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Duran-Hernandez, Doris

Subject: FW: Comments on Category 3 Source Security and Accountability
Attachments: Cat 3 Security and Accountability Comments.pdf

From: Wu, Irene
Sent: Friday, March 03, 2017 4:33 PM
To: Duran-Hernandez, Doris <Doris.Duran-Hernandez@nrc.gov>
Cc: Davis, Gina.<Gina.Davis@nrc.gov>
Subject: FW: Comments on Category 3 Source Security and Accountability

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RULES AND DIRECTIVES SECTION

Comments received on Docket ID NRC-2016-0276

From: David.Walter@adph.state.al.us [mailto:David.Walter@adph.state.al.us]
Sent: Friday, March 03, 2017 9:27 AM
To: RulemakingComments Resource <RulemakingComments.Resource@nrc.gov>
Cc: Wu, Irene <Irene.Wu@nrc.gov>; oasvotingmembers@agreementstates.org; OAS Executive Board <oasboard@agreementstates.org>
Subject: [External_Sender] Comments on Category 3 Source Security and Accountability

Ms. Wu,

Attached are the Alabama comments on Docket ID NRC-2016-0276. Please contact me if you have any questions.

David Walter, Director
Alabama Office of Radiation Control
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Visit our web site at www.adph.org/radiation

SUNSI Review Complete
Template = ADM - 013
E-RIDS= ADM-03
Add= I. Wu (Iwys)



STATE OF ALABAMA DEPARTMENT OF
PUBLIC HEALTH

Thomas M. Miller, M.D.
State Health Officer

March 2, 2017

Cindy Bladey, Office of Administration
Mail Stop: OWFN-12-H08
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Category 3 Source Security and Accountability
Docket ID NRC-2016-0276

Dear Ms. Bladey:

On behalf of the Alabama Office of Radiation Control I offer the following comments in regard to the above referenced document. In the document there are a number of recommendations, comments, and questions. Before I attempt to answer any of the questions, I would like to offer the following general comments.

I believe we are asking the wrong questions. The result of the GAO audit and investigation was that the GAO was able to obtain a license under false pretenses and purchase a source that was authorized by that license. In the latest investigation, the fact that they were able to obtain the license at all indicated a breakdown in the existing policies and procedures by one individual working for the issuing authority. But, even with that breakdown, the material that could be acquired as authorized on the license would not have been a "quantity of concern." **Only after the licensee illegally altered the official license were they able to request enough radioactive material to be considered a "quantity of concern."** This is the exact same thing that occurred during an earlier GAO investigation, in that even though they were able to acquire a radioactive material license under false pretenses, in order to be able to attempt to acquire radioactive material in "quantities of concern" they had to alter the license, or create a falsified document. So what is the root cause of these incidents? It certainly is not that the current regulatory requirements are inadequate. It seems to me that the problem lies in the ability of a licensee with nefarious intent being able to perform illegal alterations of the document so that they could attempt to acquire radioactive material for which they are not authorized. Therefore,

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would not a more prudent question be “How do we make our licenses less susceptible to alteration or falsification?” If a licensee of ours were to alter a current document in an attempt to acquire radioactive materials for which they are not authorized, our Agency would most certainly suspend the license and level harsh civil penalties against them. If we did not, then we are not upholding our responsibility to properly regulate the possession and use of radioactive material.

Many other documents have implemented anti-forging techniques, so examples are readily available. I recommend that the working group first address the root cause of the problem by considering recommendations that will make licenses more difficult to alter or forge. I also urge the working group to make clear determinations of what level of protection is appropriate for each category of byproduct material activity.

The next question should be “What is actually broken that requires regulatory change to address it?” What data do we have that indicates that current policy and regulation, when used as intended, is inadequate? I agree with Chairman Svinicky that current regulations for transfers of radioactive sources are adequate, and there is no need to include Category 3 sources in the same requirements as that required for Category 1 and 2 sources.

We need to use common sense in our regulation of radioactive material. For decades radiophobia has driven public and congressional opinion, and we have allowed it to do so. The proper amount of respect for radiation is certainly appropriate; being more afraid of any radioactive material than to a toxic chemical that can be bought at your local hardware store is unacceptable. The NRC and Agreement States should take more proactive measures to allay unnecessary radiophobia. NRC and Agreement States have the expertise in determining what constitutes an appropriate level of protection and should take measures to assure that protection is in place, but we should not have to take inordinate and unnecessary measures beyond that.

General Questions Related to License Verification

1. Should the current methods for verification of licenses prior to transferring Category 3 quantities of radioactive material listed in 10 CFR 30.41(d)(1)-(5), 10 CFR 40.51(d)(1)-(5), and 10 CFR 70.42(d)(1)-(5) be changed such that only the methods prescribed in 10 CFR 37.71 are allowed?

No. The issue is that a licensee illegally altered a legal document which limits total licensed activity to Category 3 quantities of radioactive material in a manner that might have allowed the acquisition of Category 2 quantities of radioactive material. That does not mean that Category 3

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quantities of radioactive material should be subject to the same physical protection as Category 2 quantities of radioactive material.

