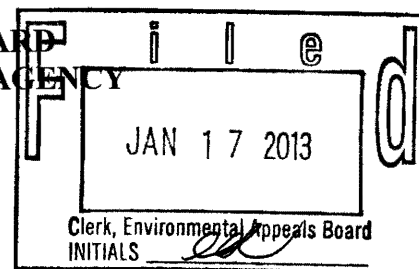


**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**



IN THE MATTER OF:)

Honeywell International Inc.)
101 Columbia Road)
Morristown, New Jersey 07962)

Respondent)

Docket No. EPCRA-HQ-2011-8004

CONSENT AGREEMENT

I. Preliminary Statement

1. Complainant, the United States Environmental Protection Agency (EPA), and Honeywell International Inc. (Honeywell or Respondent), collectively the Parties, having consented to the terms of this Consent Agreement (Agreement), and before the taking of any testimony and without the adjudication of issues of law or fact herein, agree to comply with the terms of this Agreement and attached proposed Final Order, hereby incorporated by reference.

2. On October 25, 2007, pursuant to EPA's *Policy on Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (Audit Policy), 65 Fed. Reg. 19618 (Apr. 11, 2000), Respondent submitted an initial voluntary disclosure to EPA of potential violations under the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. §§ 11001 – 11050. As agreed upon with EPA pursuant to a November 28, 2007 corporate audit agreement, Respondent submitted additional reports and disclosures to EPA on December 14, 2007, and February 1, 2008, which listed violations of:

- A. Sections 302 and 303 of EPCRA, 42 U.S.C. §§ 11002 and 11003;
- B. Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021 and 11022; and
- C. Section 313 of EPCRA, 42 U.S.C. § 11023.

3. Honeywell submitted a final audit report to EPA on August 1, 2008, and submitted supplemental reports on February 25, 2009, May 1, 2009, and May 12, 2010. Honeywell's disclosures have resulted in a final list of disclosed violations described in Attachments I, II, and III, hereby incorporated by reference.

4. EPA has determined that 217 of Honeywell's disclosed EPCRA violations at 98 facilities

listed in Attachment I satisfy all conditions set forth in the Audit Policy. These 217 violations in Attachment I qualify for a 100% downward adjustment of the gravity component of the civil penalty under the Audit Policy. One violation of Section 313 of EPCRA, 42 U.S.C. § 11023, at Honeywell's Shreveport, Louisiana UOP facility (listed on page 16 of Attachment I) satisfies Conditions Two through Nine of the Audit Policy (i.e., every Audit Policy condition except systematic discovery). This violation qualifies for a 75% downward adjustment of the gravity component of the civil penalty under the Audit Policy. Accordingly, Honeywell will be assessed a gravity component of the civil penalty for this violation.

5. EPA has determined that Honeywell's 14 disclosed EPCRA violations listed in Attachment III failed to satisfy Condition Five of the Audit Policy (correction and remediation – a violation must be corrected within 60 days of discovery). Thus, these 14 violations at ten facilities do not qualify for a downward adjustment of the gravity component of the civil penalty under the Audit Policy. Accordingly, Honeywell will be assessed a gravity component of the civil penalty for these 14 violations.

6. EPA has calculated and will collect the economic benefit component of the civil penalty for Honeywell's economic benefit resulting from the following types of disclosed EPCRA violations listed in Attachments I and III:

- A. **Section 311 EPCRA, 42 U.S.C. § 11021:** Brought new chemical on site within the past five years exceeding applicable threshold and no documentation exists that a Material Safety Data Sheet (MSDS) or a chemical list was submitted to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility within three months of exceeding the applicable threshold;
- B. **Section 312 of EPCRA, 42 U.S.C. § 11022:** Failure to submit a Tier II Report to the LEPC, SERC, and fire department with jurisdiction over the facility;
- C. **Section 313 of EPCRA, 42 U.S.C. § 11023:** Did not maintain required documentation;
- D. **Section 313 of EPCRA, 42 U.S.C. § 11023:** Failure to submit Form R; and
- E. **Section 313 of EPCRA, 42 U.S.C. § 11023:** Under-reporting certain chemical compounds.

