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BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

2016 SEP 27 PM 4: 23

2016 SEP 27 PM 4: 23

In the Matter of:

Huntington Ingalls Incorporated  
Newport News Shipbuilding Division  
4101 Washington Avenue  
Newport News, VA 23607

Respondent

Huntington Ingalls Incorporated  
Newport News Shipbuilding Division  
4101 Washington Avenue  
Newport News, VA 23607

Facility

Docket No. EPCRA-03-2016-0211

CONSENT AGREEMENT

Proceeding under EPCRA §§ 313 and,  
325(c), 42 U.S.C. §§ 11023 and 11045(c)

**CONSENT AGREEMENT**

**I. 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 Ingalls Incorporated, Newport News Shipbuilding Division (“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 (“CA”) and the accompanying Final Order (“FO”), (collectively, “CAFO”), simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, and implementing regulations promulgated thereunder, as alleged herein, by Respondent at its facility located at 4101 Washington Avenue, Newport News, VA 23607.

**II. 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. Respondent reserves all other rights which are not expressly waived.
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.

### **III. Findings of Fact and Conclusions of Law**

7. In accordance with Sections 22.13(b) and .18(b)(2) of the Consolidated Rules of Practice, Complainant adopts the following findings of fact and conclusions of law.
8. EPCRA Section 313(a), 42 U.S.C. § 11023(a), requires subject owners or operators of any facility that, in any calendar year, manufactures, processes or otherwise uses a toxic chemical listed under EPCRA Section 313(c), 42 U.S.C. § 11023(c), in quantities exceeding a regulatory threshold established under EPCRA Section 313(f), 42 U.S.C. § 11023(f), to complete and submit a toxic chemical release inventory report (*i.e.*, "Form R" or "Form A") for each such listed toxic chemical. Pursuant to EPCRA Section 313(a), 42 U.S.C. § 11023(a), each required Form R or Form A must include the information required under Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), and must be submitted to EPA and to the designated State agency by July 1 of the year following the year for which such toxic inventory report is required.
9. EPCRA Section 313(b), 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide, in relevant and applicable part, that a facility which meets the following criteria for a calendar year is a "covered facility" for that calendar year and must report under 40 C.F.R. § 372.30: [a] the facility has 10 or more full-time employees; [b] the facility is in a Standard Industrial Classification ("SIC") (as in effect on January 1, 1987) major group or industrial code listed in 40 C.F.R. § 372.23(a), for which the corresponding North American Industrial Classification System ("NAICS") (as in effect on January 1, 2007, for reporting year 2008 and thereafter) subsector and industry codes are listed in 40 C.F.R. § 372.23(b) and (c) by virtue of the fact that the facility is an establishment with a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary NAICS subsector or industry code listed in 40 C.F.R. § 372.23(b) or 40 C.F.R. § 372.23(c); and [c] the facility manufactured (including

imported), processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in 40 C.F.R. § 372.25, 372.27, or 375.28.

10. 40 C.F.R. § 372.30(a) provides, in relevant part, that for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in 40 C.F.R. § 372.25, § 372.27, or § 372.28 at its covered facility for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350-1) or Form A (EPA Form 9350-2) in accordance with the instructions referred to in 40 C.F.R. Part 372, Subpart E.
11. 40 C.F.R. § 372.30(d) provides, in relevant part, that: “[e]ach report under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.”
12. 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.
13. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines “person” to include any corporation.
14. Respondent is a corporation incorporated in the Commonwealth of Virginia and is a “person” as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
15. Respondent owns and operates, and at the time of the violations alleged herein, owned and operated, a ship building establishment located at 4101 Washington Avenue, Newport News, VA 23607 (“Facility”).
16. 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.
17. During each of calendar years 2011 through 2013, Respondent employed 10 or more full-time employees at the Facility.
18. During each of calendar years 2011 through 2013, the Facility had a SIC code of 3731, corresponding to ship building.
19. For purposes of toxic chemical release reporting, the Facility was a “covered facility,” within the meaning of 40 C.F.R. § 372.22, and required to file a toxic chemical release report under 40 C.F.R. § 372.30(a), in each of calendar years 2011, 2012 and 2013.

