

**ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS**

**IN THE MATTER OF:**

**Honeywell International Inc.**

**Geismar, Louisiana**

**Respondent**

**CONSENT AGREEMENT  
AND FINAL ORDER**

**EPA DOCKET NO. CAA-06-2020-3335**

**CONSENT AGREEMENT**

The Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region 6 (“EPA” or “Complainant”) and Honeywell International Inc. (“Respondent”) have agreed to simultaneously commence and resolve this matter through the issuance of this Consent Agreement and Final Order (“CAFO”).

**I. PRELIMINARY STATEMENT**

1. This proceeding for the assessment of civil penalties pursuant to Section 113(d) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(d), as amended, is simultaneously commenced and concluded by the issuance of this CAFO pursuant to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and 22.18(b)(3). Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CAFO without adjudication of any issues of law or fact herein.

2. This CAFO serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), and 40 C.F.R. § 22.34.

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations of

this CAFO; however, Respondent neither admits nor denies the specific factual or legal allegations contained in this CAFO, and this CAFO shall not be used as evidence of any legal or factual admission by Respondent.

4. For purposes of this proceeding, Respondent waives any right to contest the allegations in the CAFO and waives its right to appeal the Final Order set forth herein.

5. Respondent consents to the issuance of this CAFO and consents to the assessment and payment of the stated federal civil monetary penalty in the amount and by the method set out in this CAFO.

6. Compliance with all the terms and conditions of this CAFO shall resolve Respondent's liability for federal civil monetary penalties for the violations and facts alleged in the CAFO.

7. This CAFO may not be used in any federal or state proceeding except proceedings by EPA to enforce this CAFO.

8. Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting for violations not alleged in this CAFO.

9. Respondent represents the undersigned representative is fully authorized by the Party whom he or she represents to enter-into the terms and conditions of this CAFO, to execute this CAFO, and to legally bind Respondent to the terms and conditions of this CAFO.

10. Respondent agrees the provisions of this CAFO shall be binding on its officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.

## **II. STATUTORY AND REGULATORY BACKGROUND**

11. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), provides in pertinent part:

(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements.

\* \* \* \*

(B)(i) [ . . . ] the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operator of the sources of such releases.

\* \* \* \*

(B)(ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection.

12. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

13. 40 C.F.R. Part 68 provides general requirements applicable to owners or operators of a stationary source subject to Part 68. It also establishes requirements that apply to an owner or operator based on whether the stationary source operates processes subject to one of three “Programs”—Program 1, Program 2, and Program 3.

14. Under 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process (“Covered Process”), as



determined under 40 C.F.R. § 68.115, shall comply with the requirements of 40 C.F.R. Part 68 no later than the latest of the following dates: (1) June 21, 1999; (2) three years after the date on which a regulated substance is first listed under Section 68.130; or (3) the date on which a regulated substance is first present above a threshold quantity in a process.

15. Under 40 C.F.R. § 68.12(a), an owner or operator of a stationary source subject to Part 68 requirements must submit a Risk Management Plan (“RMP”) as provided in 40 C.F.R. Part 68 Subpart G (§§ 68.150-68.185) that reflects all covered processes at the stationary source.

16. Under 40 C.F.R. § 68.12(d), the owner or operator of a stationary source with a process subject to the “Program 3” requirements of the Part 68 regulations, as determined pursuant to 40 C.F.R. § 68.10(d), must do the following: develop and implement a management system as provided in 40 C.F.R. § 68.15; conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20–68.42; implement the prevention requirements of 40 C.F.R. §§ 68.65–68.87; develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90 68.95; and submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in 40 C.F.R. § 68.175.

17. “Person” is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), as including an individual, corporation, partnership, association, state, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

18. “Process” is defined in 40 C.F.R. § 68.3 as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated

substance could be involved in a potential release, shall be considered a single process.

19. “Covered process” is defined in 40 C.F.R. § 68.3 as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

20. “Regulated substance” is defined in 40 C.F.R. § 68.3 as any substance listed pursuant to Section 112(r)(3) of the CAA as amended, in 40 C.F.R. § 68.130.

21. Risk Management Plan (“RMP”) is defined in 40 C.F.R. § 68.3 under subpart G of 40 C.F.R. Part 68.

22. “Stationary source” is defined in Section 112(r)(2)(C) of the CAA and 40 C.F.R. § 68.3 as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, are under the control of the same person (or persons under common control), and from which an accidental release may occur.

23. “Threshold quantity” is defined in 40 C.F.R. § 68.3 as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA as amended, listed in 40 C.F.R. § 68.130, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

24. “Owner or operator” shall mean any person who owns, leases, operates, controls, or supervises a stationary source.

25. Under Sections 113(a)(3) and 113(d)(1)(B) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7413(d)(1)(B), whenever the Administrator finds that any person has violated or is violating a requirement of the CAA including, but not limited to, a requirement or prohibition of any rule promulgated under the CAA, other than those requirements specified in Sections 113(a)(1), 113(a)(2) or 113(d)(1)(A) of the CAA, 42 U.S.C. §§ 7413(a)(1), (a)(2), or (d)(1)(A), the Administrator may issue an order assessing a civil administrative penalty.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

26. Respondent is a corporation and authorized to do business in the State of Louisiana.

27. Respondent is a “person” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).

28. At all times relevant to this CAFO, Respondent owned and operated a chemical manufacturing facility (“Facility”) located at 5525 Highway 3115 in Geismar, Louisiana 70734.

29. The Facility operates a chemical manufacturing process (NAICS Code 325199- All Other Basic Organic Chemical Manufacturing; 32518 – Other Basic Inorganic Chemical Manufacturing; and 325211- Plastics Material and Resin Manufacturing).

30. Respondent’s RMP lists covered processes subject to Program 3 requirements.

31. The regulated substances held above the threshold quantities identified in 40 C.F.R. § 68.130 include the following: boron trifluoride, chlorine, hydrogen fluoride (“HF”), vinylidene fluoride, hydrochloric acid, trifluorochloroethylene, chloroform and oleum.

32. As a facility with Program 3 program, Respondent must: develop and implement a management system as provided in 40 C.F.R. § 68.15; conduct a hazard assessment as provided in 40 C.F.R. §§ 68.20-68.42; implement the prevention requirements of 40 C.F.R. §§ 68.65 – 68.87; develop and implement an emergency response program as provided in 40 C.F.R. §§ 68.90-68.95; and submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in 40 C.F.R. § 68.175.

33. On August 3, 2019, Respondent experienced an unauthorized discharge of HF.

34. At approximately 16:50, a piping spool connected to the “B” vaporizer failed around the inner circumference of a flange connector. The flange failure resulted in the release



of HF from the vaporizer to the atmosphere.

35. The failure of the flange was due to corrosion related to a vent hole that was missing a lined vent plug and to flange hardness.

36. After the failure, Respondent undertook an in-depth metallurgical study of the failed flange to determine the circumstances of the failure.

37. To prevent future recurrences of the flange failure, Respondent increased the frequency, comprehensiveness and documentation of its inspections for piping carrying HF at high pressures and temperatures, and provided additional training and oversight for the inspections.

#### **IV. ALLEGED VIOLATIONS**

##### **Count 1. Mechanical Integrity**

38. Complainant hereby restates and incorporates by reference Paragraphs 1 through 37 above.

39. 40 C.F.R. § 68.73(c) pertains to training for process maintenance activities. The owner or operator shall train each employee involved in maintaining the ongoing integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.

40. Respondent failed to provide adequate training to ensure weep hole plugs with teflon coating were properly installed on the vent holes.

41. Complainant alleges that Respondent's failure is a violation of 40 C.F.R. § 68.73(c).

##### **Count 2. Mechanical Integrity**

42. Complainant hereby restates and incorporates by reference Paragraphs 1 through 41

above.

43. 40 C.F.R. § 68.73(d)(1) requires inspections and tests to be performed on process equipment.

44. Respondent failed to adequately perform inspections and tests on process equipment in HF use to limit the corrosion thereof by failing to verify the installation of weep hole plugs, and by failing to identify missing plugs.

45. Complainant alleges that Respondent's failure is a violation of 40 C.F.R. § 68.73(d)(1).

**Count 3. Mechanical Integrity**

46. Complainant hereby restates and incorporates by reference Paragraphs 1 through 45 above.

47. 40 C.F.R. § 68.73(e) requires the owner or operator to correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in § 68.65) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

48. Respondent failed to install a teflon coated vent plug on the lined pipe weep hole.

49. Complainant alleges that Respondent's failure is a violation of 40 C.F.R. § 68.73(e).

**V. TERMS OF SETTLEMENT**

50. Section 113(d)(1) of CAA, 42 U.S.C. § 7413(d)(1), authorizes the Administrator to assess a penalty up to \$47,357 for each violation of any requirement of Section 112(r) of CAA, 42 U.S.C. § 7412(r).<sup>1</sup>

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<sup>1</sup> As adjusted by the 2018 Civil Monetary Penalty Inflation Adjustment Rule (83 Fed. Reg. 1190), 40 C.F.R. § 19.4, the Administrator may assess a civil penalty of up to \$46,192 per day of violation for a violation occurring after November 2, 2015.



51. Upon consideration of the entire record herein, and upon consideration (in addition to such other factors as justice may require) of the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation, the parties agree thirty-seven thousand eight hundred and eighty-six dollars (\$37,886.00) is an appropriate penalty to resolve this matter.

52. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the assessed civil penalty by cashier's check, certified check, or wire transfer, made payable to "Treasurer, United States of America, EPA - Region 6." Payment shall be remitted in one of three (3) ways: regular U.S. Postal Service mail, to include certified mail; overnight mail; or wire transfer. For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, the check(s) should be remitted to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service), the check(s) should be remitted to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

For wire transfer, the payment should be remitted to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727

SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045

Note: Field Tag 4200 of the Fedwire message should read: "D 68010727  
Environmental Protection Agency" with phone number (412) 234-4381.

