

March 21, 2008

MEMORANDUM TO: Michael Tschiltz, Deputy Director  
Fuel Facility Licensing Directorate  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Thru: Brian Smith, Chief /RA/  
Enrichment and Conversion Branch  
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FROM: Michael Raddatz, Sr. Project Manager /RA/  
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SUBJECT: MEETING SUMMARY – FEBRUARY 22, 2008,  
WORKSHOP ON POTENTIAL CHANGES TO 10 CFR  
PART 40

In Staff Requirements Memorandum (SRM), "Briefing on NMSS Programs, Performance, and Plans, 10:00 A.M., Thursday, March 8, 2007, Commissioners Conference Room, One White Flint North, Rockville, Maryland," dated March 22, 2007, the Commission decided that materials used for, or derived from, the conversion of uranium oxide to uranium hexafluoride and/or for the de-conversion of depleted uranium hexafluoride to an oxide, should be licensed by the Nuclear Regulatory Commission (NRC). This decision covered all applicable facilities, even if those facilities would be located within an Agreement State. In SRM – SECY-07-0146 – "Regulatory Options for Licensing New Uranium Conversion and Depleted Uranium Deconversion Facilities," dated October 10, 2007, the Commissioners directed the staff to pursue a rulemaking, to modify 10 CFR Part 40, to impose "specific, risk-informed requirements analogous to those in Part 70, Subpart H, on both current and future conversion/de-conversion facilities." The threshold quantities proposed by the staff (which would trigger NRC oversight) were 10,000 kilograms of uranium hexafluoride or uranium tetrafluoride, and/or 1,000 pounds of hydrogen fluoride. Any facility that has, or could, possess these quantities of the materials would have regulatory oversight by NRC.

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The Commission also stated that, before developing the proposed rule, the staff should conduct a workshop with stakeholders and invite comments regarding “the appropriateness” of the proposed quantities threshold. The following is a summary of the workshop results.

The workshop was held in the NRC auditorium at 11555 Rockville Pike, Rockville, MD, on February 22, 2008. It was well attended by interested stakeholders (attendance list attached as Enclosure 1), and included representatives from the Nuclear Energy Institute (NEI), Honeywell Metropolis Works (Honeywell), CAMECO, and other participants via teleconference.

There were three presentations given by NRC staff. The first was an overview of the basis for 10 CFR Part 40 requirements. The second covered the Regulatory Options for Licensing of a Conversion or Depleted Uranium Deconversion facility that was considered in developing the proposed rule. And the third was an overview of the 10 CFR Part 70, Subpart H, provisions that would be applied to current and future conversion or deconversion facilities (Enclosures 2, 3, & 4).

Comments were solicited from those attending in person as well as those on the conference phone lines. There were no objections and no specific comments regarding the threshold. However, the proposal to require specific, risk-informed requirements analogous to those in 10 CFR Part 70, Subpart H, on current conversion facilities (e.g., Honeywell Metropolis Works) was a different matter. Honeywell gave a formal presentation (Enclosure 5) showing their objection to any further escalation of the regulatory requirements for its facility. Its presentation discussed the fact that it just renewed its license for a period of 10 years and made significant progress in bringing its facility in compliance with the spirit of 10 CFR Part 70, Subpart H. Honeywell also indicated that there has not been enough time to judge the strengths and merits of the current Integrated Safety Analysis (ISA) that it produced as part of the relicensing effort, and that it may be found to be the appropriate model for a 10 CFR Part 40 facility.

The NEI commented on the provision of 10 CFR Part 40 covering the transfer and regulatory oversight of materials that falls into the exempt category (e.g., 40.13), and expressed that the recommendations of the Interagency Working Group made in 2003 should be implemented. NEI also commented that we should consider the Department of Homeland Security (DHS) Chemical Security Rule when applying these standards to either Honeywell or any other Part 40 facility. NRC replied that we would consider the regulatory impacts of the rule once it is both better understood, and further implemented by DHS. NEI expressed that, as of now, an ISA is not required, but should that requirement come to pass, that consistent with the recent change for certain Part 70 facilities, industry would expect that the benefit of a 40 year license (as opposed to the current 10 year limitation) would be allowed. NEI also suggested that a backfitting rule be incorporated into Part 40, and that it become effective after ISA Summaries have been approved.

Cameco representatives echoed Honeywell comments, stating that they believed any rulemaking and associated requirements should consider the comparable risks from a conversion/deconversion facility with those of a conventional chemical facility with similar processes. They also supported the proposal that NRC would regulate a conversion/deconversion even if it were to be located in an agreement state.

All participants were offered the opportunity to provide written comments within 30 to 60 days from the date of the meeting.

- Enclosure 1: Attendance List
- Enclosure 2: Background on 10 CFR Part 40
- Enclosure 3: Regulatory Options for Licensing of a Conversion or Depleted Uranium Deconversion facility
- Enclosure 4: Overview of the 10 CFR Part 70, Subpart H
- Enclosure 5: Honeywell Presentation

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