

September 18, 2008

The Honorable Joseph I. Lieberman
Chairman, Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC) and in accordance with 31 U.S.C. 720, I am providing the NRC's response to the recommendations made by the U.S. Government Accountability Office (GAO) in its June 2008 report entitled, "Nuclear Security: NRC and DHS Need to Take Additional Steps to Better Track and Detect Radioactive Materials" GAO-08-598 (GAO-08-0839SU). This report documents the NRC's implementation of the GAO's 2003 recommendations and its ability to monitor and track radioactive sealed sources.

The GAO report noted that NRC has implemented three of the six recommendations from the 2003 report on security of radioactive sources. Specifically, the GAO report stated that NRC, in concert with the 35 Agreement States, had (1) identified the sealed radioactive sources of greatest concern, (2) enhanced requirements to secure radioactive sources, and (3) ensured the security requirements are implemented.

The GAO report went on to state that NRC had made limited progress toward implementing the remaining three recommendations. They recommend that the NRC modify its process for issuing licenses to ensure that radioactive materials cannot be purchased by individuals with no legitimate need for them, (2) determine how to effectively mitigate the potential psychological effects of malicious use of such materials, and (3) examine whether certain radioactive sources should be subject to more stringent regulations. Although the GAO report acknowledged that the NRC has improved its ability to monitor and track radioactive materials, it also expressed concerns regarding delays in the development and implementation of the NRC's more comprehensive system for tracking radioactive materials, whether system delivery dates will again be extended, whether the NRC is firmly committed to delivering these systems, and the recent decision to develop a third system.

The GAO report also provided the following specific recommendations for executive action: (1) take steps to ensure that priority attention is given to meeting the current January 2009 and summer 2010 target dates for launching the National Source Tracking System (NSTS), Web-Based Licensing (WBL) system, and new license verification system, respectively; and (2) complete the steps needed to include all potentially dangerous radioactive sources (Category 3 and the larger Category 4 sources in addition to Categories 1 and 2) in the NSTS as quickly as is reasonably possible.

With regard to the GAO report and its recommendations, NRC and its Federal and Agreement State partners are working diligently towards these goals, and substantial accomplishments have been achieved. The status of the applicable initiatives is contained in the enclosure to this letter.

If you have any questions or comments, please contact me.

Sincerely,

/RA/

Dale E. Klein

Enclosure:
As stated

cc: Senator Susan M. Collins

Identical letter sent to:

The Honorable Joseph I. Lieberman
Chairman, Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510
cc: Senator Susan M. Collins

The Honorable Henry A. Waxman
Chairman, Committee on Oversight
and Government Reform
United States House of Representatives
Washington, D.C. 20515
cc: Representative Tom Davis

The Honorable David R. Obey
Chairman, Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Jerry Lewis

The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Thad Cochran

The Honorable Gene L. Dodaro
Acting Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548
cc: Gene Aloise

Detailed Status of NRC Initiatives in Response to GAO Recommendations

In January 2008, NRC modified its licensing process to require pre-licensing site visits for all unknown applicants before issuing new licenses. The new procedure was tested during a 3-month pilot project with the Agreement States. The pilot period ended in May 2008, and comments were accepted through June 2008. The pre-licensing site visit procedure is being revised based on comments received from licensing reviewers in the NRC Regions and the Agreement States as a result of the pilot project. The formal guidance will be fully implemented by September 2009. These actions are responsive to the GAO's recommendation on ensuring that license applicants have a legitimate need to possess and use radioactive materials.

NRC is working with its Federal and Agreement State partners to address the issue of mitigation of potential psychological effects of a radioactive dispersal device (RDD) through the Radiation Source Protection and Security Task Force's (Task Force) subgroup on public education, which is chaired by the U.S. Department of Homeland Security.

The Task Force's December 2007 Draft Public Education Action Plan noted that proactively educating the public about radiation in general and the specific radiation risks associated with RDDs may reduce the public's anxiety and adverse psychological impacts in the event of an RDD attack. This plan was presented to the Task Force on May 15, 2008. Additionally, the Task Force has reactivated the radiation sources subgroup to reevaluate the list of radioactive sources that warrant enhanced security and protection. Resolution of any new source listing would benefit from an international consensus to avoid unintended consequences, both domestically and internationally. The subgroup's proposed evaluation will take economic, physical, psychological, and social disruption consequences into consideration. The results will be presented to the Task Force by November 2008. The combined work planned by these two subgroups will address mitigation of psychological impacts of an RDD and address whether enhanced security measures may be warranted for other radioactive material.

With regard to whether certain radioactive sources should be subject to more stringent regulations, in September 2007, NRC formed a rulemaking working group that included Agreement State representatives to consider which sources that are currently used under the general licensing provisions should be used under a specific license. The working group has drafted a proposed rule to limit the quantity of radioactive material allowed in a generally licensed device. The draft proposed rule is currently being reviewed by NRC and the Agreement States and is expected to be provided to the Commission this fall. The final rule is projected to be issued during the fall of 2009.

With regard to the GAO's recommendation in their report GAO-08-598 that the NRC take steps to ensure that priority attention is given to meeting the current January 2009 and summer 2010 target dates for launching the National Source Tracking System (NSTS) and Web-Based Licensing (WBL) systems, the Commission has placed a high priority on the deployment of these systems and for implementing a license verification capability. Senior managers from all involved offices meet weekly on these projects to ensure that appropriate focus is maintained, that challenges to success are systematically identified and addressed, that progress is properly communicated throughout the organization, and that tasks and resources are coordinated and prioritized.

Enclosure

In accordance with Office of Management and Budget guidance, NRC has employed sound system development practices. NRC has (1) assigned professionally certified project managers to the NSTS, WBL, and license verification projects, (2) set reasonable performance baselines and integrated project schedules for each of these projects, (3) employed earned value management on the NSTS project, and (4) plans to employ earned value management on the WBL and license verification projects once development contracts are in place. The NSTS is scheduled for deployment in January 2009 and version 2, which will enhance the system's functionality, is scheduled for release in 2010,.

In late August 2008, the NRC encountered an unexpected delay in placing a contract for WBL development. The sole source Request for Proposal initiated in June 2008 has resulted in a proposal that does not represent a best value to the government. The NRC is actively pursuing and evaluating WBL alternative solutions. The NRC's goal is to have an initial operational capability of WBL deployed 24-months following alternative selection and award.

While the GAO and others have expressed concern about the delays in the implementation of the WBL system, the more compelling issue is the ability to verify authenticity of materials licensees to ensure that radioactive materials can be obtained only in authorized amounts by legitimate users. The NRC is pursuing a strategy, independent of WBL development, to implement interim measures to conduct verification of materials licensees on a national level, in parallel with developing a permanent information technology-based verification system.

The GAO also recommended that NRC complete the steps needed to include all potentially dangerous radioactive sources in the NSTS as quickly as is reasonably possible. In that regard, NRC issued a proposed rule for public comment on April 11, 2008. The proposed rule would expand the NSTS beyond Category 2 sources to also include Category 3 and 1/10th of the Category 3 threshold values. The NRC has received numerous stakeholder comments expressing a range of views on expanding the scope of the NSTS. One commenter, the Metals Industry Recycling Coalition, supports expansion as proposed in the draft rule, while several others (including the Illinois Emergency Management Agency and the Nuclear Sector Coordinating Council--Radioisotopes) oppose expanding the NSTS scope beyond Category 2. However, a clear majority of stakeholders (including the Organization of Agreement States, the Conference of Radiation Control Program Directors, and the Nuclear Energy Institute) oppose expansion of the NSTS beyond Category 2 at this time. The common themes expressed by this last group of commenters were that the most risk-significant sources, Categories 1 and 2, will be adequately accounted for in the first deployment of NSTS, that the expansion would be resource intensive, and that operating experience and lessons learned should be evaluated prior to expanding the scope to low-risk radioactive sources.

The staff will take these comments into consideration as it prepares its recommendation to the Commission, which is due in January 2009. Ultimately, the Commission will make the final policy decision.