

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

2015 MAR 31 PM 1:29

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

In the Matter of:

Huntington Plating, Inc.  
625 Monroe Avenue  
Huntington, WV 25704

Respondent

Huntington Plating, Inc.  
625 Monroe Avenue  
Huntington, WV 25704

Facility

Docket No. EPCRA-03-2015-0056

CONSENT AGREEMENT

Proceeding under EPCRA §325(c),  
42 U.S.C. § 11045(c)

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Huntington Plating, Inc., ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA § 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively, "CAFO"), simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 625 Monroe Avenue, Huntington, West Virginia 25704.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.

3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

**Findings of Fact and Conclusions of Law**

7. In accordance with Sections 22.13(b) and .18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3900] (as in effect on July 1, 1987), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
11. Respondent is incorporated in the State of West Virginia and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated a manufacturing plant located at 625 Monroe Avenue, Huntington, West Virginia 25704 ("Facility").
13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. §

11049(4), and 40 C.F.R. § 372.3.

14. During the 2012 calendar year, Respondent employed 10 or more full-time employees at the Facility.
15. During the 2012 calendar year, the Facility had a SIC code of 3471 for chrome and nickel plating.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the State of West Virginia by July 1 of the following calendar year.

#### **Count I – Lead 2012**

17. The allegations of Paragraphs 1 through 16, above, are incorporated by reference as though fully set forth herein.
18. “Lead” is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372.3, and is listed in 40 C.F.R. § 372.65.
19. As set forth in Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), and 40 C.F.R. § 372.28, the reporting threshold amount for lead which is processed at a facility is 100 pounds.
20. Respondent processed more than 100 pounds of lead at the Facility during the 2012 calendar year.
21. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), Respondent was required to submit to the Administrator of EPA and the State of West Virginia by July 1 of 2013, a completed Form R for the lead processed at the Facility during the calendar year 2012. Form A is not authorized for reporting lead as set forth in 40 CFR § 372.27(e).
22. Respondent filed a complete Form R for the toxic chemical lead processed at the Facility during calendar year 2012 with the Administrator of EPA and the State of West Virginia on or about March 15, 2014.
23. Respondent’s failure to timely file a complete Form R to EPA or the State of West Virginia for the toxic chemical lead processed at the Facility during calendar year 2012, by July 1, 2013, constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023.

#### **Settlement**

24. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates

EPCRA § 313, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, violations of Section 313 of EPCRA, 42 U.S.C. § 11023, occurring after January 12, 2009 are subject to a civil penalty of up to \$37,500 per violation.

25. Respondent agrees to pay a civil penalty in the amount of **EIGHT THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$8,550.00)** in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations alleged and set forth in this Consent Agreement. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty, Respondent must pay such civil penalty no later than thirty (30) calendar days after the date on which this CAFO is mailed or hand-delivered to Respondent.
26. The civil penalty settlement amount set forth in Paragraph 25, immediately above, was determined after consideration of the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (April 12, 2001). Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, and the November 16, 2009 memorandum by EPA Waste and Chemical Division Director Rosemarie A. Kelley entitled *Adjusted Penalty Policy Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule* ("Kelley Memorandum").
27. The civil penalty of Eight Thousand Five Hundred and Fifty Dollars (\$8,550.00) set forth in Paragraph 25, above, may be paid in nine (9) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

| <u>Schedule</u>   | <u>Principal Amount</u> |   | <u>Interest</u> |   | <u>Payment Amount Due</u> |
|---|-------------------------|---|-----------------|---|---------------------------|
| 1 <sup>st</sup> payment within 30 days of the date on which this CAFO is mailed or hand-delivered to Respondent | \$950.00                | + | \$0.00          | = | \$950.00                  |
| 2 <sup>nd</sup> payment within 60 days of the date on which this CAFO is mailed or hand-delivered to Respondent | \$950.00                | + | \$12.67         | = | \$962.67                  |
| 3 <sup>rd</sup> payment within 90 days  | \$950.00                | + | \$5.54          | = | \$955.54                  |

of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

4<sup>th</sup> payment within 120 days \$950.00 + \$4.75 = \$954.75  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