All other types of disclosed EPCRA violations in Attachment I resulted in either no economic benefit or an insignificant economic benefit for Honeywell. Pursuant to the Audit Policy, EPA determined not to assess a civil penalty for these other types of disclosed EPCRA violations.

7. EPA has also determined that Honeywell's disclosed violations listed in Attachment II constitute minor EPCRA violations and satisfy all conditions set forth in the Audit Policy. Accordingly, these 114 minor EPCRA violations at 61 facilities qualify for a 100% downward adjustment of the gravity component of the civil penalty under the Audit Policy. Furthermore,

these minor EPCRA violations resulted in either no economic benefit or an insignificant economic benefit for Honeywell. Pursuant to the Audit Policy, EPA has determined not to assess a civil penalty for these minor EPCRA violations listed in Attachment II.

II. Jurisdiction

8. The Parties agree to the commencement and conclusion of this cause of action by issuance of this Agreement, as prescribed by EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, and more specifically by 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

9. Honeywell agrees that EPA has jurisdiction to bring an administrative action based upon the facts and violations that Honeywell disclosed to EPA, and to assess civil penalties pursuant to Section 325 of EPCRA, 42 U.S.C. § 11045.

10. Honeywell hereby waives its right to request a judicial or administrative hearing on any issue of law or fact set forth in this Agreement and its right to seek judicial review of the proposed Final Order accompanying this Agreement.

11. For purposes of this proceeding, Honeywell admits that EPA has jurisdiction over the subject matter which is the basis of this Agreement.

12. Except as provided in Paragraph 9, Honeywell neither admits nor denies the conclusions of law set forth in this Agreement, and this Agreement shall not constitute, or be interpreted or used as an admission of fault, liability, law or fact, nor shall it be admissible in any proceedings as such, except to the limited extent necessary to enforce the provisions of this Agreement, to establish the scope of the resolution of liability provided herein, or for the purposes of determining whether the facilities covered by this Agreement or any other Honeywell facilities qualify for future Audit Policy treatment.

III. Statement of Facts

13. Respondent, Honeywell, is a diversified technology company producing a variety of consumer products, aerospace products, automation and control devices, transportation equipment, and specialty materials and chemicals. Honeywell is incorporated in Delaware and is headquartered in Morristown, New Jersey.

14. Pursuant to EPA's Audit Policy, Honeywell hereby agrees and certifies, with respect to the disclosed violations listed in Attachments I and II, to the following facts upon which this Agreement is based:

A. The violations were discovered through an audit or through a compliance management system reflecting due diligence, except for one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, at Honeywell's Shreveport, Louisiana UOP facility;

B. The violations were discovered voluntarily;

- C. The violations were promptly disclosed to EPA in writing;
- D. The violations were disclosed prior to commencement of an Agency inspection or investigation, notice of a citizen suit, filing of a complaint by a third party, reporting of the violations by a “whistle blower” employee, or imminent discovery by a regulatory agency;
- E. The violations were corrected within 60 days of discovery, and Honeywell is, to the best of its knowledge and belief, in full compliance with Sections 302, 303, 311, 312, and 313 of EPCRA, 42 U.S.C. §§ 11002, 11003, 11021, 11022, and 11023, and EPCRA’s implementing regulations, as set forth in Attachments I and II;
- F. Appropriate steps have been taken to prevent a recurrence of the violations;
- G. The specific violations (or closely related violations) identified in Attachments I and II for a particular facility have not occurred within three years of the date of disclosure of such violations at each such facility, and have not occurred within five years of the date of such disclosure, as part of a pattern at multiple facilities owned or operated by Honeywell. For the purposes of subparagraph G, a violation is:
 - i. Any violation of federal, state, or local environmental law identified in a judicial or administrative order, consent agreement or order, complaint, or notice of violation, conviction, or plea agreement; or
 - ii. Any act or omission for which the regulated entity has previously received penalty mitigation from EPA or a state or local agency;
- H. The violations have not resulted in serious actual harm nor have they presented an imminent and substantial endangerment to human health and/or the environment, and Honeywell did not violate the specific terms of any judicial or administrative final order or agreement; and
- I. Honeywell has cooperated as requested by EPA.

