COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
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David K. Paylor
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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO HONEYWELL INTERNATIONAL, INC. FOR THE COLONIAL HEIGHTS FACILITY EPA ID No. VAD042198119

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Honeywell International, Inc., regarding the Colonial Heights Facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

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

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

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

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

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

5. "Facility" or "Site" means the Honeywell Colonial Heights Facility located at 15801 Woods Edge Road in Colonial Heights, Virginia.

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

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

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

9. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).

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

11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."

12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

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

14. "SAA" means satellite accumulation area.

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

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

17. "VAC" means the Virginia Administrative Code.

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

SECTION C: Findings of Fact and Conclusions of Law

1. Honeywell owns and operates the Colonial Heights Facility in Chesterfield County, Virginia. The Facility conducts research and development for high performance fibers. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.

2. Honeywell submitted a RCRA Subtitle C Site Identification Form (received August 18, 1980) that gave notice of regulated waste activity at the Facility as a LQG of hazardous waste. Honeywell was issued EPA ID No. VAD042198119 for the Facility.

3. At the Facility, Honeywell generates a number of solid waste types that are hazardous at this facility including: arsenic (D004), barium (D005), cadmium (D006), lead (D008), mercury (D009), silver (D011), benzene (D018), carbon tetrachloride (D019 & U211), chloroform (D022 & U044), o-cresol (D023), m-cresol (D024), cresol (D026), tetrachlorethylene (D039), cyanides (P030), potassium cyanide (P098), acetonitrile (U003), 2-propenoic acid (U008), benzenesulfonyl chloride (U020), 1-butanol (U031), 1,2 dibromoethane (U067), dichloromethane (U080), formic acid (U123), hydrofluoric acid (U134), phenol (U188), spent halogenated solvents (F001 & F002), spent non-halogenated solvent (F003 & F005), sodium perborate (D001), and various fuel oil, lab pack, and paint related wastes (D001, D002, & D003). The numbers in parenthesis are the hazardous waste codes as described in 40 CFR §261 Subpart C & D. This hazardous waste is accumulated in containers at the Facility after its generation.

4. On April 27, 2011, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

    a. Satellite-to-satellite accumulation of hazardous waste and satellite accumulation away from the point of generation were observed in Building 13. An unlabeled container of spent solvent rinse (containing acetone) was moved from the edge of the lab sink to a fume hood, and then to a satellite accumulation cart in the neighboring room.

    40 CFR §262.34(c)(1) (as referenced by 9 VAC 20-60-262) states: "(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section"

    b. Satellite accumulation containers were not marked with the words "Hazardous Waste" or other words that identify the contents of the container. Several SAA

containers were not properly labeled including: 1 gallon bottle of chlorobenzene and a canister of spent acetone containing solvent in Building 13; unlabeled Digen waste bottles in the wet chemistry lab (Building 2).

40 CFR §262.34(c)(1)(ii) (as referenced by 9 VAC 20-60-262) states: "(c)(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in §261.31 or §261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he: Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers."

c. The amount of hazardous waste accumulated in a SAA was in excess of that allowed. The excess amount was not marked with the date the excess amount began accumulating. The generator neither removed the excess amount of hazardous waste within three days of the date that excess accumulation began, nor complied with the requirements for <90-day accumulation areas. An excess amount of SAA hazardous waste was observed next to the PRI unit of solvent recovery in Building 13 (4 x 55-gallon drums of 2% Digen 98% water).

40 CFR §262.34(c)(2) (as referenced by 9 VAC 20-60-262) states: "(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in §261.31 or §261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating."

d. The facility did not notify the Department of the exact locations of all hazardous waste accumulation areas. Previously "un-notified" <90 day hazardous waste accumulation areas include the roll-off area between Building 23 and Building 16.

