

September 7, 2010

DOCKETED
USNRC

Secretary, U.S. Nuclear Regulatory Commission
Attn: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

September 8, 2010 (11:30am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Subject: Docket ID: NRC-2008-0338

Dear Secretary:

Please find attached comments from Honeywell International, Inc. on proposed regulations in NRC-2008-00338, 'Requirements for Distribution of Byproduct Material'.

If you have any questions, please don't hesitate to contact me by E-mail at gary.caines@honeywell.com or by telephone at 770-689-0186.

Sincerely,



Gary L Caines,
Radiological Operations Program Manager

Attachment: Comments on NRC-2008-00338

Honeywell International, Inc.
ACS Radiological Operations
3079 Premiere Parkway
Duluth, GA 30097

Template = SECY-067

DS10

A.1 Updating Regulations to Add Registration Requirements

We agree with the Commission's proposal to explicitly add SS&D certificates to the regulations for byproduct material in products used under general licenses and for sources or devices that are exempt from licensing requirements as well as for additional specifically licensed sources and devices for which this is not currently addressed by regulation. We also agree with the proposed requirements that sources or devices be registered in the Sealed Source and Device Registry and that the definition of the registry be included in 10 CFR 32. We believe that it is not appropriate to make these proposals Compatibility Category D requirement for Agreement States that do include the evaluation and registration of sealed sources and devices in their agreement. Because sources or devices that are evaluated by Agreement States are also used by all jurisdictions to ensure the safety of the devices these proposed regulations should be Compatibility Category B requirements for Agreement States where sealed source and device evaluations are included in their agreement. This will ensure the consistency throughout all jurisdictions.

A.2 Adding Provisions for Amendment, Modification and Revocation, Review, and Inactivation of Registration Certificates

We disagree with the proposal to add 32.210(h) to the regulations because this is redundant and therefore unnecessary. 30.61(b) provides for the review granted in 32.210(h). Furthermore 32.210(h) does not explicitly require a review of registration certificates and therefore it does not insure consistency between licenses and certificates. We believe that 30.61 should be designated a category B compatibility level for Agreement States thereby granting Agreement States the ability to review, revoke inactivate or modify certificates based on significant safety issues.

We agree with the Commission that it is not necessary to conduct a complete reevaluation of sealed sources and devices at the time that distribution licenses are reviewed. However, we do not agree that registration certificates need to be updated periodically. The only reason why a registration should ever need to be reevaluated is because there are issues that pose significant risk to health and safety or the environment. As stated above the Commission has the authority granted in 30.61 to review, modify, revoke or inactivate a license or a registration certificate and that regulation is adequate to protect public health and safety and the environment from undue risk. It is not likely that a manufacturer or a distributor would continue to distribute a source or device if the source or device is found to be improperly designed or if the quality of the source or device is found to be lacking in its quality.

We disagree with the proposed requirements in 32.211 that would require distributors to request inactivation of certificates within two years following the last initial transfer of a source or device covered by the certificate. Inactivation of certificates does not take into consideration the transfer or redistribution of registered sources or devices by specific licensees. Just because a source or device is no longer initially distributed does not make it unsafe for use by persons authorized to use the source in accordance with the conditions of the registration certificate. In addition, there are many devices which are

distributed on a less frequent basis than two years. To require inactivation of and reactivation of registrations every time a source or device is redistributed would require an undue regulatory burden on State Programs and the Commission. Just because a device is no longer initially distributed, does not mean that the source or device is unsafe for use and it is common practice currently and it will continue to be common for sources and devices deemed safe by registration to be transferred to other licensees for use.

Unless the certificates were revoked for health and safety reasons these sources or devices should be ok for continued distribution, transfer and use and if the sources or devices are found to be unsafe the Commission has the authority to require that the products are not used until repairs that render them safe for use have been performed.

We believe that the current state of the regulation is adequate to protect public health and the environment and the review called for in the proposed 32.210(h) is not necessary.