2. Would there be an increase in safety and/or security if the regulations were changed to only allow license verification through the NRC's License Verification System (LVS) or the transferee's license issuing authority for transfers of Category 3 quantities of radioactive material? If so, how much of an increase would there be?

Even if an incremental increase in public safety were to be realized if the regulations were changed as stated in the question, how could we measure it? I question whether there would be a measurable increase in the security of these materials if such requirements were implemented. In my opinion, current regulations provide a reasonable assurance of public health and safety. There is no amount of regulation that will provide an absolute assurance of public health and safety. If regulators follow the current guides and requirements in issuing licenses, the current verification system appears quite adequate.

3. If the NRC changed the regulations to limit license verification only through the LVS or the transferee's license issuing authority for transfers of Category 3 quantities of radioactive material, should licensees transferring Category 3 quantities to manufacturers and distributors be exempted from the limitation?

I am not convinced that such a move will result in a measurable increase in public safety.

General Questions Related to the NSTS

1. Should Category 3 sources be included in the NSTS? Please provide a rationale for your answer.

I agree with Chairman Svinicky that current regulations for transfers of radioactive sources are adequate, and there is no need to include Category 3 sources in the same requirements as that required for Category 1 and 2 sources. There is no data that indicates that the current system is inadequate.

2. If Category 3 sources are included in the NSTS, should the NRC consider imposing the same reporting requirements currently required for Category 1 and 2 sources (10 CFR 20.2207(f))?

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First, I do not believe there is any evidence to support including Category 3 sources in the NSTS. However, if the NRC is able to provide data that supports such a move, I would expect a lesser level of reporting requirements than for Category 1 and 2 sources.

3. Should the NRC consider alternatives to the current NSTS reporting requirements for Category 1 and 2 sources to increase the immediacy of information availability, such as requiring the source transfers to be reported prior to, or on the same day as, the source shipment date?

No. There is no indication that the current requirements are inadequate.

4. Would there be an increase in safety and/or security if the regulations were changed to include Category 3 sources in the NSTS? If so, how much of an increase would there be?

I do not believe there would be a measurable increase in safety or security.

Specific Questions for Agreement States Related to License Verification

1. Approximately how many licenses do you authorize for Category 1, 2, and 3 quantities of radioactive material?

60

2. If license verification through the LVS or the transferee's license issuing authority is required for transfers involving Category 3 quantities of radioactive material, would you encourage the use of LVS among your licensees, or plan for the additional burden imposed by the manual license verification process?

We would encourage licensees to use the LVS.

3. If license verification through the LVS or the transferee's license issuing authority is required for transfers involving Category 3 quantities of radioactive material, would you consider adopting the Web-Based Licensing System (WBL) to ensure that the most up-to-date licenses are available for license verification using the LVS or voluntarily provide your Category 3 licenses (similar to what some Agreement States do now for Category 1 and 2 licenses) to be included in WBL, or would you do neither and prefer licensees to use the manual license verification process?

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No, we are producing our own on line database system that meets our total needs better than the WBL.

4. What would the impact in time and resources be on your program to handle the additional regulatory oversight needed for Category 3 licensees if license verification through the LVS or the transferee's license issuing authority was required for transfers involving Category 3 quantities of radioactive material?

Unknown.

Specific Question for Agreement States Related to the NSTS

1. The NRC currently administers the annual inventory reconciliation process on behalf of the Agreement States. This process involves providing hard copy inventories to every licensee that possesses nationally tracked sources at the end of the year, processing corrections to inventories, and processing confirmations of completion of the reconciliation into the NSTS. The process involves a significant amount of staff time and resources from November to February. If the Agreement States were to adopt administration of the annual inventory reconciliation process and if Category 3 sources were included in the NSTS, what would the additional regulatory burden be on the Agreement States to perform the annual inventory reconciliation for Category 1, 2, and 3 sources?

It is my opinion that the above statement is not entirely correct, in that I do not perceive that the NRC administers the annual inventory reconciliation process on behalf of the Agreement States. Rather, it is my opinion that the Agreement States have adopted compatible rules that facilitate the NRC's annual inventory reconciliation process. The annual inventory reconciliation is a requirement for licensees, not the Agreement State. Were the NRC to abandon the current process, it is most likely that we would enforce that requirement during regular inspections, resulting in minimal additional regulatory burden. ~

Other Questions

1. Should physical security requirements for Category 1 and 2 quantities of radioactive material be expanded to include Category 3 quantities?

No, there is no documented evidence that supports such a move.

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2. Some Category 3 sources are covered under a general license (10 CFR 31.5). Should the NRC consider establishing maximum quantities in general licensed devices, thereby reserving authorization to possess Category 1, 2, and 3 quantities of radioactive material to specific licensees?

I continue to believe the GL program should be abolished and sources should be either specifically licensed or exempt. However, if the NRC continues the GL program, it would seem prudent that any Category 3 source should be specifically licensed.

Thank you for the chance to submit comments on this series of topics. If you or the Working Group has any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Karl D. Walter". The signature is written in a cursive style with a large, looping initial "K".

Karl D. Walter, Director
Office of Radiation Control

KDW/mwf