9 VAC 20-60-262(B)(4): for accumulation areas established after March 1, 1988, [the generator] shall notify the department and document in the operation record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.34 prior to or immediately upon the establishment of each accumulation area In the case of a new generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity that he intends to accumulate hazardous waste in accordance

with 40 CFR 262.34. This notification shall specify the exact location of the accumulation area at the site.

e. Containers were not kept closed while hazardous waste was in accumulation. Open hazardous waste containers were observed in several locations including: 2 open top buckets of Therminol (D018) at the Draw Line in Building 23; 2 open top buckets and 1 undamped 55-gal.drum of Digen waste in Building 13; 1 open top Digen bucket and one open plastic lined trash can of R-l 13 (Trichlorotrifluoroethane) waste (F002) at Line 13 in Building 25. (R-113-trichlorotrifluoroethane = digen).

40 CFR §264.173 [as referenced by 9VAC 20-60-264] states: "(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste. (b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak."

f. Job titles were not provided for those [employees] associated with hazardous waste, and job descriptions as related to hazardous waste were not provided.

40 CFR §264.16(d)(1) & (2) (ref. 262.34(a)(4)) [as referenced by 9VAC 20-60-264] states: "(d) The owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;"

g. A copy of the contingency plan has not been submitted to State emergency response teams.

40 CFR §264.53 [as referenced by 9VAC 20-60-264] states: "A copy of the contingency plan and all revisions to the plan must be: (a) Maintained at the facility; and (b) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services."

h. Descriptions of arrangements agreed to by local fire departments, hospitals, and State and local emergency response teams were not in the contingency plan.

40 CFR §264.52(c) [as referenced by 9VAC 20-60-264] states: "(c) The plan must describe arrangements agreed to by local police departments, fire

departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to §264.37."

i. The names and addresses of the emergency coordinator(s) were not listed in the contingency plan.

40 CFR §264.52(d) [as referenced by 9VAC 20-60-264] states: "(d) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §264.55), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates."

j. The contingency plan does not describe procedures to monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment if the facility stops operation in response to a fire, explosion, or release.

40 CFR 264.52(a) states the contingency plan must describe the actions facility personnel must take to comply with §§264.51 and 264.56 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

k. Police, fire department and emergency response teams have not been familiarized with the facility layout and associated hazards. No one police and fire department has been designated with primary authority.

40 CFR §264.37 (ref. 262.34(a)) [as referenced by 9VAC 20-60-264] states: "(a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations: (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes; (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority; (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

5. On January 3, 2012, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2012-01-PRO-601 to the Honeywell for the violations discovered during the April 27, 2011 inspection.

6. On January 17, 2012, the Department held a telephone conference with Honeywell to discuss the issues cited in the NOV. Honeywell asked for, and the Department granted, an extension to the ten day response time required by the NOV. Honeywell stated that a number of the violations have been corrected and a written NOV response would be submitted on January 31, 2012.

7. On January 27, 2012, Honeywell submitted notification to the Department of the establishment of a 90 day accumulation area, satisfying the violation cited in Section C(4)(e).

8. On January 31, 2012, Honeywell submitted a written response to the NOV and made the following response to the violations observed during the April 27, 2011, inspection and listed above in C(4).

    a. In regard to the violations cited above in Section C(4)(a), C(4)(b), C(4)(d), and C(4)(e), Honeywell admitted the violations and stated these practices were discontinued in October 2011 in response to an internal audit. Honeywell provided documentation to the Department indicating that further action is not required on the issues cited in Section C(4)(a), C(4)(b), C(4)(d), and C(4)(e).

    b. In regard to the violations cited above in Section C(4)(c), Honeywell stated that the area in question is not an accumulation area for waste and that the material in the drums is process material. The Department does not agree and contends that the "process material" referred to above, is a solid waste as defined in 40 CFR §261.2 and is a hazardous waste as that term is defined in 40 CFR §261.3(a)(2).

    c. In regard to the contingency plan violations cited above in Section C(4)(g-k), Honeywell admitted that they had an older contingency plan that required updating. Honeywell stated that the plan is under revision and they hoped to have it completed before the end of March 2012.