In general the NRC should change NUREG 1556 guidance to explicitly require a review of certificates at the time of license renewal to ensure that the information is complete, accurate, and that the source or device remains current considering the application of the current industry standards.

We believe that once a source or device is deemed safe for use by persons exempt from regulations, a general licensee or a specific licensee and has been issued a registration based on the requirements of NUREG 1550 the only reason we see that would or should require reevaluation would be because of significant safety issues with the source or device and regulatory means are already available to the Commission to address these issues. Because this authority is granted in 30.34 and 30.61 which are currently compatibility category D for Agreement States these two sections (30.34(e) and 30.61) should be changed to compatibility category B or category A because of the trans-boundary implications associated with source or device registrations, which could be distributed in all fifty states and world wide. Furthermore making these sections compatibility B further makes it unnecessary to add 32.210(h).

In general the NRC should change NUREG 1556 guidance to explicitly require a review of certificates at the time of license renewal to ensure that the information is complete, accurate, and that the source or device remains current considering the application of the current industry standards.

A.3 How should certificates for previously approved devices be handled if the device does not meet current standards - -

We believe that if the device was previously approved and has an active SS&D, the device should be 'grandfathered in' in that the device could continue to be manufactured, distributed and used as long as nothing more than minor changes in design take place. If significant changes to the SS&D are requested, the device would need to be updated to comply with current regulations. Otherwise, manufacturers, distributors and users would suffer an adverse economic impact. This should be compatibility category B.

A.4 Establish a New Class Exemption for Certain Industrial Products 31.5-32.30

We are not convinced that the new proposed class exemption in 30.22 would indeed maintain protection of public health and safety and the environment nor will it relieve the regulatory burden. The likelihood for loss of radioactive material into the sanitary waste stream would be higher and this would increase the regulatory burden on State Programs when devices are discovered in land fills and in scrap metal reprocessing streams.

Regulatory bodies will need to be very careful to insure that a source or device that contains byproduct material did not enter the metal recycling waste stream. This increase in the number of sources or devices authorized for disposal in the domestic waste stream would increase under this proposal thus potentially increasing the number of alarms at landfills, at scrap metal facilities and at metal recycling facilities. This will increase number of visit to landfills by State regulatory authorities. This will increase the regulatory burden in States where the sources or devices are disposed of by increasing the numbers of investigations at landfills and in scrap metal facilities. We believe that the number of devices that would be granted under this proposed class exemption will be so small that it should be handled on an individual source or device basis. This exception could be included in regulatory guidance NUREG 1556.

PUBLIC SUBMISSION

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Requirements for Distribution of Byproduct Material

Comment On: NRC-2008-0338-0001
Requirements for Distribution of Byproduct Material

Document: NRC-2008-0338-DRAFT-0007
Comment on FR Doc # 2010-15202

Submitter Information

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General Comment

See attached file(s)

Attachments

NRC-2008-0338-DRAFT-0007.1: Comment on FR Doc # 2010-15202

Rulemaking Comments

From: Gallagher, Carol
Sent: Wednesday, September 08, 2010 8:50 AM
To: Rulemaking Comments
Subject: Comment on Requirements for Distribution of Byproduct Material
Attachments: nrc-2008-0338-DRAFT-0007.pdf

Van,

Attached for docketing is a comment from Gary L. Caines on the above noted proposed rule (75 FR 36211) 3150-AH91 that I received via the regulations.gov website on September 7, 2010.

Thanks,
Carol

Received: from HQCLSTR01.nrc.gov ([148.184.44.76]) by OWMS01.nrc.gov
([148.184.100.43]) with mapi; Wed, 8 Sep 2010 08:49:30 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Gallagher, Carol" <Carol.Gallagher@nrc.gov>
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>
Date: Wed, 8 Sep 2010 08:49:30 -0400
Subject: Comment on Requirements for Distribution of Byproduct Material
Thread-Topic: Comment on Requirements for Distribution of Byproduct Material
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