15. Honeywell further agrees and certifies that, with respect to the 14 disclosed violations listed in Attachment III, to the following facts upon which this Agreement is based:

- A. The violations were discovered through an audit or through a compliance management system reflecting due diligence;
- B. The violations were discovered voluntarily;
- C. The violations were promptly disclosed to EPA in writing;
- D. The violations were disclosed prior to commencement of an Agency inspection or

investigation, notice of a citizen suit, filing of a complaint by a third party, reporting of the violations by a “whistle blower” employee, or imminent discovery by a regulatory agency;

- E. The violations were corrected more than 60 days after Honeywell’s initial discovery of the violations, and Honeywell is, to the best of its knowledge and belief, in full compliance with Sections 311, 312, and 313 of EPCRA, 42 U.S.C. §§ 11021, 11022, and 11023, and EPCRA’s implementing regulations, as set forth in Attachment III;
- F. Appropriate steps have been taken to prevent a recurrence of the violations;
- G. The violations have not resulted in serious actual harm nor have they presented an imminent and substantial endangerment to human health and/or the environment, and Honeywell did not violate the specific terms of any judicial or administrative final order or agreement; and
- H. Honeywell has cooperated as requested by EPA.

IV. Conclusions of Law for Disclosures Identified in Attachments I, II, and III
EPCRA Sections 302 and 303 Emergency Planning Notification Requirements

16. Honeywell is a “person,” as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and is the owner and/or operator of the “facilities,” as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), listed in Attachments I and II.

17. Sections 302(c) and 303(d) of EPCRA, 42 U.S.C. §§ 11002(c) and 11003(d), and the implementing regulations found at 40 C.F.R. Part 355 require the owner or operator of a facility where any extremely hazardous substance is located in an amount equal to or greater than the threshold planning quantity (TPQ) to: notify the SERC and/or LEPC that such facility is subject to the requirements of Subchapter I of EPCRA, 42 U.S.C. §§ 11001 – 11005; develop chemical emergency preparedness and response capabilities by providing notice to the LEPC that identifies the facility representative who will participate in the local emergency planning process as an emergency response coordinator; or that certain changes requiring notice to the SERC and/or LEPC have occurred at a facility subject to these requirements.

18. Honeywell submitted information to EPA which indicates that certain Honeywell facilities listed in Attachments I and II possessed certain extremely hazardous substances in amounts equal to or greater than the substances’ TPQs for varying lengths of time during the years 2003 through 2007 inclusive (i.e., 2003, 2004, 2005, 2006, and 2007) as further detailed in Attachments I and II. Accordingly, these certain facilities listed in Attachments I and II are subject to the requirements of Sections 302(c) and 303(d) of EPCRA, 42 U.S.C. §§ 11002(c) and 1103(d), and the implementing regulations found at 40 C.F.R. Part 355.

19. Based on the information that Honeywell submitted to EPA, which is detailed in Attachments I and II, EPA has determined that there were 50 violations at 50 Honeywell

facilities of Sections 302(c) and 303(d) of EPCRA, 42 U.S.C. §§ 11002(c) and 11003(d), and the implementing regulations found at 40 C.F.R. Part 355, resulting from Honeywell's failure to: provide complete and accurate information to the SERC and/or LEPC; properly notify the SERC and/or LEPC about certain facilities' activities subject to these requirements; identify the facility representative who will participate in the local emergency planning process as an emergency response coordinator; and/or provide notice of changes at certain facilities to the SERC and/or LEPC where such changes required notice. Honeywell did not obtain any economic benefit as a result of its facilities' noncompliance with Sections 302(c) and 303(d) of EPCRA, 42 U.S.C. §§ 11002(c) and 11003(d), and the implementing regulations found at 40 C.F.R. Part 355.

EPCRA Sections 311 and 312 Reporting Requirements

20. Honeywell is a "person," as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and is the owner and/or operator of the "facilities," as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), listed in Attachments I, II, and III.

21. Section 311(a) of EPCRA, 42 U.S.C. § 11021(a), and the implementing regulations found at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required to prepare or have available an MSDS for a hazardous chemical under the Occupational Safety and Health (OSH) Act of 1970, 29 U.S.C. §§ 651 – 678, and regulations promulgated under the OSH Act, to submit an MSDS for a hazardous chemical, or a list of such chemicals, to the LEPC, SERC, and the fire department with jurisdiction over the facility by October 17, 1987, or within three months of first becoming subject to the requirements of Section 311 of EPCRA, 42 U.S.C. § 11021.

22. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and the implementing regulations found at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required to have an MSDS for a hazardous chemical under the OSH Act and regulations promulgated under the OSH Act, to prepare and submit an emergency and hazardous chemical inventory form (Tier I or Tier II, as described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), and 40 C.F.R. Part 370) containing the information required by the implementing regulations found at 40 C.F.R. Part 370 to the LEPC, SERC, and to the fire department with jurisdiction over the facility by March 1, 1988 (or March 1 of the first year after the facility becomes subject to Section 312 of EPCRA, 42 U.S.C. § 11022), and annually thereafter.

23. Certain materials present at certain Honeywell facilities listed in Attachments I, II, and III are "hazardous chemicals," as defined in Sections 311(e) and 329(5) of EPCRA, 42 U.S.C. §§ 11021(e) and 11049(5), and 40 C.F.R. § 370.66. Certain other materials present at certain Honeywell facilities listed in Attachments I, II, and III are "extremely hazardous substances," as defined in Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), 40 C.F.R. § 370.66, and listed in the appendices to 40 C.F.R. Part 355.

24. Pursuant to 40 C.F.R. § 370.10(a)(2), the reporting threshold amount for hazardous chemicals present at certain Honeywell facilities listed in Attachments I, II, and III at any one time is 10,000 pounds. Pursuant to 40 C.F.R. § 370.10(a)(1), the reporting threshold amount for extremely hazardous substances present at certain Honeywell facilities listed in Attachments I, II,

and III is the lower of 500 pounds or the extremely hazardous substances' TPQs, as defined in 40 C.F.R. Part 355.

25. Honeywell submitted information to EPA which indicated that for varying lengths of time during the years 2003 through 2007 inclusive (i.e., 2003, 2004, 2005, 2006, and 2007), certain hazardous chemicals and extremely hazardous substances listed in Attachments I, II, and III were present at certain Honeywell facilities listed in Attachments I, II, and III in excess of the applicable reporting thresholds. Accordingly, certain facilities listed in Attachments I, II, and III are subject to the requirements of Sections 311(a) and 312(a) of EPCRA, 42 U.S.C. §§ 11021(a) and 11022(a), and the implementing regulations found at 40 C.F.R. Part 370.

26. Based on the information that Honeywell submitted to EPA that is detailed in Attachments I, II, and III, EPA has determined that there were 195 violations at 88 Honeywell facilities of Sections 311(a) and 312(a) of EPCRA, 42 U.S.C. §§ 11021(a) and 11022(a), and the implementing regulations found at 40 C.F.R. Part 370, resulting from Honeywell's failure to: provide complete and accurate information to the SERC and/or LEPC; prepare and submit Material Safety Data Sheets for hazardous chemicals or, in the alternative, a list of such chemicals to the LEPC, SERC, and the fire department with jurisdiction over certain facilities listed in Attachments I, II, and III; and/or submit emergency and hazardous chemical inventory forms (Tier I or Tier II) to the LEPC, SERC, and the fire department with jurisdiction over certain facilities listed in Attachments I, II, and III.

27. Based on the information that Honeywell submitted to EPA that is detailed in Attachment III, EPA has further determined that Honeywell failed to correct five violations of Sections 311(a) and 312(a) of EPCRA, 42 U.S.C. §§ 11021(a) and 11022(a), and the implementing regulations found at 40 C.F.R. Part 370, within 60 days of discovery at certain facilities listed in Attachment III, and thus, failed to meet Condition Five of the Audit Policy, which requires correction of the violation within 60 days of discovery. Accordingly, EPA has assessed a civil penalty composed of the gravity component, as well as any economic benefit Honeywell gained, for these five violations of Sections 311(a) and 312(a) of EPCRA, 42 U.S.C. §§ 11021(a) and 11022(a), and the implementing regulations found at 40 C.F.R. Part 370, as detailed in Attachment III.

EPCRA Section 313 Reporting Requirements

28. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and the implementing regulations found at 40 C.F.R. Part 372, require the owner or operator of a covered facility to complete and submit a toxic chemical release inventory form (Form R) to the EPA Administrator and the State in which the subject facility is located by July 1 for the preceding calendar year.

29. Pursuant to 40 C.F.R. § 372.22, a facility that meets all of the following criteria for a calendar year is a "covered facility" and must report pursuant to 40 C.F.R. § 372.30.

- A. The facility has ten or more full-time employees.
- B. The facility is in a Standard Industrial Classification (SIC) (as in effect on January

1, 1987) major group or industry code listed in 40 C.F.R. § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2007, for reporting year 2008 and thereafter) subsector and industry codes are listed in 40 C.F.R. § 372.23(b) and (c) by virtue of the fact that it meets one of the following criteria:

1. The facility is an establishment with a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary NAICS subsector or industry code listed in 40 C.F.R. § 372.23(b) or (c);
2. The facility is a multi-establishment complex where all establishments have primary SIC major group or industry codes listed in 40 C.F.R. § 372.23(a), or primary NAICS subsector or industry codes listed in 40 C.F.R. § 372.23(b) or (c); or
3. The facility is a multi-establishment complex in which one of the following is true:
 - i. The sum of the value of services provided and/or products shipped and/or produced from those establishments that have primary SIC major group or industry codes listed in 40 C.F.R. § 372.23(a), or primary NAICS subsector or industry codes listed in 40 C.F.R. § 372.23(b) or (c) is greater than 50 percent of the total value of all services provided and/or products shipped from and/or produced by all establishments at the facility; or
 - ii. One establishment having a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a), or a primary NAICS subsector or industry code listed in 40 C.F.R. § 372.23(b) or (c) contributes more in terms of value of services provided and/or products shipped from and/or produced at the facility than any other establishment within the facility.

C. The facility manufactured (including imported), processed, or otherwise used a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65 in excess of the threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, and 372.28 during the calendar year.

30. Pursuant to 40 C.F.R. § 372.30, the owner or operator of a covered facility must submit by the applicable deadline a Form R to EPA and the State in which the facility is located for each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, and 372.28 during the calendar year.

31. As set forth in Section 313(f)(1)(A) of EPCRA, 42 U.S.C. § 11023(f)(1)(A), and 40 C.F.R. § 372.25(b), the reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for the applicable calendar year. As further set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25(a), the reporting threshold for a toxic chemical manufactured (including imported) or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989.

32. Honeywell is a “person,” as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and is the owner and/or operator of the “facilities,” as defined in Section 329(4), 42 U.S.C. § 11049(4), listed in Attachments I, II, and III.

33. Based on information that Honeywell submitted to EPA, certain Honeywell facilities listed in Attachments I, II, and III meet the three conditions listed in Paragraphs 29.A through 29.C above and are covered facilities subject to the requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations found at 40 C.F.R. Part 372.

34. Based on information that Honeywell submitted to EPA, certain Honeywell covered facilities listed in Attachments I, II, and III manufactured (including imported), processed, or otherwise used certain toxic chemicals listed in Attachments I, II, and III that are listed pursuant to Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65 in quantities exceeding the thresholds in Section 313(f)(1) of EPCRA, 42 U.S.C. § 11023(f)(1), and 40 C.F.R. §§ 372.25, 372.27, and 372.28.

35. Based on the information that Honeywell submitted to EPA, EPA has determined that there were 101 violations at 58 Honeywell covered facilities of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and the implementing regulations found at 40 C.F.R. Part 372, resulting from Honeywell’s failure to: provide complete and accurate information to state and local agencies; maintain required records; to submit a Form R; and/or to timely submit all required or correct information for certain toxic chemicals manufactured (including imported), processed, or otherwise used by certain covered facilities listed in Attachments I, II, and III during certain calendar years between the years 2003 through 2007 inclusive (i.e., 2003, 2004, 2005, 2006, and 2007) by July 1 of each of the years following 2003 through 2007.

36. Based on the information that Honeywell submitted to EPA, EPA has further determined that Honeywell failed to correct nine violations of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and the implementing regulations found at 40 C.F.R. Part 372, within 60 days of discovery at certain covered facilities listed in Attachment III, and thus, failed to meet Condition Five of the Audit Policy. Accordingly, EPA has assessed a civil penalty with a gravity component, as well as any economic benefit Honeywell received, for these nine violations of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and the implementing regulations found at 40 C.F.R. Part 372, as further detailed in Attachment III.

V. Civil Penalty

37. EPA agrees, based upon the facts and information submitted by Honeywell, and upon Honeywell’s certification herein to the veracity of this information, that with the exception of the

violation of Section 313 of EPCRA, 42 U.S.C. § 11023, at the Shreveport, Louisiana UOP facility described below in Paragraph 39, Honeywell has satisfied all of the conditions set forth in the Audit Policy for those violations described in Attachment I, and thereby qualifies for a 100% downward adjustment of the gravity component of the civil penalty that otherwise could be assessed for these violations.

38. EPA agrees, based upon the facts and information submitted by Honeywell, and upon Honeywell's certification herein to the veracity of this information, that Honeywell has satisfied all of the conditions set forth in the Audit Policy for those minor EPCRA violations described in Attachment II, and thereby qualifies for a 100% downward adjustment of the gravity component of the civil penalty that otherwise could be assessed for these violations. Furthermore, Honeywell did not obtain any significant economic benefit for these minor EPCRA violations described in Attachment II. Pursuant to the Audit Policy, EPA will not assess a civil penalty for the minor EPCRA violations described in Attachment II.

39. EPA has determined, based on the information submitted by Honeywell, that Honeywell failed to satisfy Condition One of the Audit Policy (systematic discovery) for the Shreveport, Louisiana UOP facility's violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations found at 40 C.F.R. Part 372. Accordingly, this violation does not qualify for the 100% downward adjustment of the gravity component of the civil penalty. However, since Honeywell met Conditions Two through Nine of the Audit Policy for this violation, EPA may adjust the gravity component of the civil penalty for this violation downward by 75%. Accordingly, EPA calculated a gravity component of the civil penalty for this violation in accordance with the *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-To-Know Act (1989) and Section 6607 of the Pollution Prevention Act (1990), Amended (April 12, 2001)* (EPCRA Section 313 ERP) and adjusted that amount downward by 75% pursuant to the Audit Policy. EPA calculated that the adjusted gravity component of the civil penalty assessable against Honeywell for this violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations found at 40 C.F.R. Part 372, at the Shreveport, Louisiana UOP facility is \$4,917.

40. EPA has determined, based on the information submitted by Honeywell, that Honeywell failed to satisfy Condition Five of the Audit Policy, which requires correction of the violation within 60 days of discovery, for the violations of Sections 311, 312, and 313 of EPCRA, 42 U.S.C. § 11021, 11022, and 11023, and their implementing regulations, as detailed in Attachment III. Accordingly, these 14 violations do not qualify for the 100% downward adjustment of the gravity component of the civil penalty under the Audit Policy. EPA has calculated a gravity component of the civil penalty for these 14 violations using factors in the *Final Enforcement Response Policy for Sections 304, 311, and 312 of EPCRA and Section 103 of CERCLA* (September 1999) (EPCRA Section 311/312 ERP) and the EPCRA Section 313 ERP. EPA calculated an adjusted gravity component of the civil penalty for the 14 violations described in Attachment III of \$33,838.

41. Under the Audit Policy, EPA reserves the right to collect any economic benefit that may have been realized as a result of noncompliance. Based on information provided by Honeywell and use of the Economic Benefit computer model (BEN) for the violations described in

Attachments I and III, EPA has determined that Honeywell obtained an economic benefit of \$59,920 as a result of its noncompliance with Sections 311, 312, and 313 of EPCRA, 42 U.S.C. §§ 11021, 11022, and 11023, and the implementing regulations. Pursuant to the Audit Policy, EPA will assess a penalty equivalent to Honeywell's economic benefit of \$59,920 for the violations of Sections 311, 312, and 313 of EPCRA, 42 U.S.C. §§ 11021, 11022, and 11023, and their implementing regulations, listed in Attachments I and III.

42. The total civil penalty agreed upon by the parties for settlement purposes is \$98,675. This amount is comprised of Honeywell's economic benefit of \$59,920 as a result of its noncompliance for certain disclosed violations listed in Attachments I and III. In addition, EPA is assessing an adjusted gravity component of \$4,917 for the Shreveport, Louisiana UOP facility's disclosed violation of Section 313 of EPCRA, 42 U.S.C. § 11023, which failed to meet Condition One of the Audit Policy (systematic discovery). Finally, the total civil penalty also includes an adjusted gravity component of \$33,838 for the disclosed violations listed in Attachment III that failed to meet Condition Five of the Audit Policy.

43. Except as otherwise provided in this Agreement, compliance with the Agreement shall fully and finally resolve Honeywell's civil liability for the violations described in Attachments I, II, and III of the Agreement.

VI. Terms of Settlement

44. In full and final satisfaction of the allegations in the Agreement, and in consideration of each provision of this Agreement, Honeywell agrees to pay NINETY-EIGHT THOUSAND AND SIX HUNDRED AND SEVENTY-FIVE dollars (\$98,675) in satisfaction of the civil penalty.

45. For payment of the civil penalty, Honeywell shall pay the amount of \$98,675 within 30 days of the issuance of the Final Order using one of the following instructions:

A. Via U.S. Postal Service regular mail of a certified or cashier's check, made payable to the "United States Treasury," sent to the following address:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
Post Office Box 979077
St. Louis, Missouri 63197-9000

The Respondent's payment shall include the Respondent's full name and address and the EPA Docket Number of this Consent Agreement (EPCRA-HQ-2011-8004).

B. Via overnight delivery of a certified or cashier's check, made payable to the "United States Treasury," sent to the following address:

U.S. Bank
Government Lockbox 979077
United States Environmental Protection Agency Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101

The U.S. Bank customer service contact for both regular mail and overnight delivery may be reached at (314) 418-1028. The Respondent's payment shall include the Respondent's full name and address and the EPA Docket Number of this Consent Agreement (EPCRA-HQ-2011-8004).

C. Via electronic funds transfer (EFT) to the following account:

Federal Reserve Bank of New York
ABA No.: 021030004
Account No.: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency – Honeywell Docket No. EPCRA-HQ-
2011-8004."

The Federal Reserve customer service contact may be reached at (212) 720-5000.

D. Via automatic clearinghouse (ACH), also known as Remittance Express (REX), to the following account:

US Treasury REX / Cashlink ACH Receiver
ABA No.: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of the United States Treasury facility:

5700 Rivertech Court
Riverdale, Maryland 20737

The REX customer service contact may be reached at (866) 234-5681.

E. Via on-line payment (from bank account, credit card, debit card):

Website: www.pay.gov

Enter "SFO 1.1" in the search field.

Open the form and complete the required fields (marked with an asterisk).

Under "Type of Payment," choose "Civil Penalty." Under "Invoice #,"

type "Honeywell, Docket No. EPCRA-HQ-2011-8004" into the "Court # or Bill #" subfield. Leave the other subfields blank. Under

"Installments?" choose "No." Under "Region," type "HQ."

