



Conference of Radiation Control Program Directors, Inc.

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September 22, 2022

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Kevin Williams, Director
Division of Materials Safety, Security, State, and Tribal Programs
Office of Nuclear Material Safety and Safeguards
US Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Williams:

The Conference of Radiation Control Program Director's would like to take this opportunity to express our views on the most recent Government Accountability Office (GAO) sting operation report and the Nuclear Regulatory Commission's proposed approach to addressing the recommendations in the report.

In the GAO July 2022 document, "Preventing a Dirty Bomb: Vulnerabilities Persist in NRC's Controls for Purchase of High-Risk Radioactive Materials", there were two recommendations made to the NRC for Executive Action by the Chairman of the NRC. The first stated that the NRC should immediately require that vendors verify category 3 licenses with the appropriate regulatory authority. The second recommendation stated that NRC should add security features to its licensing process to improve its integrity and make it less vulnerable to altering or forging licenses.

For both recommendations, the NRC agreed with the recommended actions and intends to include steps to eliminate the vulnerability through the rulemaking process. The NRC argues that there are no immediate public health risk concerns and that the current rulemaking timeframe is sufficient to address the GAO concerns. The applicable rule is scheduled to be adopted by October of 2023, and the NRC usually allows three years for Agreement States to adopt and implement new regulations through their respective state rulemaking processes. As a result, the vulnerabilities identified and publicly reported by the GAO could remain unaddressed in some jurisdictions for over four years. The CRCPD believes that this is unacceptable, and the NRC should immediately seek to implement interim compensatory measures to prevent future occurrences and the potential for inappropriate uses of the licensing documents or illicit acquisition of radioactive materials.

All CRCPD member states take the potential impacts of a radiological or nuclear incident very seriously. Most have invested a considerable amount of time and resources to prepare, plan and exercise for a response to radiological or nuclear incidents (i.e. dirty bomb, improvised nuclear device, radiological exposure device). CRCPD believes that the GAO is correct in its assessment of the significant disruption a dirty bomb would have,

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both economically and socially, on the populations of any impacted state. Preventing illicit acquisition of radioactive materials is an important part of ensuring that radioactive materials are not used to create a radiological incident. While such an occurrence is unlikely, taking immediate actions to implement procedures to address the vulnerability identified relative to the licensing verification of category 3 radioactive materials seems reasonable and prudent. CRCPD believes that socioeconomic factors should be considered in conjunction with radiological exposure risks when evaluating potential risks from a dirty bomb or a radiological exposure device. The socioeconomic costs will be significant, even if there are no public health impacts, and the states will be held accountable for the response to such emergencies. The CRCPD believes prevention is a more cost-effective approach.

Therefore, CRCPD is requesting that the NRC consider immediately implementable action as suggested by the GAO. NRC should take immediate steps to begin requiring license verification via either the License Verification System (LVS) or directly with the regulator before the transfer of category 3 radioactive materials. We understand that the NRC intends to include this requirement as part of the rulemaking process. However, the NRC does have the authority to take immediate action and mandate additional requirements prior to finalization of the rule. We believe that starting this process now rather than waiting over four years for all states to implement the updated rule would go a long way toward preventing falsification of licenses and minimizing the threat of materials being obtained for nefarious purposes.

Further, after review of current rules, we did not find any substantive enforcement authority to address potential offenses when vendors fail to obtain license verification before the transfer of radioactive materials. The NRC should amend 10 CFR 30.41 as part of the pending rulemaking. Vendors that do not strictly adhere to license verification requirements and supply radioactive materials to illicit entities should be subject to strict enforcement, including penalties and fines.

Thank you for your attention to this important matter. If you would like to discuss this in more detail, please feel free to contact me directly at Patrick.mulligan@dep.nj.gov or (609) 984-5520.

Sincerely,



Patrick Mulligan, Chair
CRCPD