

**WASTE MANAGEMENT BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
Honeywell International Inc.  
EPA ID Number VAD065385296**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Honeywell International Inc. for the purpose of addressing certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

**SECTION B: Definitions**

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

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
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.
5. “Order” means this document, also known as a Consent Order.

6. “Honeywell” means Honeywell International Inc., a corporation certified to do business in Virginia and its affiliates, subsidiaries, and parents.
7. “Facility” means the Honeywell International Inc./Hopewell chemical manufacturing operations located at 905 East Randolph Road, in Hopewell, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 *et seq.*

### **SECTION C: Findings of Fact**

1. Honeywell owns and operates a chemical manufacturing plant located at 905 East Randolph Road in Hopewell, Virginia. This facility is both a large quantity generator of hazardous waste and a permitted treatment, storage, and disposal facility.
2. On April 29 and May 1, 2003, DEQ conducted an inspection of the Facility. Based upon observations made during this inspection, DEQ issued a Notice of Violation (NOV) No. 2003-08-PRO-602 on August 12, 2003. The NOV listed various alleged violations. Honeywell continued to work cooperatively with DEQ staff since the inspection and presented its comments on the NOV during an October 15, 2003, meeting with DEQ staff. Honeywell provided further comments during a telephone conference on May 12, 2004, as well as in writing on March 26, 2004, and May 18, 2004.
3. Allegations include violations of the facility’s hazardous waste storage/treatment/disposal permit and Virginia waste management regulations, as follows:
  - a) Unauthorized storage of hazardous waste in violation of 40 CFR 270 (as incorporated in 9 VAC 20-60-270) and the facility Permit Module III, Section A.
  - b) Unauthorized treatment of hazardous waste in violation of the facility Permit Module IV, Section B
  - c) Failure to conduct sufficient waste analysis in violation of 40 CFR 264 (as incorporated in 9 VAC 20-60-264) and the facility Permit Module II, Section B.
  - d) Failure to submit the revised contingency plan to local authorities in violation of 40 CFR 264.53 (as incorporated in 9 VAC 20-60-264) and facility Permit Attachment IV.

- e) Failure to submit adjusted closure cost and financial assurance documents within timeframes provided by the regulations, and failure to maintain said documents on site as required by 40 CFR 264 (as incorporated in 9 VAC 20-60-264) and the facility Permit Module I.
  - f) Failure to furnish upon request (at the time of inspection) documentation of the training for all persons involved in hazardous waste storage or incineration activities in violation of 40 CFR 264.74 (as incorporated in 9 VAC 20-60-264). After the inspection, Honeywell provided DEQ with documentation demonstrating that the appropriate training had been given as required in 40 CFR 264.16 and the facility Permit Module II, Section D.
  - g) Storage of waste longer than 90 days in violation of 40 CFR 262.34 (as incorporated in 9 VAC 20-60-262)
  - h) Failure to determine if a waste is a hazardous waste in violation of 40 CFR 262.20 (as incorporated in 9 VAC 20-60-262)
  - i) Failure to prepare a manifest for the transportation of hazardous waste in violation of 40 CFR 262.20 (as incorporated in 9 VAC 20-60-262)
  - j) Failure to maintain adequate aisle space in the hazardous waste accumulation area in violation of 40 CFR 264/265.35 (as incorporated in 9 VAC 20-60-264/265)
  - k) Failure to have necessary records available at all reasonable times for inspection in violation of 40 CFR 264.73 (b) (as incorporated in 9 VAC 20-60-264)
4. Although methyl ethyl ketone (MEK) has been properly characterized as part of the waste stream that feeds the storage tanks and the incinerator to which allegations 3(a) through (c) refer, the code D035 has never been added to the facility's permit for these storage tanks or the incinerator. Honeywell applied for a new permit in 1999 in anticipation of the expiration of their previous permit; however, code D035 was not listed as part of that application.
5. The allegations noted in items 3(h) and (i) relate to four totes of product that were inadvertently placed onto a shipment of 18 totes of non-hazardous waste. No environmental impact occurred as a result of this incident. Honeywell investigated the cause of the oversight and has taken corrective actions that were designed to prevent this type of incident from occurring in the future.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted in Va. Code § 10.1-1455 orders Honeywell and Honeywell agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Honeywell and Honeywell voluntarily agrees to pay a civil charge of \$13,150 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. When making payment, Honeywell shall reference this Order and shall include its Federal Identification Number. Payment shall be made by check payable to the "Treasurer of Virginia," deliverable to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

**SECTION E: Administrative Provisions**

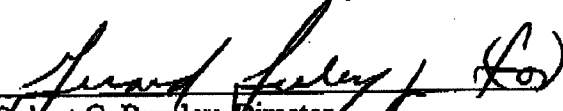
1. The Board may modify, rewrite, or amend the Order with the consent of Honeywell, for good cause shown by Honeywell, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Honeywell by DEQ on August 12, 2003. 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 as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Honeywell admits the jurisdictional allegations, but does not admit to the factual findings 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, Va. Code §§ 2.2-4000 *et seq.*, and the 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 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 in writing 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 of learning of any condition above, which the parties intend 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 Honeywell. Notwithstanding the foregoing, Honeywell agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall terminate upon payment of the civil charge required by Section D of this Order. 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. By its signature below, Honeywell voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 23<sup>rd</sup> day of July, 2004.

  
Robert G. Burnley, Director  
Department of Environmental Quality


Honeywell voluntarily agrees to the issuance of this Order.

By: J.R. Hisbie  
Date: 6/17/2004

Commonwealth of Virginia

City/County of HOPWELL

The foregoing document was signed and acknowledged before me this 17<sup>th</sup> day of JUNE, 2004, by J. R. HISBIE, on behalf  
(name)  
of Honeywell.

  
Notary Public

My commission expires: 11-30-06

## **APPENDIX A**

### **SCHEDULE OF COMPLIANCE**

1. Within sixty (60) days of the execution of this Order, Honeywell shall update Part A of their Hazardous Waste treatment/storage/disposal (TSD) permit so as to include D035 and all other required waste codes.