5<sup>th</sup> payment within 150 days \$950.00 + \$3.95 = \$953.95  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

6<sup>th</sup> payment within 180 days \$950.00 + \$3.16 = \$953.16  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

7<sup>th</sup> payment within 210 days \$950.00 + \$2.37 = \$952.37  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

8<sup>th</sup> payment within 240 days \$950.00 + \$1.58 = \$951.58  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

9<sup>th</sup> payment within 270 days \$950.00 + \$0.79 = \$950.79  
of the date on which this  
CAFO is mailed or hand-  
delivered to Respondent

TOTAL: \$8,550.00 + \$34.81 = \$8,584.81

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of Eight Thousand Five Hundred and Fifty Dollars (\$8,550.00) and total interest payments in the amount of Thirty Four Dollars and Eighty One Cents (\$34.81).

28. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 27, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall

pay administrative handling charges and late payment penalty charges as described in Paragraphs 31-34, below, in the event of any such failure or default.

29. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 27, above, Respondent may pay the entire civil penalty of Eight Thousand Five Hundred and Fifty Dollars (\$8,550.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent and thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as described in Paragraph 30, below. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

30. Payment of the civil penalty amount set forth in Paragraph 25 and over the time period specified in Paragraph 27, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 31 through 34, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2015-0056;
- b. All checks shall be made payable to "**United States Treasury**";
- c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, (513) 487-2091  
Secondary Contact: Molly Williams, (513) 487-2076

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Primary Contact: Craig Steffen, (513) 487-2091  
Secondary Contact: Molly Williams, (513) 487-2076

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

**"D 68010727 Environmental Protection Agency"**

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026  
Remittance Express (REX): (866) 234-5681

- h. On-Line Payment Option:

[WWW.PAY.GOV/paygov/](http://WWW.PAY.GOV/paygov/)

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

T. Chris Minshall  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy  
Regional Hearing Clerk  
U.S. EPA, Region III (3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

31. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
32. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
33. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
34. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).



35. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

**Certification**

36. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.

**Other Applicable Laws**

37. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

**Reservation of Rights**

38. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of EPCRA Section 313, 42 U.S.C. § 11023, alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

**Scope of Settlement**

39. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

**Parties Bound**

40. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

**Effective Date**

41. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**Entire Agreement**

42. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

**For Respondent:**

Date: 1-21-15

By: Thomas L. Houvouras  
Thomas L. Houvouras  
President  
Huntington Plating, Inc.

**For Complainant:**

Date: 3/20/2015

By: T. Chris Minshall  
T. Chris Minshall  
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 5.25.15

By: John A. Armstead  
John A. Armstead, Director  
Land and Chemicals Division

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BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

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Docket No. EPCRA-03-2015-0056

CONSENT AGREEMENT

Proceeding under EPCRA §325(c),  
42 U.S.C. § 11045(c)

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Huntington Plating, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), the statutory factors set forth in EPCRA § 325(b)(1)(C), 42 U.S.C. § 11045(b)(1)(C), and the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023.

**NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **EIGHT THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$8,550.00)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

**In the Matter of: Huntington Plating, Inc.**

**Docket No. EPCRA-03-2015-0056**

The effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 3-31-15

  
\_\_\_\_\_

Heather Gray  
Regional Judicial Officer  
U.S. EPA, Region III

**In the Matter of:**

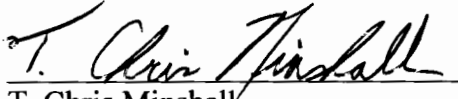
**Huntington Plating, Inc.**

**Docket No. EPCRA-03-2015-0056**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of March 2015, I sent a copy of the foregoing CONSENT AGREEMENT and FINAL ORDER by UPS, to the following person:

Robert B. Casarona, Esq.  
Casarona Legal Services, LLC  
10 Center St.  
Cleveland, OH 44022



T. Chris Minshall  
Senior Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III

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