9. On May 7, 2012, Honeywell provided DEQ with an updated integrated Contingency Plan, which is under Department review, to comply with the violations described in paragraphs C(4)(f) through C(4)(k).

10. Based on the results of the April 27, 2011 inspection, the January 17, 2012 phone conference, and the documentation submitted by Honeywell on January 31, 2012, the Board concludes that Honeywell has violated 40 CFR §262.34(c)(1), 40 CFR §262.34(c)(1)(ii), 40 CFR §262.34(c)(2), 9 VAC 20-60-262(B)(4), 40 CFR §264.173, 40 CFR §264.16(d)(1-2), 40 CFR §264.53, 40 CFR §264.52(c), 40 CFR §264.52(d), 40 CFR §264.52(a), 40 CFR §264.37 of the VHWMR and the Virginia Waste Management Act, as described in paragraph C(4), above.

11. Honeywell has submitted documentation that verifies that the violations described in paragraphs C(4)(a) through C(4)(b), and C(4)(d) through C(4)(f) above, have been corrected.

12. In order for Honeywell to return to compliance, DEQ staff and representatives of Honeywell have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Honeywell, and Honeywell agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $73,980 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

Honeywell 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 this Order with the consent of Honeywell for good cause shown by Honeywell, 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 purposes of this Order and subsequent actions with respect to this Order only, Honeywell admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Honeywell 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. Honeywell declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

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

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

8. Honeywell 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. Honeywell shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Honeywell shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

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

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

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

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

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

10. This Order shall become effective upon execution by both the Director or his designee and Honeywell. Nevertheless, Honeywell 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. Honeywell 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

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

    Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Honeywell 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 Honeywell 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 Honeywell 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 Honeywell to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Honeywell.

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, Honeywell voluntarily agrees to the issuance of this Order.

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

Michael P. Murphy, Regional Director
Department of Environmental Quality

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Honeywell International, Inc. voluntarily agrees to the issuance of this Order.

Date: 5/30/2012 By: Dorene S. Billingsley, Plant Manager
(Person) (Title)
Honeywell International, Inc.

Commonwealth of Virginia
City/County of Chesterfield

The foregoing document was signed and acknowledged before me this 30th day of May, 2012, by Dorene S. Billingsley who is Plant Manager of Honeywell International, Inc., on behalf of the corporation.

Brenda Faye Smith
Notary Public

320958
Registration No.

My commission expires: 10-31-2015

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. By August 15, 2012, Honeywell shall develop a container management plan to address maintenance of the solvent recovery loop. The plan shall demonstrate that wastes generated by the laboratory are properly characterized and managed. Honeywell shall submit the plan to the Department for review and approval.

2. Honeywell has submitted a contingency plan to the Department for review for the Facility in accordance with 40 C.F.R. § 265 Subpart D.

   a. If the contingency plan submitted by Honeywell is found by the Department to be inaccurate or deficient, Honeywell shall respond and correct any inaccuracies or deficiencies regarding the plan within 10 days from receiving the notice of the inaccuracy or deficiency.

   b. Within 10 days after final approval by the Department, Honeywell shall certify in writing that a copy of the contingency plan has been provided to the necessary parties under 40 C.F.R. § 265.53 and that the contingency plan will be implemented, as needed, in accordance with 40 C.F.R. Subpart D.

3. By August 15, 2012, Honeywell shall submit to the Department a list of job titles and descriptions of employees associated with the handling of hazardous waste in accordance with 40 CFR §265.16(d).

4. By August 15, 2012, Honeywell shall complete the evaluation of all drums and containers on site and have all drums and containers containing hazardous wastes closed in accordance with 40 CFR §265.173. Honeywell shall submit a report with photographic documentation summarizing the evaluation to the Department for review.

5. Contact

Unless otherwise specified in this Order, Honeywell shall submit all requirements of Appendix A of this Order to:

Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov