over the responsibilities in the XL Project of the existing owner or operator; and c) is otherwise an appropriate Project XL partner. Other relevant factors, including the new owner or operator's record of compliance with Federal, State and local environmental requirements, may be considered as well.

It will be necessary to modify the Agreement to reflect the new owner and it may also be necessary for EPA, The State of Utah, and Box Elder County to (subject to applicable public notice and comment) to transfer the legal rights and obligations of Autoliv under this Project to the proposed new owner or operator.

#### **G. Periodic Review**

The Parties will confer, on a periodic basis to assess progress in implementing the XL Project. Unless it is agreed otherwise, a Periodic Performance Review Conference by the Project Signatories will take place at least every six months. The six month status reports may take the place of the conference, if agreed to by the Project Signatories. Within approximately thirty (30) days following the conference, EPA intends to post a summary of the minutes and/or status reports to EPA's Autoliv XL Web Page and will provide identified and local stakeholders with a copy of the summary minutes. Any additional comments of stakeholders provided to Autoliv will be provided to EPA, The State of Utah and Box Elder County.

The Agencies will review and evaluate the reports submitted by Autoliv and determine whether the regulatory model for pilot in this XL Project should be proposed as a national model.

#### **H. Project Completion or Termination**

##### **1. Project Completion Upon Expiration of Project Term**

This XL Project expires five years after the issuance of the final site specific rule. The Project Signatories shall evaluate the final project report (including stack testing) and determine its success under Part IV., Project XL Acceptance Criteria. If the project is judged to be successful, the parties will be given the option to modify the project agreement and extend the project duration for a period to be determined at that time by Autoliv and the Agencies, with input from stakeholders and subject to public notice and comment requirements.

##### **2. Early Withdrawal, Termination or Project Failure**

If a decision is made that the project must terminate early because the project is failing to provide the anticipated Superior environmental performance then Autoliv will be put on a compliance schedule, which will require a return to the generally applicable standards. Autoliv may request a meeting with EPA and the State of Utah, to discuss the timing and nature of any actions that Autoliv will be required to take. The parties should meet within thirty days of receipt of Autoliv's written request for such a discussion. At and following such a meeting, the parties should discuss in reasonable, good faith, which of

the requirements deferred under this Project will apply after termination of the Project.

In the event of a withdrawal or termination not based on the end of the Project term and where Autoliv has made efforts in good faith, the parties to the Agreement will determine an interim compliance period to provide sufficient time for Autoliv to return to compliance with any regulations deferred under the Project. The interim compliance period will extend from the date on which EPA, the State of Utah or Autoliv provides written notice of final withdrawal or termination of the Project, in accordance with the site specific rule. By the end of the interim compliance period, Autoliv will comply with the generally applicable standards deferred during the project term.

During the interim compliance period, EPA and the State of Utah may issue an order, permit, or other legally enforceable mechanism establishing a schedule for to return to compliance with otherwise applicable regulations as soon as practicable. This schedule cannot extend beyond 6 months from the date of withdrawal or termination. Autoliv intends to be in compliance with all applicable Federal, State, and local requirements as soon as is practicable, as will be set forth in the new schedule.

#### **I. Effective Date**

This FPA is effective on the date it is dated and signed by EPA's Acting Regional Administrator for Region 8.

AUTOLIV XL PROJECT SIGNATORIES:

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Rod Wright

Date Signed

Plant Manager, Promontory

Autoliv ASP, Inc.

Promontory, Utah

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Rebecca W. Hanmer

Date Signed

Acting Regional Administrator

U.S. EPA Region 8

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Dianne R. Nielson, Ph.D.

Date Signed

Executive Director

Utah Department of Environmental Quality

AUTOLIV XL PROJECT SIGNATORIES:

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Royal Norman

Date Signed

County Commissioner  
Box Elder County

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Timothy Fields, Jr.

Date Signed

Assistant Administrator

Office of Solid Waste and Emergency Response  
U.S. EPA