46. Honeywell shall forward evidence of the check, wire transfer, or internet-based payment to EPA, within five days of payment, to the attention of:

Mr. Michael Calhoun

Special Litigation and Projects Division

Office of Civil Enforcement

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW (MC2248A)

Ariel Rios Building, Room 3119C

Washington, D.C. 20460

and

U.S. Environmental Protection Agency

Clerk of the Board

Environmental Appeals Board, 1103B

Ariel Rios Building

1200 Pennsylvania Avenue, NW

Washington, D.C. 20460-0001

Honeywell may also send evidence of payment via e-mail to Mr. Calhoun at calhoun.michael@epa.gov.

47. Honeywell's obligations under this Agreement shall end when it has paid the civil penalty as required by this Agreement and the proposed Final Order.

48. For the purposes of state and federal income taxation, Honeywell shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to the Final Order. Any attempt by Honeywell to deduct such payment shall constitute a violation of this Agreement.

49. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States, and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the Final Order if the penalty is not paid by the date required. 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 charge will

be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of 6% per year compounded annually will be assessed on any portion of the debt that remains delinquent more than 90 days after payment is due.

VII. Severability

50. As part of this Agreement, and in satisfaction of the requirements of the Audit Policy, Honeywell has certified to certain facts. The parties agree that should EPA receive information that proves or demonstrates that these facts are other than as certified by Honeywell, the portion of this Agreement pertaining to the affected facilities, including downward adjustment of the proposed penalty, may be voided or this entire Agreement may be declared null and void at EPA's election, and EPA may proceed with an enforcement action.

51. The parties agree that Honeywell reserves all of its rights should this Agreement be voided in whole or in part. The parties further agree that Honeywell's obligations under this Agreement will cease should this Agreement be rejected by the Agency's Environmental Appeals Board (EAB); provided, however, that in the event that the EAB expresses any objections to, or intent to reject, this Agreement, the parties agree that they shall exercise their mutual best efforts to address and resolve the EAB's objections.

VIII. Reservation of Rights

52. The Final Order, upon issuance by the EAB, and upon payment by Honeywell of the civil penalty in Paragraph 44, shall resolve the claims for federal civil penalties as alleged in this Agreement. Nothing in this Agreement or Final Order shall be construed to limit the authority of EPA and/or the United States to undertake any action against Honeywell, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to public health, welfare, and/or the environment. Furthermore, except as specified in this paragraph, issuance of the Final Order does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against Honeywell for any violation of federal or state statute, regulation, and order or permit that is not the subject of this Agreement.

IX. Other Matters

53. Each Party shall bear its own costs and attorney fees in this matter.

54. The provisions of this Agreement and the Final Order, when issued by the EAB, shall apply to and be binding on EPA and Honeywell, as well as Honeywell's officers, agents, successors, and assigns. Any change in ownership or corporate status of Honeywell, including, but not limited to, any transfer of assets or real or personal property shall not alter Honeywell's responsibilities under this Agreement, including the obligation to pay the civil penalty referred to in Paragraph 44.

55. Nothing in this Agreement shall relieve Honeywell of the duty to comply with all applicable provisions of EPCRA and other federal, state, or local laws or regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

56. Except as provided in Paragraph 51, Honeywell waives any rights it may have to contest the allegations contained herein and its right to appeal the proposed Final Order accompanying this Agreement.

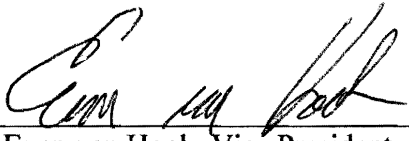
57. The undersigned representatives of each Party to this Agreement certify that each is duly authorized by the Party whom s/he represents to enter into these terms and bind that Party to the Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

ANDREW A STEWART *For*
Bernadette M. Rappold, Director
Special Litigation and Projects Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (MC2248A)
Washington, D.C. 20460

Date: 12/14/12

FOR HONEYWELL INTERNATIONAL INC.:



D. Evan van Hook, Vice President
Health, Safety, Environment and Remediation Services
Honeywell International Inc.
101 Columbia Road
P.O. Box 2245
Morristown, New Jersey 07962

Date: 9/11/2012