**Count I – Benzo(g,h,i)perylene 2011**

20. The allegations of Paragraphs 1 through 19, above, are incorporated by reference as though fully set forth herein.
21. “Benzo(g,h,i)perylene” is a chemical listed in 40 C.F.R. § 372.65(a) and a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and in 40 C.F.R. § 372. 3.
22. As set forth in Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), and 40 C.F.R. § 372.28(a)(1), the reporting threshold amount for benzo(g,h,i)perylene otherwise used at a facility is 10 pounds.
23. Respondent otherwise used more than 10 pounds of benzo(g,h,i)perylene at the Facility during calendar year 2011.
24. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia, by July 1 of 2012, a completed Form R or Form A for the benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2011.
25. Respondent never filed a Form A for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2011 with the Administrator of EPA or the Commonwealth of Virginia.
26. Respondent filed a complete Form R for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2011 with the Administrator of EPA and the Commonwealth of Virginia on or about August 31, 2016.
27. Respondent’s failure to timely file, by July 1, 2012, a complete Form R or Form A with EPA or the Commonwealth of Virginia for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2011 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count II – Benzo(g,h,i)perylene 2012**

28. The allegations of Paragraphs 1 through 27, above, are incorporated by reference as though fully set forth herein.
29. Respondent otherwise used more than 10 pounds of benzo(g,h,i)perylene at the Facility during calendar year 2012.
30. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and the

Commonwealth of Virginia, by July 1 of 2013, a completed Form R or Form A for the benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2012.

31. Respondent never filed a Form A for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2012 with the Administrator of EPA or the Commonwealth of Virginia.
32. Respondent filed a complete Form R for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2012 with the Administrator of EPA and the Commonwealth of Virginia on or about August 31, 2016.
33. Respondent's failure to timely file, by July 1, 2013, a complete Form R or Form A with EPA or the Commonwealth of Virginia for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2012 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count III – Benzo(g,h,i)perylene 2013**

34. The allegations of Paragraphs 1 through 33, above, are incorporated by reference as though fully set forth herein.
35. Respondent otherwise used more than 10 pounds of benzo(g,h,i)perylene at the Facility during calendar year 2013.
36. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia, by July 1 of 2014, a completed Form R or Form A for the benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2013.
37. Respondent never filed a Form A for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2013 with the Administrator of EPA or the Commonwealth of Virginia.
38. Respondent filed a complete Form R for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2013 with the Administrator of EPA and the Commonwealth of Virginia on or about August 31, 2016.
39. Respondent's failure to timely file, by July 1, 2014, a complete Form R or Form A with EPA or the Commonwealth of Virginia for the toxic chemical benzo(g,h,i)perylene otherwise used at the Facility during calendar year 2013 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count IV – Ethylbenzene 2013**

40. The allegations of Paragraphs 1 through 39, above, are incorporated by reference as though fully set forth herein.
41. “Ethylbenzene” is a chemical listed in 40 C.F.R. § 372.65(a) and is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and in 40 C.F.R. § 372. 3.
42. As set forth in Section 313(f)(1)(A) of EPCRA, 42 U.S.C. § 11023(f)(1)(A), and 40 C.F.R. § 372.25(b), the reporting threshold amount for ethylbenzene otherwise used at a facility is 10,000 pounds.
43. Respondent otherwise used more than 10,000 pounds of ethylbenzene at the Facility during calendar year 2013.
44. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia, by July 1 of 2014, a completed Form R or Form A for the ethylbenzene otherwise used at the Facility during calendar year 2013.
45. Respondent never filed a Form A for the toxic chemical ethylbenzene otherwise used at the Facility during calendar year 2013 with the Administrator of EPA or the Commonwealth of Virginia.
46. Respondent filed a complete Form R for the toxic chemical ethylbenzene otherwise used at the Facility during calendar year 2013 with the Administrator of EPA and the Commonwealth of Virginia on or about June 3, 2015.
47. Respondent’s failure to timely file, by July 1, 2014, a complete Form R or Form A with EPA or the Commonwealth of Virginia for the toxic chemical ethylbenzene otherwise used at the Facility during calendar year 2013 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

**Count V – Polycyclic Aromatic Compounds 2013**

48. The allegations of Paragraphs 1 through 47, above, are incorporated by reference as though fully set forth herein.
49. “Polycyclic aromatic compounds” is a chemical category listed in 40 C.F.R. § 372.65(c) and a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), and in 40 C.F.R. § 372. 3.
50. As set forth in Section 313(f)(2) of EPCRA, 42 U.S.C. § 11023(f)(2), and 40 C.F.R. § 372.28(a)(2), the reporting threshold amount for polycyclic aromatic compounds

otherwise used at a facility is 100 pounds.

51. Respondent otherwise used more than 100 pounds of polycyclic aromatic compounds at the Facility during calendar year 2013.
52. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Virginia, by July 1 of 2014, a completed Form R or Form A for the polycyclic aromatic compounds otherwise used at the Facility during calendar year 2013.
53. Respondent never filed a Form A for the toxic chemical category polycyclic aromatic compounds otherwise used at the Facility during calendar year 2013 with the Administrator of EPA or the Commonwealth of Virginia.
54. Respondent filed a complete Form R for the toxic chemical category polycyclic aromatic compounds otherwise used at the Facility during calendar year 2013 with the Administrator of EPA and the Commonwealth of Virginia on or about June 3, 2015.
55. Respondent's failure to timely file, by July 1, 2014, a complete Form R or Form A with EPA or the Commonwealth of Virginia for the toxic chemical category polycyclic aromatic compounds otherwise used at the Facility during calendar year 2013 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

#### **IV. Settlement**

56. 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 and on or before November 2, 2015, are subject to a civil penalty of up to \$37,500 per violation.
57. In the interests of settlement in avoidance of the expense of litigation, Respondent agrees to pay a civil penalty in the amount of **THIRTY SEVEN THOUSAND FIVE HUNDRED AND FIFTY SIX DOLLARS (\$37,556.00)** in settlement and satisfaction of all civil claims for penalties which Complainant may have concerning the violations alleged and set forth in this CAFO. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the CAFO signed by EPA. 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. Respondent further agrees to perform the Supplemental Environmental Project described in Section V,

below. To avoid the payment of additional stipulated penalties, Respondent must perform the Supplemental Environmental Project, described below, in accordance with the provisions of this CA.

58. The civil penalty settlement amount set forth in Paragraph 57, immediately above, is reasonable and is based upon complainant's 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 December 6, 2013 memorandum by EPA Administrator Cynthia Giles, entitled *Amendments to the U.S. Environmental Protection Agency's Civil Penalty Policies to Account for Inflation (Effective December 6, 2013)*. The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.
59. Payment of the civil penalty amount set forth in Paragraph 57, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraphs 60 through 63, 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 (*Docket No. EPCRA-03-2016-0211*);
  - 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

Customer Service Contact: (513) 487-2091



- d. All payments made by check and sent by Private Commercial Overnight Delivery service shall be addressed and mailed to:

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

Contact: (513) 487-2091

- 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

- 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 US Treasury Facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: (866)-234-5681

- h. On-Line Payment Option:

<https://www.pay.gov/public/home>

Enter **SFO 1.1** in the search field, open and complete the form.

- i. Additional payment guidance is available at:

<https://www.epa.gov/financial/makepayment>

- j. At the time of payment, Respondent shall simultaneously send a notice of payment, *including a copy of the check or electronic wire transfer, as applicable*, to:

T. Chris Minshall, Esq.  
Sr. Assistant Regional Counsel  
Waste and Chemical Law Branch (3RC30)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

and

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

60. 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.
61. 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).
62. 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.
63. 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).
64. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

**V. Supplemental Environmental Project**

65. The following Supplemental Environmental Project (“SEP”) is consistent with applicable EPA policy and guidelines, specifically EPA’s Supplemental Environmental Projects Policy, effective May 1, 1998, and EPA’s Supplemental Environmental Projects Policy 2015 Update, issued March 10, 2015.
66. Within one hundred and eighty (180) days of the effective date of this CAFO, Respondent agrees to purchase for the Newport News Fire Department (“NNFD”) the following emergency response equipment to enhance the NNFD’s ability to respond to hazardous chemical incidents and other emergencies at the Facility and in the community:
- A. 2 John Deere Gator TX with Weidman Bros Ternyda Canopy and Kimtec MTD-103 Medlite Transport Deluxe Bed Insert;
  - B. 1 Ford F150XL pickup truck;
  - C. 1 Custom designed trailer with generator;
  - D. 200 BRK smoke detectors with lithium battery; and
  - E. 9 Fujitsu Q775 i7, 4G, 256 GB Tablets with additional 2-year standard warranty, 5-year accidental damage protection, keyboard dock and desktop dock/charging station.
67. Respondent’s total expenditure for this SEP shall not be less than ONE HUNDRED AND THIRTEEN THOUSAND ONE HUNDRED AND THREE DOLLARS (\$113,103.00). Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described in Paragraph 70, below.
68. Respondent hereby certifies that, as of the date of its signature to this CA, Respondent is not required to perform or develop this SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop this SEP

by any other agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for this SEP.

69. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing this SEP. Respondent also agrees that whenever it may publicize this SEP, it will state in a prominent manner that this SEP was undertaken as part of the settlement with the EPA.
70. Respondent shall submit a SEP Completion Report to Craig Yussen (3LC61), with a copy to T. Chris Minshall (3RC30), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, within thirty (30) days of completion of this SEP or within two hundred and ten (210) days of the effective date of this CAFO, whichever is sooner. In the SEP Completion Report, Respondent shall:
- A. Provide an inventory of the equipment purchased for the NNF;D;
  - B. Provide itemized costs:
    - i. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs.
    - ii. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such.
    - iii. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment was made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment was made.
  - C. Provide a certification. Respondent shall, by its representative officer, sign the report required by this Paragraph 70 and certify under penalty of law, that the information contained therein is true, accurate, and not misleading by including and signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fines and imprisonment.

- D. Respondent agrees that failure to submit the SEP Completion Report required by this Paragraph 70 shall be deemed a violation of this CAFO and, in such event, Respondent will be liable for stipulated penalties pursuant to Paragraph 73, below.

71. Upon receipt of the SEP Completion Report identified in Paragraph 70, above, or failing the timely receipt of Respondent's SEP Completion Report, EPA will provide written notification to the Respondent of one of the following:

- A. If the SEP Completion Report is not timely submitted by Respondent or is deficient, notify the Respondent in writing that the SEP Completion Report is overdue and/or deficient, provide an explanation of any deficiencies, and grant Respondent an additional fourteen (14) calendar days to correct those deficiencies;
- B. If the SEP Completion Report demonstrates, and EPA agrees based on the SEP Completion Report and any other information available, that the SEP has been completed in accordance with the CAFO, notify the Respondent in writing that EPA has concluded that the project has been completed in accordance with this CAFO; or
- C. If the SEP Completion Report demonstrates, and/or EPA determines based on the SEP Completion Report and any other information available, that the SEP has not been completed in accordance with the items and provisions of this CAFO, notify the Respondent in writing that EPA has concluded that the project has not been completed in accordance with the CAFO and grant Respondent an additional fourteen (14) calendar days to complete the SEP in accordance with this CAFO. If the SEP is not completed within such time period, EPA may seek stipulated penalties in accordance with Paragraph 73, below.

72. If EPA provides Respondent with a notification of SEP deficiency in accordance with Paragraph 71(a), above, or a notification of determination that Respondent has failed to complete the SEP in accordance with the terms and provisions of this CAFO, in accordance with Paragraph 71(c), above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency within ten (10) calendar days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) calendar days from the receipt by EPA of the notification of objection to reach an agreement on changes necessary to the SEP Completion Report. If agreement cannot be reached within this thirty (30) calendar day period, a person who holds a management position at EPA shall provide to the Respondent a written statement of EPA's decision on the adequacy of the report, which shall be a final Agency action binding upon Respondent. In the event this SEP is not completed in accordance with the requirement of this CAFO, as determined by

EPA, stipulated penalties shall be due and payable by Respondent, upon demand by EPA, in accordance with Paragraph 73, below.

73. In the event that Respondent fails to comply with any of the terms or conditions of this CAFO relating to the performance of the SEP described in Paragraph 66, above, submission of the SEP Completion Report, described in Paragraph 70, above, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the costs set forth in Paragraph 67, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- A. Except as provided in subparagraph (B) below, if the SEP has not been completed in accordance with Paragraph 66, above, Respondent shall pay a stipulated penalty to EPA in the amount of ONE HUNDRED AND THIRTEEN THOUSAND ONE HUNDRED AND THREE DOLLARS (\$113,103.00);
- B. If the SEP is not completed in accordance with Paragraph 66, above, but the Complainant determines that: (i) Respondent made good faith and timely efforts to complete the project; and (ii) Respondent certifies, with supporting documentation, that at least ninety percent (90%) of the amount of money which was required to be spent was expended on the emergency response equipment identified in Paragraph 66(A)-66(E) and such equipment was, in fact, provided to the NNFDP pursuant to SEP requirements, Respondent shall not be liable for any stipulated penalty;
- C. If the SEP is completed in accordance with Paragraph 66, above, and the SEP Completion Report is submitted in accordance with Paragraph 70, above, but the Respondent spent less than ninety percent (90%) of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to EPA in the amount of TWENTY EIGHT THOUSAND TWO HUNDRED AND SEVENTY SIX DOLLARS (\$28,276.00);
- D. If the SEP is completed in accordance with Paragraph 66, above, the SEP Completion Report is timely submitted in accordance with Paragraph 70, above, and the Respondent spent at least ninety percent (90%) of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty; and
- E. If Respondent fails to submit the SEP Completion Report required by Paragraph 70, above, Respondent shall pay a stipulated penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00) for each day after the report was originally due until the report is submitted.