**PLEASE NOTE: The docket number CAA 06-2020-3335 shall be clearly typed on the check to ensure proper credit.** The payment shall also be accompanied by a transmittal letter and shall reference Respondent's name and address, the case name, and docket number of the administrative complaint and CAFO. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following:

Justin McDowell  
Enforcement Officer (ECDAC)  
Chemical Accident Enforcement Section  
Enforcement and Compliance Assurance Division  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270

Lorena Vaughn  
Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270

53. Respondent agrees not to claim, or attempt to claim, a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

54. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will 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. Interest on the civil penalty assessed in this CAFO will begin to accrue thirty (30) days after the effective

date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. 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). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. *See* 40 C.F.R. § 13.11(b).

55. EPA will also assess a fifteen-dollar (\$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 fifteen dollars (\$15.00) for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

56. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), if any person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order, after the order or assessment has become final, the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount ordered or assessed (plus interest at rates established pursuant to 26 U.S.C. § 6621 from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to



attorney's fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent (10%) of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as the beginning of such quarter.

57. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor shall it be construed to constitute EPA approval of any equipment or technology installed by the Respondent in connection with any additional settlement terms undertaken pursuant to this CAFO. Nothing in this CAFO shall be construed to prohibit or prevent any federal, state, or local government from developing, implementing, and enforcing more stringent standards through rulemaking, the permit process, or as otherwise authorized or required.

58. This document constitutes a "Final Order" as that term is defined in the CAA Penalty Policy for the purpose of demonstrating a history of "prior such violations."

## **VI. RETENTION OF ENFORCEMENT RIGHTS**

59. EPA does not waive any rights or remedies available to EPA for any violations by Respondent of federal or state laws, regulations, statutes, or permitting programs, except for those matters resolved by this CAFO.

60. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA.

61. Nothing in this CAFO shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants,

contaminants, or regulated or other extremely hazardous substances at, on, or from the Respondent's facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil, injunctive, or criminal authorities, or that of other federal, state, or local agencies or departments to obtain penalties or injunctive relief under other federal, state, or local laws, regulations, or subparts thereof.

62. This CAFO is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The Respondent is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws, regulations, and permits. The Respondent's compliance with this CAFO shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. Complainant does not warrant or aver in any manner Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the CAA or with any other provisions of federal, state or local laws, regulations, or permits.

#### **VII. COSTS**

63. Each party shall bear its own cost and attorney's fees. Furthermore, the Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C § 504 and 40 C.F.R. Part 17.

#### **VIII. TERMINATION**

64. This CAFO shall terminate upon Respondent's compliance with all requirements of this CAFO.

#### **IX. COMMUNICATION**

65. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Consent Agreement and

Final Order, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

To EPA:

[Clay.jeffrey@epa.gov](mailto:Clay.jeffrey@epa.gov)

To Respondent:

[dwayne.johnson@keanmiller.com](mailto:dwayne.johnson@keanmiller.com)



**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT  
AGREEMENT AND FINAL ORDER:**

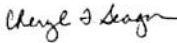
**FOR THE RESPONDENT:**

Date: 08-Apr-2020

DocuSigned by:  
  
20C8DCC88F8941A...  
Honeywell International Inc.

**FOR THE COMPLAINANT:**

Date: \_\_\_\_\_

 Digitally signed by CHERYL SEAGER  
DN: c=US, o=U.S. Government, ou=Environmental  
Protection Agency, cn=CHERYL SEAGER,  
email=seager.cheryl@epa.gov  
Date: 2020.04.13 07:24:34 -0500

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Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division  
U.S. EPA Region 6

**FINAL ORDER**

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Consent Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated April 16, 2020

**Rucki, Thomas**

Digitally signed by Rucki, Thomas  
DN: cn=Rucki, Thomas,  
email=Rucki.Thomas@epa.gov  
Date: 2020.04.16 10:38:37 -05'00'

Thomas Rucki  
Regional Judicial Officer  
U.S. EPA, Region 6



**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, this Consent Agreement and Final Order was electronically sent to the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, and a true and correct copy was delivered to the following individual(s) by the method indicated below:

**VIA ELECTRONIC MAIL:**

Mr. Dwayne Johnson, Esquire  
400 Convention Street, Suite 700  
P. O. Box 3513 (70821-3513)  
Baton Rouge, Louisiana 70802  
dwayne.johnson@keanmiller.com

**JEFFREY  
CLAY**

Digitally signed by JEFFREY CLAY  
DN: c=US, o=U.S. Government,  
ou=Environmental Protection Agency,  
cn=JEFFREY CLAY,  
0.9.2342.19200300.100.1.1=6800100365267  
5  
Date: 2020.04.17 09:11:34 -0500

U.S. EPA Region 6, Dallas, Texas