COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HONEYWELL INTERNATIONAL INC.
Registration No. 50232

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 Honeywell International Inc., regarding the Honeywell Hopewell facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits 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. "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" means the Honeywell International Inc. chemical production facility, located on State Route 10, East of State Route 156 in Hopewell City, Virginia. The Facility primarily produces caprolactam.

6. "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 § 10.1-1300.

7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

8. "NSR Permit" means a New Source Review permit to operate a chemical production facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Honeywell on January 8, 2010.

9. "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.

10. "TV Permit" means the Title V Operating permit to operate a chemical production facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Honeywell on January 1, 2007 and amended on August 12, 2008.

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

12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.

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.

16. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (*see* 40 CFR 60, Appendix A).

SECTION C: Findings of Fact and Conclusions of Law

1. Honeywell owns and operates a chemical production facility in Hopewell City, Virginia.

2. The Facility is the subject of the TV Permit and NSR Permit, which allow the operation of the chemical production facility.

3. On April 1, 2010, Department staff conducted a Partial Compliance Evaluation of the Facility for compliance with the requirements of the Virginia Air Pollution Control Law, the TV Permit, and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

    a. Honeywell could not provide visible emission surveys (opacity observation records) for December 2009, January 2010, and February 2010 for the following: Area 8/16: Thermal Oxidizer FU-16; Area 7: Flaker #1 SC-61 and Flaker #2 SC-68; Area 11: Dryer RD-3 DC-7, Dryer RD-4 DC-11, Dryer RD-6 DC-12, Dryer RD-7 DC-29, building 12 DC-21, centrifuges DC-25, and building 12 DC-31; Sulfuric Acid Plant SK-1; and Kellogg Ammonia Plant: Primary Reformer FU-1 and Girdler Primary Reformer FU-6.

4. TV Permit Conditions V.F.129, VI.F.156, VII.D.209, IX.D.242, X.D.258, and XI.D.269 require units be observed visually at least once each operating month for at least a brief time period to determine which emissions units have any visible emissions (does not include condensed water vapor/steam), unless a 40 CFR 60 Appendix A Method 9 visible emissions evaluation is performed on the emissions unit. Each emissions unit observed having any visible emissions shall be followed up with a 40 CFR 60 Appendix A Method 9 visible emissions evaluation unless the visible emission condition is corrected as expeditiously as possible and recorded, and the cause and corrective measures taken are recorded.

5. TV Permit Conditions V.G.138(d), V.G.160(m), VII.E.210(j), IX.E243(d), X.E.260(k), and XI.E.270(g) require the permittee to maintain records of all emissions data and operating parameters necessary to demonstrate compliance with the TV Permit, including the results of the monthly visible emission surveys required by the respective permit conditions (TV Permit Conditions V.F.129, VI.156, VII.D.209, IX.D.242, X.D.258, and XI.D.269) and details of any corrective action taken as a result of these inspections.

6. Va. Code § 10.1-1322 states that failure to meet conditions of a permit is considered a violation.

7. 9 VAC 5-80-260(A)(1) and 9 VAC 5-80-1210(H) require compliance with all terms and conditions of Title V operating permits and permits for stationary sources, respectively.

8. On May 18, 2010 Honeywell provided the Department with additional information that acknowledged a failure to record opacity observations.

9. On October 26, 2010, based on the inspection and follow-up information, the Department issued Notice of Violation No. 10-10-PRO-401 to Honeywell for the violation described in paragraph C3 through C8, above.

10. On November 22, 2010, the Department received a written response to the NOV from Honeywell. Honeywell's response indicated that an employee had conducted the visible

emissions observations, but that the documentation of the observations could not be located.

11. On March 11, 2011, Honeywell submitted a letter entitled, "Voluntary Disclosure of Potential Noncompliance" regarding the Facility. The letter indicated that during the process of preparing an application for a minor new source review permit, the following issues were discovered.

    a. Honeywell erroneously reported NOx emissions from the FU-16 stack emission point for the thermal oxidizer in Area 8/16 of the Facility as 1.0 ton per year in 2006 and 2.0 tons per year in 2007. Actual FU-16 NOx emissions were 1.97 tons per year in 2006 and 2.05 tons per year in 2007. Honeywell indicated that there were no exceedances of its hourly NOx emission limit for FU-16 in 2006 or 2007.

    b. On November 8, 2010, Honeywell began installation of a replacement waste heat boiler (heat exchanger) HE-343 ("HE-343") that increased the heat exchange capacity by approximately 20%. Honeywell failed to obtain a permit for this construction or notify DEQ that construction was beginning. At the time of the March 11, 2011 letter, installation of HE-343 was complete, but the unit was not connected and therefore had not yet operational.

    c. On August 23, 2010, Honeywell began construction of a replacement of Oleum Tower TW-29 ("TW-29") to resolve periodic leaks of sulfuric acid, which causes an employee safety hazard. Honeywell failed to obtain a permit for this construction or notify DEQ that construction was beginning. At the time of the March 11, 2011 letter, installation of TW-29 was complete, but the unit was not connected and therefore had not yet operational.

12. In its March 11, 2011 letter of voluntary disclosure, Honeywell indicated that a planned shutdown of the Sulfuric Acid Plant was to occur to complete maintenance and repairs. To minimize disruptions in its manufacturing process, Honeywell proposed to connect and begin operation of the replacement TW-29 and HE-343 on March 31, 2011, during the planned shutdown.

13. On March 11, 2011, Honeywell also submitted an application for a new source review permit, which includes a request for construction, installation and operation of HE-343 and TW-29.

14. NSR Permit Condition 138 and TV Permit Conditions V.C.123 state that NOx emissions from the operation of the thermal oxidizer in Area 8/16 of the Facility shall not exceed 1.9 tons/yr.

15. 9 VAC 5-80-1625(A) states, "No owner or other person shall begin actual construction of any new major stationary source or modification without first obtaining from the board a permit to construct and operate such source."

16. 9 VAC 5-80-1120(A) states, "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."

17. 9 VAC 5-80-1210 (D) states, "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."

18. 9 VAC 5-50-50 (A) requires that "Any owner of a new or modified source subject to the provisions of this chapter...provide written notifications to the board of the date of commencement of construction, reconstruction or modification of a new or modified source postmarked no later than 30 days after such date."

19. Va. Code § 10.1-1322 states that failure to meet conditions of a permit is considered a violation.

20. 9 VAC 5-80-260(A)(1) and 9 VAC 5-80-1210(H) require compliance with all terms and conditions of Title V operating permits and permits for stationary sources, respectively.

21. Based on the results of the April 1, 2010 inspection and the documentation submitted on May 18, 2010 and November 22, 2010, the Board concludes that Honeywell has violated TV Permit conditions V.G.138(d), VI.G.160(m), VII.E.210(j), IX.E.243(d), X.E.260(k), XI.E.270(g); V.C.123; NSR Permit condition 138; 9 VAC 5-80-1625(A); 9 VAC 5-80-1120(A); 9 VAC 5-80-1210 (D); 9 VAC 5-50-50 (A); Va. Code § 10.1-1322; 9 VAC 5-80-260(A)(1) and 9 VAC 5-80-1210(H) as described in paragraphs C3 through C20, above.

22. 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 Appendices A and B of this Order.

23. Honeywell acknowledges that it has constructed, installed and will operate the replacement HE-343 and TW-29 at its own risk, and that DEQ will not consider these actions by Honeywell as factors in its decision regarding the March 11, 2011 permit application.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Honeywell, and Honeywell agrees to:

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

2. Pay a civil charge of **$363,542** 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, and agrees not to contest, but does not admit, the findings of fact and conclusions of law contained in this Order.

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

And it is so ORDERED this 8th day of APRIL, 2011.

Michael P. Murphy, Regional Director
Department of Environmental Quality

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

Date: 04/7/2011 By: Qamar S. Bhatia, Vice President and GM, Resins and Chemical
(Person) (Title)
Honeywell International Inc.

~~Commonwealth of Virginia~~ STATE OF NEW JERSEY
~~City~~/County of MORRIS

The foregoing document was signed and acknowledged before me this 7th day of April, 2011, by Qamar S. Bhatia who is VP/GM Resins and Chemicals of Honeywell International Inc., on behalf of the corporation.

Jennifer M. Mapes
Notary Public

Registration No.

Jennifer M Mapes
Notary Public, New Jersey
My Commission Expires 5-20-14

My commission expires:

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

1. Honeywell must develop and implement the computerized task list, as referenced in the November 18, 2010 letter that it submitted to the Department **by no later than April 15, 2011**. Honeywell must submit notification of computerized task list implementation to the Department **by no later than April 30, 2011**. Honeywell must submit a statement certifying that during the previous month the required opacity observations were conducted and recorded, as well as include the results of those observations, **no later than the 10th day of May, June, July, August, September, and October 2011.**

2. **Certification of Documents and Reports**

   In accordance with 9 VAC 5-20-230(A), in all documents or reports, submitted to DEQ pursuant to this Consent Order, Honeywell, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

   > "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. **DEQ Contact**

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

   Jennifer Hoeffner
   Enforcement Specialist, Sr.
   VA DEQ – Piedmont Regional Office
   4949-A Cox Road
   Glen Allen, Virginia 23060
   804-527-5123
   804-527-5106 (fax)
   jennifer.hoeffner@deq.virginia.gov

   Charles "Boots" King
   Air Compliance Manager
   VA DEQ – Piedmont Regional Office
   4949-A Cox Road
   Glen Allen, Virginia 23060
   804-527-5036
   804-527-5106 (fax)
   charlesboots.king@deq.virginia.gov

APPENDIX B
HE-343 and TW-29

1. **Operations**

Until such time that DEQ issues a case decision regarding the new source review permit application received on March 11, 2011, Honeywell may operate the replacement waste heat boiler (heat exchanger) identified as HE-343 and the replacement Oleum tower TW-29, provided that Honeywell complies with the following conditions:

a. Honeywell shall not exceed emissions limits established in the January 8, 2010 NSR Permit and the August 12, 2008 TV Permit.

b. Honeywell shall provide any information or revisions requested by DEQ in regards to the March 11, 2011 permit application, in accordance with the specifications and schedule set by DEQ in such a request.

c. Honeywell shall resubmit the TV Semiannual Monitoring Report ("SAMR") and Annual Compliance Certification ("ACC") for 2010 to document the construction of emission units HE-343 and TW-29 without a permit and the failure to notify DEQ of the construction of emission units HE-343 and TW-29. Honeywell must submit the amended SAMR and ACC to DEQ by **no later than June 1, 2011**.

Any case decision issued by DEQ regarding the March 11, 2011 permit application, HE-343 and TW-29 shall immediately supersede all conditions of Appendix B of this Consent Order.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports, submitted to DEQ pursuant to this Consent Order, Honeywell, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. **DEQ Contact**

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

Jennifer Hoeffner
Enforcement Specialist, Sr.
VA DEQ – Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
804-527-5123
804-527-5106 (fax)
jennifer.hoeffner@deq.virginia.gov

Charles "Boots" King
Air Compliance Manager
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