74. The determination of whether the SEP has been completed in accordance with Paragraph 66, above, and whether the Respondent has made a good faith, timely

effort to complete the SEP shall be in the sole discretion of EPA. EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under the CAFO.

Respondent shall pay stipulated penalties, in accordance with Paragraph 73, above, and in the manner described in Paragraph 59, above, not more than fourteen (14) calendar days after receipt of a written demand from EPA for such penalties. Interest and late charges shall be paid as set forth in Paragraphs 60 through 63, above.

#### **VI. Certification**

75. 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.

#### **VII. Other Applicable Laws**

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

#### **VIII. Reservation of Rights**

77. 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.

#### **IX. Scope of Settlement**

78. 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.

**X. Parties Bound**

79. 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.

**XI. Effective Date**

80. 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.

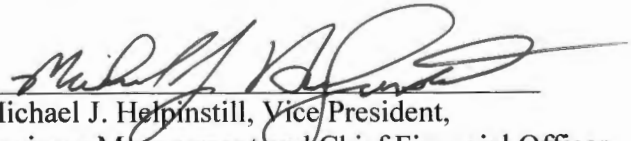
**XII. Entire Agreement**

81. 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 the Respondent:

Date: 9/8/16

By: \_\_\_\_\_

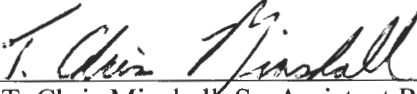
  
Michael J. Helpinstill, Vice President,  
Business Management and Chief Financial Officer  
Huntington Ingalls Incorporated  
Newport News Shipbuilding Division



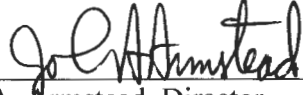
**In Re:**  
**Huntington Ingalls Incorporated**

**Consent Agreement**  
**Docket No. EPCRA-03-2016-0211**

For the Complainant:

Date: 9/20/2016 By:   
T. Chris Minshall, Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9.22.16 By:   
John A. Armstead, Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III

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BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

2016 SEP 27 PM 4: 23

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

**In the Matter of:**

**Huntington Ingalls Incorporated  
Newport News Shipbuilding Division  
4101 Washington Avenue  
Newport News, VA 23607**

**Respondent**

**Huntington Ingalls Incorporated  
Newport News Shipbuilding Division  
4101 Washington Avenue  
Newport News, VA 23607**

**Facility**

**Docket No. EPCRA-03-2016-0211**

**CONSENT AGREEMENT**

**Proceeding under EPCRA §§ 313 and,  
325(c), 42 U.S.C. §§ 11023 and 11045(c)**

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Huntington Ingalls Incorporated, Newport News Shipbuilding Division, 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)* (April 12, 2001), 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.

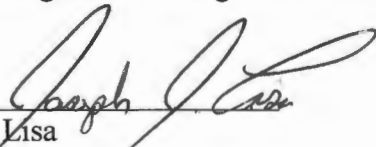
**NOW, THEREFORE, PURSUANT TO** Section 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11045(c), and the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **THIRTY SEVEN THOUSAND FIVE HUNDRED AND FIFTY SIX DOLLARS (\$37,556.00)**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

**In the Matter of:**  
**Huntington Ingalls Incorporated**

**Docket No. EPCRA-03-2016-0211**

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: Sept. 27, 2016

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA, Region III

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**In the Matter of:**  
**Huntington Ingalls Incorporated**

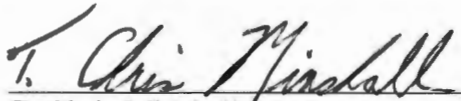
**Docket No. EPCRA-03-2016-0211**  
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**CERTIFICATE OF SERVICE**

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

I hereby certify that on this 27th day of September 2016, I sent a copy of the foregoing CONSENT AGREEMENT and FINAL ORDER by UPS, to the following person:

Penny Shamblin, Esq.  
Hunton & Williams LLP  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, VA 23219

  
T. Chris Minshall

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