



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO HUNTINGTON INGALLS INCORPORATED FOR NEWPORT NEWS SHIPBUILDING

Registration No. 60153

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Huntington Ingalls Incorporated regarding Newport News Shipbuilding, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the applicable permit and regulations.

SECTION B: Definitions

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

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the Huntington Ingalls, Newport News Shipbuilding facility located at 4101 Washington Avenue in Newport News, Virginia.

5. "Huntington" means Huntington Ingalls Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Huntington is a "person" within the meaning of Va. Code § 10.1-130
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "NNS" means Newport News Shipbuilding, a division of Huntington Ingalls Incorporated.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a partial compliance evaluation by DEQ staff.
10. "Permit" means the Title V Federal Operating Permit to operate a ship construction and overhaul facility, which has an effective date of June 1, 2009 and expires May 31, 2014, issued under the Virginia Air Pollution Control Law and the Regulations to Huntington Ingalls Incorporated on June 13, 2011.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.
12. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*), of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. NNS owns and operates the Facility in Newport News, Virginia which is a shipbuilding facility that designs, constructs and refuels nuclear-powered aircraft carriers and submarines. The Facility is subject to the Permit which includes boilers, emergency generators, air compressors and various other pieces of air pollution equipment.
2. NNS staff evaluated the installation and use of two purchased emergency diesel-fueled generators to replace two leased 2000kW diesel-powered generators. This evaluation included an analysis of the applicable permitting requirements. Based on its internal review, NNS determined that no preconstruction permits would be

required. NNS did not submit its evaluation to DEQ for review. NNS took delivery of one purchased emergency generator on September 10, 2011 and the second purchased unit on September 24, 2011

3. On October 8, 2011, according to the air permit application, construction began on two Caterpillar 3516C 2,000kW diesel-fueled emergency generators at the Facility.
4. On October 17, 2011, NNS provided notice by email to DEQ TRO Air Permitting staff that NNS had decided to replace two leased portable diesel-fueled emergency generators with two new purchased 2,000 kW diesel-fueled emergency generators. By return email on October 19, 2012, DEQ TRO Air Permitting staff requested NNS submit a Form 7 air permit application for the two new emergency generators. NNS ceased installation of the new emergency generators at that time.
5. On October 31, 2011, NNS submitted the air permit application that included listing the construction of two new Caterpillar 3516C 2,000 kW diesel-fueled emergency generators at the Facility as beginning on October 8, 2011.
6. On November 21, 2011, Department staff conducted a PCE of the Facility record for compliance with the requirements of the Virginia Air Pollution Control Law, the Permit, and the Regulations. Based on the evaluation and follow-up information, Department staff made the following observations:

Two new 2,000 kW diesel emergency generators had begun actual installation without a permit.
7. 9 VAC 5-80-1120(A) states that, "No owner or other person shall begin actual construction, reconstruction or modification of any stationary source without first obtaining from the board a permit to construct and operate or to modify and operate the source."
8. 9 VAC 5-80-1210 (D) states that, "Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
9. On November 21, 2011, DEQ issued NNS a minor New Source Review ("NSR") permit for the two new emergency generators.
10. On November 21, 2011, based on the evaluation and follow-up information, the DEQ issued a NOV to NNS for the violations described in paragraphs C(6) through C(8), above.

11. On November 29, 2011, Department staff spoke with representatives of NNS to discuss the violations including the observations and legal requirements listed in the NOV.
12. Based on the results of the November 21, 2011 evaluation and the November 29, 2011 discussion with NNS, the Board concludes that NNS has violated 9 VAC 5-80-1120(A) of the Regulations as described in paragraph C(7), above.
13. The Stationary Source Permit to Install and Operate the two new emergency generators issued by the Department on November 21, 2011 corrected the violation described in paragraphs C(6) through C (8), above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and 1316, the Board orders Huntington and Huntington agrees to pay a civil charge of \$1,929.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

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

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

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

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Huntington, good cause shown by Huntington, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For the purposes of this Order and subsequent actions with respect to this Order, Huntington admits the jurisdictional allegations, but does not admit nor deny the findings of fact and conclusions of law contained herein.
4. Huntington consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Huntington declares it has received fair and due process under the Administrative Process Act, Va. Code and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Huntington to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Huntington does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Huntington shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Huntington shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Huntington shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

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

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

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Huntington. Nevertheless, Huntington agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - (a) The Director or his designee terminates the Order after Huntington has completed all of the requirements of the Order;
 - (b) Huntington petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - (c) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Huntington.

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

12. Any plans, reports, schedules or specifications attached hereto or submitted by Huntington and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Huntington certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Huntington to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Huntington.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and

there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

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

And it is so ORDERED this 24 day of May, 2012.

Marie Bell
Regional Director
Department of Environmental Quality

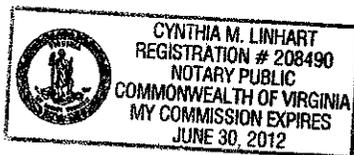
Huntington Ingalls Incorporated voluntarily agrees to the issuance of this Order.

Date: May 17, 2012 By: *William C. Bell*,
William C. Bell Vice President of
Huntington Ingalls Incorporated

Commonwealth of Virginia
City/County of Newport News, Virginia

The foregoing document was signed and acknowledged before me this 17 day of May, 2012, by William C. Bell, who is a Vice President of Huntington Ingalls Incorporated, on behalf of the corporation.

Cynthia M. Linhart
Notary Public
208490
Registration No.



My commission expires: June 30, 2016
Notary Seal: