



United States Senate
WASHINGTON, DC 20510-0504
<http://feinstein.senate.gov>

August 22, 2016

The Honorable Stephen G. Burns
Chairman, Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chairman Burns:

I was deeply alarmed by a recent *Washington Post* article that described how easy it can be for a person to obtain a license to acquire radioactive materials that could be used to make “dirty bombs.”

In this day and age, when our government is so focused on preventing a catastrophic attack on our soil, the Nuclear Regulatory Commission must do more to make sure radioactive material does not fall into the wrong hands.

As you may have seen, the article revealed how a potential terrorist could easily obtain a license to acquire radiological materials to carry out an attack in the United States. The article found that “[the Government Accountability Office] discovered that getting a license and then ordering enough materials to make a dirty bomb was strikingly simple in one of their three tries ... [t]he team’s members could have been anyone — a terrorist outfit, emissaries of a rival government, domestic extremists. In fact, they were undercover bureaucrats with the investigative arm of Congress.”

The investigators from the Government Accountability Office (GAO) has in fact issued a series of reports since 2007 on this topic. GAO’s reports raise serious questions about the security of radiological materials licensed by NRC.

- In 2007, for example, the GAO was able to obtain a genuine NRC license for a shell company it created.¹ GAO then altered the license and used it to obtain commitments to purchase a dangerous quantity of radioactive material.
- Later, in 2012, GAO found serious shortcomings in the security of radiological materials licensed for medical purposes.²
- Then in 2014, GAO found lapses in the security of radiological materials licensed for various industrial uses.³ Significantly, GAO's 2014 report found that NRC's security controls permit licensees allowed staff indicted or convicted for a violent crime to have access to high-risk radiological materials.

GAO issued its most recent report in this series last month,⁴ and its results are shocking.

Similar to its 2007 report, GAO set up shell companies in different states and applied for a radioactive materials license for each company. In one case, a shell GAO company was given a license by an inspector, even though the inspector saw the shell company's location and found it completely vacant and not representative of an ongoing legitimate business. Nonetheless, this inspector handed a license authorizing the shell company – which was represented by an undercover GAO investigator – to purchase sealed radioactive material.

Once this shell company had its license, GAO investigators were able to use the license on the shell company's behalf to obtain a dangerous quantity of a radioactive material. GAO investigators were even able to alter the license and then order even more radioactive material from a different vendor. The GAO report states that the material

¹ *Nuclear Security: Actions Taken by NRC to Strengthen Its Licensing Process for Sealed Radioactive Sources Are Not Effective*, GAO-07-1038T.

² *Nuclear Nonproliferation: Additional Actions Needed to Improve Security of Radiological Sources at U.S. Medical Facilities*, GAO-12-925.

³ *Nuclear Nonproliferation: Additional Actions Needed to Increase the Security of U.S. Industrial Radiological Sources*, GAO-14-293.

⁴ *Nuclear Security: NRC Has Enhanced the Controls of Dangerous Radioactive Materials, but Vulnerabilities Remain*, GAO-16-330.

acquired “is 1 of 20 radionuclides that NRC previously determined are attractive for use in an RDD (also known as a dirty bomb).”

These reports are deeply troubling, and the NRC must do more to make sure this material does not fall into the wrong hands. Please respond by September 22 with the steps the NRC will take to secure these licenses, and provide answers to the following questions.

1. What actions does NRC intend to take to strengthen its radiological materials licensing program so that only those with legitimate needs can obtain these dangerous materials?
2. The NRC made improvements to its radiological materials licensing program since the 2007 GAO report. Yet, in 2016, the GAO was able to obtain commitments to acquire a significantly more dangerous quantity of a radiological material attractive for someone seeking to build a dirty bomb. How did this happen?
3. Does NRC have the resources it needs to sufficiently strengthen its licensing program so that fake businesses cannot obtain genuine licenses? If not, since NRC is largely funded from the fees it charges, does NRC need to increase license fees to conduct sufficient oversight of its radiological materials licensing program?
4. The NRC continues to use paper licenses to authorize the purchase and possession of dangerous radioactive materials. As the GAO work showed, paper licenses can be easily altered or forged. What does NRC intend to do to address the weaknesses and limitations associated with the use of paper licenses?
5. NRC has an ongoing peer-review inspection program designed to assure that NRC regional offices and agreement states are performing its radiological materials licensing properly. This program is called the Integrated Materials Performance Evaluation Program (IMPEP). Given that this program did not identify the poor performance that led to the GAO shell company getting a genuine license, how does NRC plan to strengthen the IMPEP program?
6. In 2013, NRC adopted an updated radiological source security regulation (10 CFR Part 37 – Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material). Since that time, has NRC or any other entity performed a wholesale review of the effectiveness of this regulation? If not, how will NRC

determine whether these regulations are actually protective of radioactive materials used in healthcare, industrial, and other applications?

7. The GAO 2016 report made three recommendations. Does the NRC intend to implement all of the GAO's recommendations, and when will it do so? If any are not going to be implemented, please provide your rationale for not moving forward to make these improvements.
8. Has NRC implemented all of the recommendations from GAO's 2007, 2012, and 2014 reports? Please provide a status of each of these recommendations.

Preventing terrorists from obtaining nuclear or radiological materials to carry out an attack in the United States is a top national priority. As a nation, we have spent billions of dollars deploying technology and highly trained staff to our borders, seaports, and key transportation centers around the world to prevent the smuggling of these dangerous materials. It is vital that NRC do everything it can to prevent terrorists from acquiring these materials *within* the United States.

I would appreciate a timely response to these important matters by September 22, as well as documentation of the schedule of corrective actions. Please do not hesitate to contact me or have your staff reach out to my staff to discuss any questions you may have. I am available to speak further with you about this, and look forward to hearing from you.

Sincerely,



Dianne Feinstein
United States Senator

DF/ph/th/ch