



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

June 10, 2009

EA-09-074

Mr. Mitch Tillman  
Plant Manager  
Honeywell Specialty Chemicals  
P.O. Box 430  
Metropolis, IL 62960

**SUBJECT: NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS  
REPORT NO. 2-2008-056 AND NRC INSPECTION REPORT  
NO. 40-3392/2009-003**

Dear Mr. Tillman:

This refers to an investigation conducted from September 10, 2008 to March 12, 2009, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) at Honeywell Specialty Chemicals Metropolis Works in Metropolis, IL. The purpose of the investigation was to determine whether a health physics technician deliberately failed to perform required measurements of fume hood flow rates and falsified NRC required records to conceal this failure. A Factual Summary, included as Enclosure 1 to this letter, provides additional details of the OI investigation.

Based on the OI investigation, one apparent violation of NRC requirements was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is located on the NRC's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html). The apparent violation is described in the Summary of Apparent Violations as Enclosure 2.

A closed pre-decisional enforcement conference to discuss this apparent violation will be scheduled at a future date. The NRC will contact your staff to coordinate arrangements for the meeting. This conference will be closed to public observation in accordance with the NRC Enforcement Policy because the findings are based on an NRC Office of Investigations report that has not been publicly disclosed.

The decision to hold a pre-decisional enforcement conference does not mean the NRC has determined that a violation occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether violations occurred, information to determine the significance of the violations, information related to the identification of the violations, and

information related to any corrective actions that were taken or planned. The conference also will provide you an opportunity to provide your perspectives on these matters and any other information you believe the NRC should take into consideration in making an enforcement decision. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance contained in NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful and is available on the NRC's Web site.

In lieu of a predecisional enforcement conference, you may also request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. Alternative Dispute Resolution is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's ADR program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. Additionally, please contact Mr. Jay L. Henson, Chief, Fuel Facilities Inspection Branch 2, Division of Fuel Facility Inspection, at (404) 562-4731, within 10 days of the date of this letter to notify the NRC of your intended response.

Because the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection issues at this time. In addition, please be advised that the number and characterization of the apparent violation described above may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations in this matter. No response regarding the apparent violation is required at this time.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," after completion of enforcement related activities in this matter, a copy of this letter and enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

For administrative purposes, this letter is issued as Inspection Report No. 40-3392/2009-003.

M. Tillman

3

Should you have any questions concerning this letter, please contact me at (404) 562-4700 or Mr. Jay L. Henson at (404) 562-4731.

Sincerely,

*/RA/*

Joseph W. Shea, Director  
Division of Fuel Facility Inspection

Docket No. 40-3392  
License No. SUB-526

Enclosures:

1. Synopsis NRC Office of Investigations Report No. 2-2008-056
2. Summary of Apparent Violations
3. NUREG/BR-0317

cc w/encls:

Gary Wright  
Emergency Management Agency  
Division of Nuclear Safety  
Electronic Mail Distribution

Distribution w/encls 1 and 2:

L. Reyes, RII  
V. McCree, RII  
D. Dorman, NMSS  
T. Hiltz, NMSS  
J. Henson, RII  
T. Liu, NMSS  
A. Sapountzis, OE  
R. Hannah, RII  
J. Ledford, RII

\*see previous concurrence

X PUBLICLY AVAILABLE       NON-PUBLICLY AVAILABLE       SENSITIVE      X NON-SENSITIVE  
ADAMS: X Yes      ACCESSION NUMBER: \_\_\_\_\_      X SUNSI REVIEW COMPLETE

OFFICE	RII:DFFI	RII:DFFI	RII:EICS				
SIGNATURE	JP 6/4/09	JH 6/4/09	ODM 6/5/09				
NAME	JPelchat*	JHenson*	CEvans*				
DATE	6/ /2009	6/ /2009	6/ /2009	6/ /2009	6/ /2009	6/ /2009	6/ /2009
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

FACTUAL SUMMARY  
OI CASE NO. 2-2008-056

On September 10, 2008, an investigation was initiated by the U.S. Nuclear Regulatory Commission's (NRC), Office of Investigations (OI), Region II (RII) to determine whether a former Health Physics (HP) Technician at Honeywell International Inc. (Honeywell) Metropolis Works (MTW), deliberately falsified survey records associated with fume hood air flow measurements.

On September 1, 2008, Honeywell MTW notified the NRC that a HP Technician had falsified survey records. Specifically, Honeywell MTW advised that the HP Technician supervisor was reviewing a record of 20 fume hood air flow measurements prepared by the HP Technician and determined that the measurement instrument the HP Technician listed on the record as being the instrument used to take the measurements was off site and not available. When the supervisor questioned the HP Technician about this discrepancy, the HP Technician admitted that he had not done the measurements and had falsified the record of the measurements. In response to the Honeywell MTW notification, an investigation was initiated by OI for the purpose of reviewing the facts and circumstances surrounding the falsification of the 20 fume hood air flow measurements.

On the basis of the OI investigation and staff review of this matter, it was determined that the former HP Technician deliberately failed to conduct required fume hood air flow measurements and then deliberately falsified the survey records to make it appear that the measurements had been taken when they had not.

## SUMMARY OF APPARENT VIOLATIONS

10 CFR 40.9(a) requires that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

10 CFR 20.1501(a) requires that each licensee make or cause to be made, surveys that may be necessary for the licensee to comply with the regulations in this part; and that are reasonable under the circumstances to evaluate (i) the magnitude and extent of radiation levels; and (ii) concentrations or quantities of radioactive material; and (iii) the potential radiological hazards. The fume hood air flow measurement is a survey performed to demonstrate that the engineered control (in this case ventilation) used to control the concentration of radioactive material in air as required by 10 CFR 20.1701 is adequately controlling radioactive material air concentrations. 10 CFR 20.2103(a) requires, in part, that each licensee maintain records showing the results of surveys required by 20.1501 for a period of 3 years after the record is made. The performance of these fume hood air flow surveys and the records of these surveys are reviewed during NRC inspections to assess the radiological conditions at the facility and regulatory compliance.

The performance of the fume hood air flow measurement survey is more specifically described in the Honeywell MTW license application. License Condition 18 of NRC License No. SUB-526, Amendment No. 0, states that the licensee shall conduct authorized activities at the Honeywell Metropolis Works Facility in accordance with the statements, representations and conditions (or as revised by change and/or configuration management processes as described therein) in Chapters 1 through 7 of the license application dated May 12, 2006, as supplemented by a letter dated March 20, 2007.

Honeywell MTW described the fume hood air flow survey in Section 3.2.2 of its NRC license application. Section 3.2.2 of the application states that laboratory fume hoods that are routinely used to handle radioactive materials shall be checked periodically to measure face velocity. If the average face velocity does not exceed 100 linear feet per minute, the hood shall not be used for radioactive materials until proper operation has been restored.

Contrary to the above, on August 27, 2008, a licensee employee engaged in deliberate misconduct that resulted in the creation of an inaccurate record of information that is required by the Commission's regulations and license conditions to be maintained by the licensee. Specifically, a health physics technician deliberately falsified records of fume hood face velocity measurements for 20 fume hoods to falsely indicate that those measurements had been made, when in fact, they had not been made. The records of the fume hood face velocity measurements are records of surveys the licensee performs as required by 10 CFR 20.1501(a) and its license and which 10 CFR 20.2103(a) requires the licensee to maintain for a period of 3 years.