



March 10, 2017

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

Attention: Docket ID No. NRC-2016-0276

Re: Category 3 Source Security and Accountability; Public Meetings and Request for Comment

Dear Ms. Bladey:

Pennsylvania appreciates the opportunity to comment on the *Federal Register* notice addressing Category 3 Source Security and Accountability. The importance of resolving potential security issues when dealing with radioactive materials at all levels of activities needs to be discussed and vetted thoroughly.

NRC's proposal to require a higher degree of oversight for Category 3 sources in order to prevent a breakdown of current requirements may be necessary only because there was a failure with the current system. The Pennsylvania Department of Environmental Protection (DEP) wishes to convey that, in our opinion, appropriate requirements for proper security and accountability are already in place. Nevertheless, due to the Government Accountability Office (GAO) investigation, NRC is proposing two additional requirements for Category 3 sources.

The first requirement necessitates entering Category 3 source licensees into the National Source Tracking System (NSTS) and, second, to then track these licensees within the License Verification System.

DEP believes that the first requirement would not necessarily resolve the problem that occurred with the issuance of a license to an unauthorized entity. Specifically, requiring the input of Category 3 sources into the NSTS would not have prevented the GAO from obtaining a license illegally. In addition, including Category 3 sources in NSTS would double, or possibly triple, the number of trackable sources. Further, tracking sources as low as Category 3 activities would necessitate quarterly updates rather than annual reconciliations to ensure effectiveness. Quarterly updates would be extremely taxing on licensees as well as regulators.

The more optimal response to resolve this liability may be the suggestion to input Category 3 sources into the License Verification System. It should be noted that this would be added work for regulators, especially Agreement States that do not utilize Web-based Licensing, such as Pennsylvania. Nevertheless, it is achievable.

Secretary

Another suggestion that may help to resolve this accountability issue is to require all Radiation Safety Officers for Category 3 licenses to be screened for trustworthy and reliability criteria, similar to Part 37 licensees. This recommended requirement would provide an additional check on the validity of a license applicant.

The NRC should also strongly consider eliminating certificate-level General Licenses (GL) and instead treat these GLs similar to specific licenses. This would eliminate what has been the largest liability NRC and Agreement States encounter. It is DEP's opinion that the vast majority of these certificate-level GLs need a higher degree of oversight by the regulator.

DEP's response to the questions NRC listed in the Federal Registry is provided below:

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

Pennsylvania has a total of 628 radioactive material licenses and tabulates all Categories 1 and 2 together as Part 37 licensees, formally known as Increased Control licensees. Separating them reveals 32 Category 1 licensees and 31 Category 2 licensees. The remaining (Categories 3, 4, and 5) are treated as specific licensees with Category 3 totaling 91 licensees. As for GLs, there are 179 certificate-level licensees ranging from 6 mCi levels to 4,000 mCi. Pennsylvania has 3 curie and 4 curie americium-241 sources requiring only a GL certificate.

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?*

Utilizing the LVS would be a burden for Pennsylvania because it would require entering new and amended Category 3 licenses into the system. However, because we anticipate that verification through the LVS or the transferee's license issuing authority will be a requirement for transfers involving Category 3, we will plan for it and encourage the use of LVS among our licensees.

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?*

DEP currently employs its custom eFACTS database, and this department-wide permitting database must be used for all radioactive materials licensing actions. For this reason, the NRC's WBL would be duplicative and so would not be a consideration for Pennsylvania.

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?*

DEP believes the NRC regulations, which Pennsylvania incorporated by reference, are currently sufficient for Category 3 licensees. Conversely, it is strongly suggested to eliminate GLs and convert them to specific licenses. This would not have a major impact on Pennsylvania's program and would provide a higher degree of oversight, while eliminating a potential liability.

Specific questions for Agreement States relating to the NSTS:

*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?*

As previously noted, inputting Category 3 sources into NSTS would be a tremendous burden for licensees and Agreement States. For Pennsylvania, it would require one full-time employee to perform this oversight. Adding Category 3 sources to NSTS would also mean increasing the number of entries from 63 to approximately 220 licenses. In addition, annual inputs would need to be increased to quarterly to be effective.

In conclusion, DEP wishes to reaffirm that the current regulations are sufficient for preventing the unauthorized issuance of a materials license. Nevertheless, if regulatory amendments are necessary, DEP recommends the consideration of the following three additional requirements:

1. Include Category 3 licenses into the License Verification System.
2. Require trustworthy and reliable screening for Category 3 Radiation Safety Officers.
3. Require all General Licenses be converted to Specific Licenses.

Should you have any questions or need additional information, please contact David J. Allard, CHP, Director, Bureau of Radiation Protection, by e-mail at [djallard@pa.gov](mailto:djallard@pa.gov) or by telephone at 717.787.2480.

Sincerely,



Patrick McDonnell  
Acting Secretary