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**PR 40 and 150  
(76FR28336)**

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USNRC

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**VIA ELECTRONIC MAIL (Rulemaking.Comments@nrc.gov)**

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

**Re: Domestic Licensing of Source Materials—Amendments/Integrated Safety  
Analysis  
76 Fed. Reg. 28336 (May 17, 2011)  
RIN 3150-AI50  
Docket ID NRC-2009-0079**

Dear Secretary:

Honeywell International, Inc. (“Honeywell”) is submitting these comments regarding the NRC’s proposed rule addressing integrated safety analyses (“ISAs”) for uranium hexafluoride conversion facilities. These comments also address aspects of the draft guidance associated with the rulemaking.<sup>1</sup> In addition, Honeywell hereby endorses and incorporates the comments on the proposed rulemaking submitted by the Nuclear Energy Institute.

Honeywell is the Part 40 licensee for the Metropolis, Illinois UF<sub>6</sub> conversion facility known as the Metropolis Works facility (“MTW”). MTW is the only operating uranium conversion facility in the United States. Honeywell has two principal concerns with the proposed rule. First, Honeywell is concerned that the rule, the supporting analyses, and the accompanying guidance documents do not acknowledge the existing ISA at the MTW or explain the process or schedule for transitioning from the current ISA to the ISA required under the proposed rule. Second, Honeywell believes that the proposed implementation periods are unrealistically short, particularly given Honeywell’s efforts to date to develop reasonable plans for implementation. Moreover, the time periods for implementation are shorter than that provided for Part 70 facilities when first implementing similar ISA requirements, even though the analyses in both cases are relatively complex undertakings.

Otherwise, Honeywell supports the proposed addition of a “backfit rule,” which would preclude the NRC from adopting certain types of rules without demonstrating a cost-justified safety benefit. Honeywell also suggests that, consistent with the approach adopted by the NRC when

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<sup>1</sup> See NUREG-1962, “Guidance on the Implementation of Integrated Safety Analysis Requirements for 10 CFR Part 40 Facilities Authorized to Possess 2,000 Kilograms or More of Uranium Hexafluoride,” Draft Report for Comment (April 2011).

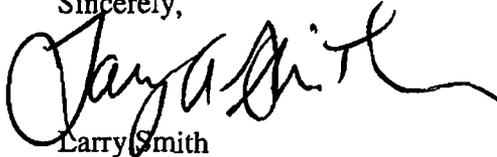
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requiring ISAs for Part 70 facilities, the NRC should extend the license period from 10 years to 40 years for facilities subject to the ISA requirement.

If you have any questions about these comments or would like to discuss further, please contact Mike Greeno at [michael.greeno@honeywell.com](mailto:michael.greeno@honeywell.com) or (618) 309-5005.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Smith". The signature is fluid and cursive, with a long horizontal stroke at the end.

Larry Smith  
Plant Manager

Enclosures: Honeywell International Inc. Comments on Proposed Rule

**COMMENTS OF HONEYWELL INTERNATIONAL INC.**

**Domestic Licensing of Source Materials—Amendments/Integrated Safety Analysis  
Docket ID NRC-2009-0079  
76 Fed. Reg. 28336 (May 17, 2011)**

Honeywell recognizes the health and safety risks associated with the use of various reactive and corrosive chemicals in the uranium conversion operation and, for that reason, continues to take proactive steps to reduce those risks at every opportunity. Importantly, the proposed rule is not addressing whether or not the MTW is safe — the NRC has repeatedly concluded that the MTW is safe. Our comments are aimed primarily at improving the proposed rule and related guidance in order to ensure that the new requirements are clearly explained and appropriately tailored. We are particularly concerned with the absence of information necessary to implement the proposed rule, if finalized, including the lack of a discussion of transition from the existing the ISA and the lack of useful guidance regarding rule implementation. Against this background, Honeywell is providing the following comments on the proposed rule.

**A. The Proposed Rule Does Not Account for MTW’s Existing ISA**

Although not required by Part 40, Honeywell voluntarily submitted an ISA in support of its application for a renewed license in May 2006. The ISA is part of the licensing basis for MTW. Honeywell’s ISA contains many elements of a Part 70 ISA, but was not intended to satisfy all Part 70, Subpart H, requirements for an ISA. In its ISA, Honeywell identified potential accident sequences at the plant and, from those sequences, designated Plant Features and Procedures (“PFAP”),<sup>2</sup> to either aid in preventing such accidents or to mitigate their consequences. To determine which plant equipment and procedures were critical to the safe operation of the facility, Honeywell utilized a process hazard analysis (“PHA”) method. The NRC also determined that Honeywell identified the appropriate PFAPs and management measures to ensure PFAP availability. Honeywell completed implementation of the ISA on November 8, 2007. The Honeywell ISA provides assurance that the potential failures, hazards, accident sequences, as well as PFAPs, have been analyzed in an integrated fashion for MTW.

Nevertheless, the existing ISA cannot be easily or quickly “upgraded” to comply with the proposed new requirements. Although it contains many of the same elements as a Part 70 ISA, the existing MTW ISA is different from the ISA that would be required by the proposed rule in many fundamental respects. For example, the existing ISA was performed in a relatively short period of time and without the benefit of any explicit regulatory standards or guidance. The existing ISA also relied heavily on pre-existing MTW programs. Moreover, the scope of the existing ISA is different than that required by the proposed rule. As a result, Honeywell cannot simply “upgrade” the existing ISA. The existing ISA cannot be easily extrapolated to the new ISA requirements and the analysis must be performed “from scratch.”

As a result of the need to perform the MTW ISA from the ground up, imposing the proposed ISA requirements on MTW will result in significant changes to financial, technical,

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<sup>2</sup> PFAPs are similar to Items Relied on for Safety (“IROFS”) in Part 70 ISAs.

design change, training, record-keeping, and reporting activities at MTW. These changes will result in significant impact to the current MTW ISA and the related site procedures that incorporate the MTW ISA management measures. The magnitude of the proposed changes and the resulting burden in a relatively short time period will stress the ability of plant personnel to assimilate new knowledge and requirements absent a clear understanding of the steps involved in transitioning to the new ISA.

Against these practical challenges, the NRC has not provided any information or discussion regarding the transition from the existing ISA to the ISA that would be required by the proposed rule. For example, the NRC does not address how PFAPs should be reported, tracked, or maintained during the period of ISA development or implementation. And, the proposed rule indicates that the ISA Summary is effective upon submittal and that compensatory measures must be in place, but neither the rule, the supplemental information, or the draft guidance contain any discussion of the effects of the ISA Summary on the existing ISA. The NRC also does not indicate when or through what regulatory mechanism it will remove the current ISA from the MTW licensing basis. The NRC's decisions in this area have major implications for Honeywell, yet there does not appear to have been a systematic review or understanding of the impacts, both procedural and substantive, of the proposed rule on MTW. Honeywell cannot develop an effective ISA development and implementation plan without some understanding of the processes and practicalities associated with transitioning to a new ISA.

As a result, Honeywell recommends that the NRC explicitly acknowledge the current ISA in the supplemental information accompanying the rule and consider discussing the steps needed to transition to the new ISA requirements (*e.g.*, timing, criteria, and resolution of conflicts). Honeywell also recommends that the NRC change the rule text associated with the submittal of the "ISA plan" in proposed 10 C.F.R. § 40.82(c)(3)(i) as follows:

Submit for NRC approval, within [insert date six months after the effective date of final rule], a plan that describes the integrated safety analysis approach that will be used, the processes that will be analyzed, and the schedule for completing the analysis of each process. For a licensee that already has an ISA as part of its licensing basis, the plan may also include a proposed approach and schedule for transitioning to the ISA required under Part 40, Subpart H, including the process for removing the prior ISA from the facility licensing basis, and for completing management measures, developing programs and procedures, putting compensatory measures in place, or implementing any necessary enhancements or hardware procurement and installation related to the new ISA.

This suggested rule change will make clear that Honeywell can include information related to the ISA transition in the plan that will be reviewed and approved by the NRC. In the absence of such information, there is no clear process for obtaining NRC approval of Honeywell's approach for transitioning to the new ISA.

**B. The NRC Should Clarify the Timing of ISA Implementation**

Honeywell believes that the proposed implementation periods in the proposed rule are unrealistically short. The NRC states in the Regulatory Analysis accompanying the proposed rule that “Part 70 fuel cycle facilities are much more complex (due to criticality issues) while a Part 40 fuel cycle facility authorized to possess significant quantities of UF<sub>6</sub> is much simpler (no criticality issues).” The NRC goes on to state that a simple system is estimated to require about one-fourth the effort of a complex system. Contrary to NRC assumptions in the regulatory analysis, the MTW ISA is a complex and multi-faceted undertaking on par with that involved in a Part 70 ISA. While MTW may not have criticality concerns, it does have a number of different chemical process lines and areas that must be evaluated (*e.g.*, Fluorine Building and tank farm). As a result, the level of effort involved is at least as great as that for a Part 70 facility. Moreover, the limited time period provided for in the rule is inadequate to complete the analysis and procure and install new equipment. To the extent that the 6-month, 18-month, and 3-year periods were predicated on NRC assumptions regarding Honeywell’s ability to merely “enhance” its existing ISA or the relative lack of complexity of the MTW ISA, changes to the implementation period are warranted (and necessary).<sup>3</sup> The need to “get it right” rather than simply “get it done” supports a change to the implementation schedule.

In addition, one of the lessons from implementation of ISAs at Part 70 facilities relates to the sequential nature of the submittals. Once Honeywell submits a plan, the NRC Staff will need to review and approve it. However, in order to meet the 18-month deadline, Honeywell will need to be actively working to finalize the ISA, preparing the NRC submittal, and developing compensatory measures.<sup>4</sup> Given the significant cost and resource burden associated with these efforts, extending the implementation period would provide time for the NRC to review the plan and provide feedback to Honeywell and time for Honeywell to incorporate that feedback into its ISA. Honeywell therefore requests that the NRC eliminate the 18-month interim deadline and consolidate the deadlines at 48 months.<sup>5</sup>

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<sup>3</sup> Under Section 70.62, licensees had 4 years (48 months) to complete an ISA, submit an ISA summary to NRC for approval, and correct unacceptable performance deficiencies.

<sup>4</sup> Given the significant burden associated with the proposed rule, Honeywell has been developing the ISA that would be required by the proposed rule for at least two years. Honeywell’s current schedule calls for at least another four years of work. That schedule may need to be extended if the ISA effort identifies any conditions that require substantial changes to site equipment or processes.

<sup>5</sup> Alternatively, recognizing that the 18-month limit in the proposed rule is much shorter than that provided Part 70 facilities, the proposed rule could be revised to explicitly permit licensees to submit an alternate schedule for implementing the proposed rule. A request for an alternate schedule could be based on consideration of the schedule for completing necessary analyses to support the ISA, completing management measures, developing MTW programs and procedures, completing implementation of any necessary enhancements, or hardware procurement and installation. And, consistent with the discussion of compensatory measures and adequate protection below, the alternate schedule could also address the schedule for putting compensatory measures in place.

Item	Part 70 ISA Rule	Part 40 ISA Rule (Proposed)	Honeywell Recommendation
Submit Plan	6 months	6 months	6 months
Complete ISA	4 years	18 months	4 years
Submit ISA Summary	4 years	18 months*	4 years
Complete Implementation	4 years	3 years	4 years

\* - Reporting requirements and compensatory measures in effect

The proposed rule also states, at § 40.82(c)(3)(v), that pending the correction of unacceptable performance deficiencies Honeywell must implement appropriate compensatory measures to ensure “adequate protection.” This conflicts with the basis for the proposed rule, which identifies the benefits of the proposed rule as an increased margin of safety (not minimum levels of safety). The NRC has previously determined that the MTW license currently provides adequate protection. As a result, even if the ISA process resulted in the identification of performance deficiencies, there would still be adequate protection of public health and safety. The proposed approach also conflicts with the current ISA. The NRC should clarify that licensees with an existing ISA (such as Honeywell) should implement a review process for analyzing the results of the new ISA that is consistent with its current ISA. For Honeywell, this means that the site will perform an analysis to determine if a Potentially Inadequate Safety Analysis (“PISA”) exists and take appropriate corrective actions. This approach helps to ensure regulatory stability relative to Honeywell’s current ISA and existing procedures for implementing corrective actions. Accordingly, Honeywell proposes that § 40.82(c)(3)(v) be amended as follows:

Pending the correction of unacceptable performance deficiencies identified during the conduct of the integrated safety analysis, the licensee must implement appropriate compensatory measures to ensure adequate protection, except a licensee that already has an ISA as part of its licensing basis may instead use its existing procedures for addressing new information to analyze the results of the ISA required by § 40.82(c)(1).

**C. The Proposed Rule Does Not Account for Lessons-Learned**

As noted above, the proposed rule does not acknowledge or account for the existing MTW ISA. Nor does the proposed rule take full advantage of several “lessons-learned” during the implementation of the ISA requirements for Part 70 facilities. There is no discussion of any issues that arose during initial implementation of Part 70 ISA or that are currently the subject of discussions between the NRC and Part 70 licensees. Incorporating lessons-learned is a hallmark of the U.S. nuclear industry. Yet, the supplemental information for the rulemaking and the associated guidance documents do not explicitly consider improvements or enhancements to the proposed Part 40 ISA rule based on the Part 70 experience. A discussion of the lessons-learned is especially important here, where the NRC is essentially imposing the new ISA

requirements on a single facility that cannot benchmark itself with other similarly-situated facilities. At a minimum, the NRC should meet with stakeholders and formally convey the key lessons from implementation of the Part 70 ISA requirements.<sup>6</sup>

One specific implementation lesson from Part 70 ISAs relates to reporting requirements. Honeywell recommends that the NRC make clear that the new ISA reporting requirements are not effective until the new ISA is approved (and effective) and the current ISA is fully dispositioned. This will eliminate uncertainty and avoid potentially conflicting reporting requirements during the period of transition from the current ISA to the ISA required under the proposed rule.

#### **D. Honeywell Supports Proposed Backfitting Provisions**

Currently, NRC regulations in 10 C.F.R. Part 40 applicable to uranium hexafluoride conversion facilities do not contain a backfit provision. However, NRC regulations applicable to power reactors, gaseous diffusion plants, Part 70 licensees (fuel fabricators and uranium enrichment facilities), and independent spent fuel storage facilities contain backfitting provisions at 10 C.F.R. §§ 50.109, 76.76, 70.76, and 72.62, respectively.<sup>7</sup> As the Commission has noted, backfit management is of paramount importance to responsible regulatory practice. 50 Fed. Reg. at 38104. The backfit rule as applied to other NRC licensees is intended to provide for a formal, systematic, and disciplined review of new or changed NRC positions before imposing them on licensees. Discipline and management of backfitting ensure that attention and priorities are focused on areas where action is justified to carry out the NRC's regulatory responsibilities.

The addition of a backfit provision to 10 C.F.R. Part 40 is vital to ensure that a formal, systematic, and disciplined review of new, changed, or differing positions that could backfit existing facilities is applied to increase regulatory certainty. A disciplined approach to backfitting of uranium hexafluoride conversion facilities will improve the overall effectiveness and certainty in the regulatory process, thus enhancing the NRC's regulatory mission. The proposed backfit provision in 10 C.F.R. § 40.89 provides for this systematic analysis and review process. For this reason, Honeywell supports the inclusion of a backfit provision in the proposed rule.

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<sup>6</sup> To ensure consistency, the proposed rulemaking should track, as closely as appropriate, the requirements in Part 70. The NEI comments identify specific areas where changes to the proposed rule are needed in this regard.

<sup>7</sup> See "Revision of Backfitting Process for Power Reactors; Final Rule," 53 Fed. Reg. 20603 (June 6, 1988) (10 C.F.R. § 50.109); "Certification of Gaseous Diffusion Plants; Final Rule," 59 Fed. Reg. 48944 (Sept. 23, 1994) (10 C.F.R. § 76.76); "Domestic Licensing of Special Nuclear Material; Possession of a Critical Mass of Special Nuclear Material; Final Rule," 65 Fed. Reg. 56211 (Sept. 18, 2000) (10 C.F.R. § 70.76); "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High Level Radioactive Waste; Final Rule," 53 Fed. Reg. 31651 (Aug. 19, 1988) (10 C.F.R. § 72.62).

**E. The License Renewal Term Should Be Extended For Facilities with an ISA**

Implementation of an ISA for existing conversion facilities should be explicitly linked to a 40-year license renewal period (rather than the current 10-year period). The Commission has approved a Staff recommendation to implement maximum license terms of 40 years — for license renewals and new applications — for facilities required to submit integrated safety analysis summaries under 10 C.F.R. Part 70, Subpart H.<sup>8</sup> The reasoning for the Commission's decision to extend the term of license renewal for Part 70 facilities also supports a 40-year renewal period for the MTW.

The NRC Staff's rationale for increasing the Part 70 license term addresses four main topical areas: (1) decommissioning funding, (2) environmental effects, (3) facility changes and safety basis, and (4) material degradation and aging. Similar considerations would apply to the MTW facility and Part 40 license:

- *Decommissioning Funding:* The triennial update of decommissioning cost estimates provides sufficiently frequent reviews such that NRC does not have to rely on the license renewal review to perform a timely evaluation of the adequacy of financial assurance.
- *Environmental Effects of the Extended License Period:* The National Environmental Policy Act ("NEPA") requires that a Federal agency evaluate the cumulative effects from the combination of individually minor actions. So long as the NRC evaluates the environmental impacts and cumulative effects occurring over the period of the renewed license, NEPA requirements would be satisfied regardless of the duration of the license term.
- *Safety:* Part 70 licensees are required to submit to NRC certain facility changes for approval; annual summaries of facility changes that did not need NRC pre-approval; ISA summaries for approval; and annual updates to the ISA summaries. Before the implementation of Part 70, Subpart H, a large part of license renewal was the review of the safety basis of a licensee's facility. An ISA Summary is more extensive than what was formerly in the safety basis section of a license application. If the NRC imposes requirements equivalent to Part 70, Subpart H, on MTW, the same Staff conclusions supporting an extended license period for Part 70 licensees also support an extended license period for MTW.

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See Staff Requirement Memorandum, "SECY-06-0186 – Increasing Licensing Terms for Certain Fuel Cycle Facilities" (September 26, 2006). With respect to MTW, in his vote sheet on SECY-06-0186, Commission Jaczko noted that the MTW was in timely renewal and specifically stated that a change from 10- to 40-year terms could avoid the need for timely renewal in the future.

- *Material Degradation and Aging:* Unlike reactors, fuel cycle licensees, including the MTW, can halt processes at any time to replace or repair equipment. Thus, material degradation and aging can be dealt with throughout the lifetime of the plant, rather than at outage times as is often the case at reactors. Since licensees will submit annual updates of ISA summaries to NRC for approval, NRC will be aware of changes due to material degradation or aging throughout the lifetime of facilities. Therefore, material degradation and aging should not affect the duration of a license term.

In the SRM for SECY-07-0146, “Regulatory Options for Licensing New Uranium Conversion and Depleted Uranium Deconversion Facilities,” the Commission directed the Staff to “conduct a workshop with stakeholders” regarding a Part 40 rulemaking for conversion facilities. Following that workshop, the NRC Staff developed a “Technical Basis for Amending Title 10 of the Code Federal Regulations Part 40 To Establish Integrated Safety Analysis Requirements for Uranium Conversion and Deconversion Facilities,” dated June 27, 2008 (ADAMS Accession No. ML081760426). On page 4, the NRC Staff remarked that “the ISA is a living document that is continually updated” and that therefore “[t]he practice of allowing a maximum license term of 10 years would be replaced with a license term analogous to that allowed in 10 CFR Part 70, which is a maximum of 40 years.” However, neither SECY-10-0128 nor the proposed rule addresses this issue.

Because the technical and policy justifications for an extended renewal period for Part 70 licensees apply equally to the MTW Part 40 license, Honeywell proposes that the NRC amend proposed 10 C.F.R. § 40.87, *Renewal of licenses*, by adding the following text:

For licensees subject to the regulations in 10 CFR Part 40, Subpart H, the term of the renewal period will be 40 years.

**F. The Regulatory Analysis Overestimates Benefits and Underestimates Cost**

***1. The Regulatory Analysis overestimates the benefits of the proposed rule***

The NRC’s regulatory analysis does not present the case for a safety benefit relative to the existing licensing basis for MTW. First, the NRC states that the current 10 C.F.R. Part 40 does not provide structured risk-informed requirements for evaluating the consequences of facility accidents and does not clearly address which facility changes require a license amendment. However, the regulatory analysis does not acknowledge that Honeywell has implemented an ISA as a condition of its license and that licensee-specific change controls are already in place for MTW. Because the regulatory analysis does not acknowledge the actual conditions in place and instead focuses only on the text in Part 40, the analysis unfairly skews the results towards taking generic action. As the only licensed operating conversion facility, the NRC’s push to improve generic requirements unfairly affects only one facility. The failure to look closely at, or even acknowledge, the existence of an ISA at MTW — the only operating

facility affected by the proposed rule — renders the regulatory analysis presumptively inadequate.

## ***2. The Regulatory Analysis underestimates the costs of the proposed rule***

The NRC's regulatory analysis also presents an unreasonably low estimate of the cost of the proposed rule. The NRC estimates an annual cost of \$119,000 for each licensee (based on a one-time development cost of \$290,000 shared over a 20-year life, plus annual costs of implementation).<sup>9</sup> Honeywell is the only current licensee affected by this rule and therefore is in the best position to provide insights as to the actual cost. Based on current plans to meet the new ISA requirements, Honeywell will spend approximately \$7 million to develop the ISA. This estimate includes the actual costs to date as well as projected costs associated with contractor support for external event analyses (*e.g.*, seismic hazards), process hazards analyses (*e.g.*, tank farm, Fluorine Building), and ISA development activities. In fact, the cost of the hazard analysis for a single process line and the cost of one external hazard analysis each exceeded the NRC's estimate. And, the overall cost estimate does not include the costs associated with plant staff assigned to the ISA development project, hardware procurement, or implementation. Those costs are not insignificant and will add to the overall cost of ISA development and implementation. In addition, the costs for the minimum number of new staff needed to maintain the ISA far exceeds \$119,000 per year.

Based on the above, the NRC should revise the regulatory analysis, taking into account realistic cost data and an updated assessment of the supposed benefits of taking action. This ensures that the public has a fair picture of the scope of the new ISA requirements and an understanding of the resources applied by Honeywell to increase the margin of safety at MTW. Honeywell further believes that the revised regulatory analysis will support the proposed changes to the schedule for preparing and implementing the new ISA requirements.

## **G. PRA Is Not Necessary**

The NRC seeks specific comments on the use of Probabilistic Risk Assessment ("PRA"). 76 Fed. Reg. at 28340. Honeywell agrees with NEI correspondence on this subject. While there may be some (yet to be identified) specific applications where PRA would be beneficial, Honeywell strongly believes that an ISA is the most appropriate tool for analyzing the unique operations of fuel facilities. ISAs have been used to more than adequately demonstrate compliance with applicable NRC requirements.

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<sup>9</sup> As noted above, the Regulatory Analysis seems to assume that the level of effort associated with a conversion facility ISA is one-fourth that associated with a Part 70 facility. The NRC has not articulated a basis for that statement and, based on Honeywell's experience, that estimate is wildly off the mark.

## **H. Guidance Does Not Clarify Applicability to Part 40 Facilities**

The draft guidance associated with the proposed rule, NUREG-1962, does not provide the necessary guidance to Honeywell. The guidance does little more than point to existing guidance that was specifically developed for Part 70 facilities. The primary “difference” identified by the NRC for Part 40 ISAs (relative to Part 70 ISAs) was the elimination of references to criticality. But, this is an overly simplistic view of the difference between the two types of facilities. Part 70 facilities were constructed with the objective of avoiding criticality under a variety of accident conditions and using the more stringent requirements of Part 70. Given the lower radiological hazard at MTW, the same levels of reliability are not necessary to ensure equivalent levels of protection of public health and safety. Yet, the reach of the NRC’s interpretation of the NRC/OSHA Memorandum of Understanding (“MOU”) applicable to Part 40 facilities is arguably more expansive than that applied to Part 70 facilities given the quantities of chemicals present at MTW. For example, the proposed rule identifies certain threshold quantities of chemicals that presumptively trigger consideration in the ISA. *See* 76 Fed. Reg. at 28339 (“The NRC believes that chemical quantities exceeding the quantities listed in Appendix A to 29 CFR 1910.119 at 10 CFR part 40 fuel cycle facilities can, and do, affect the safety of radioactive materials and thus present an increased radiation risk to workers.”). To be useful, the rule and associated guidance should explicitly address the historical, functional, and risk-significance distinctions between conversion facilities and Part 70 facilities. Honeywell believes that additional background information on the differences in the two types of facilities will provide useful context for reviewers evaluating conversion facility ISAs. Such guidance will also assist Honeywell in preparing its ISA.

## **I. Additional Comments**

Proposed Section 40.88 would establish event reporting requirements. The rule sets out two sets of reporting requirements: (1) those that apply after submittal of the ISA summary; and (2) those that apply after the effective date of the rule. The proposed rule identifies three reporting requirements that apply as of the effective date of the proposed rule. The first provision, Section 40.88(a)(1) is an appropriate requirement upon the rule taking effect since the threshold does not involve reference to any ISA-related information. The other two sections, Section 40.88(a)(2) and Section 40.88(b)(4), should not apply until after the ISA summary is submitted. For (a)(2), the licensee will not have established quantitative health effect standards when the rule becomes effective. Similarly, for (b)(4), the licensee will not have identified IROFS when the rule becomes effective. The health effects standards and IROFS are first identified in the ISA summary. Thus, the NRC should remove the reference to (a)(2) and (b)(4) in Section 40.88.

Under the NRC Staff’s rulemaking procedures (*e.g.*, FSME Policy and Procedure 6-10, Rev. 1, May 2009), the NRC aims to issue draft licensing and inspection guidance concurrent with, and to inform public comment on, proposed rules. Similarly, under Management Directive 6.3, the agency’s intention is to release the final version of these documents with publication of a final rule. To date, the NRC has not released any draft inspection procedures related to the proposed rule. The NRC should release the draft inspection procedures prior to finalizing the rule. This is especially important where, as here, there is a

major work effort in a relatively short window of time and where MTW must transition from an existing ISA to a new ISA without any knowledge of NRC expectations in this area.

**J. Supplemental Comments**

Honeywell also offers the following specific comments on the proposed rule.

Supplemental Comment 1: Proposed 10 CFR 40.81(a) states:

Each applicant or licensee must evaluate in the integrated safety analysis performed in accordance with §40.82, its compliance with the performance requirements in paragraphs (b), (c), and (d) of this section.

The NRC should remove section (d) from inclusion. Section (d) of §70.61 refers to criticality safety, which is not a concern for Part 40 licensees. Section 40.81(d) is equivalent to Section 70.61(e), therefore this statement seems to have been included inadvertently. Also, Section 40.81(d) does not contain any performance requirements.

Supplemental Comment 2: Proposed 10 CFR 40.81(b) states:

The risk of each credible high-consequence event must be limited. Engineered controls, administrative controls, or both, subject to § 40.83(b)(1), must be applied to the extent needed to reduce the likelihood of occurrence of the event so that, upon implementation of such controls, the event is highly unlikely or its consequences are less severe than those in paragraphs (b)(1) through (b)(4) of this section.

The NRC should remove the phrase “subject to § 40.83(b)(1)” from this section. This statement is not contained in Section 70.61(b) and therefore should not be included here. Since Section 40.83(b)(1) is already included in the proposed rule, there is no benefit for it being included in this section.

Supplemental Comment 3: Proposed 10 CFR 40.81(d) states:

Each engineered or administrative control or control system necessary to comply with paragraphs (b), (c), or (d) of this section must be designated as an item relied on for safety.

The NRC should remove section (d) from inclusion. Again, this provision is an inadvertent carry-over from Section 70.61(d) and does not have any applicability to Section 40.81.

Supplemental Comment 4: Proposed 10 CFR 40.82(c)(1)(iii) should state: “facility hazards that could affect the safety of licensed materials and thus present an increased radiological risk.” This change will align the proposed rule working with the language in Part 70.

Supplemental Comment 5: Proposed 10 CFR 40.82(c)(3) should be changed to the proposed phrasing provided in Section A above.

Supplemental Comment 6: Section 40.83(b) specifies the application of defense-in-depth principles but fails to include the clarifying footnote provided in Section 70.64. This footnote should be included.

Supplemental Comment 7: The NRC should remove section (d) from proposed 10 CFR 40.85(c)(2).

Supplemental Comment 8: Proposed 10 CFR 40.86(c)(4) states:

The licensee may make changes to the site, structures, processes, systems, equipment, components, computer programs, and activities of personnel, without prior Commission approval if the change does not alter any item relied on for safety, listed in the integrated safety analysis summary, that is the sole item preventing or mitigating an accident sequence that exceeds the performance requirements of § 40.81.

Currently, this statement is directly involved in the design feature/bounding assumption discussions. This statement is overly prescriptive and does not provide the intended (and necessary) flexibility. In order to improve efficiency, Honeywell recommends that proposed Section 40.86(c)(4) be revised as follows:

The licensee may make changes to the site, structures, processes, systems, equipment, components, computer programs, and activities of personnel, without prior Commission approval if the change does not alter any safety aspect of an item relied on for safety, listed in the integrated safety analysis summary, that is the sole item preventing or mitigating an accident sequence that exceeds the performance requirements of § 40.81.

Supplemental Comment 9: Proposed Section 40.86(e) should clearly define the word “promptly.”

Supplemental Comment 10: Proposed Section 40.88 states reporting requirements must comply with paragraphs (a)(1), (a)(2), and (b)(4) after the effective date of final rule. The reference to paragraph (a)(2) should be deleted. This appears to be a copy from Part 70 without any corresponding change to align the rule with Part 40 requirements.

Supplemental Comment 11: Proposed Section 40.88(b)(4) should clearly define the meaning of “may have affected the intended safety function or availability or reliability of one or more items relied on for safety” in the context of natural phenomenon or other external events. The wording is unclear since any such event could potentially affect one or more IROFS depending on the potential for the growth of the fire or propagation of the external event. We suggest deleting the words “may have affected” in proposed Section 40.88(b)(4). This change would eliminate the subjectivity of the proposed rule and permit licensees, who have the best information regarding

the event and the duty of compliance, to make the determination regarding the need to report an event.

## Rulemaking Comments

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**From:** Smith, Nancy [Nancy.Smith@Honeywell.com]  
**Sent:** Wednesday, September 07, 2011 11:33 AM  
**To:** Rulemaking Comments  
**Cc:** Greeno, Michael  
**Subject:** Comments on Part 40 ISA Rulemaking  
**Attachments:** Honeywell Comments on Part 40 ISA Rulemaking.PDF

Attached are Honeywell's Comments on Part 40 ISA Rulemaking.

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