Arkansas Department of Health and Human Services

PR 20 and 32
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Division of Health

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Merri Horn
U.S. Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguards
11555 Rockville Pike
Rockville, Maryland 20852

Dear Ms. Horn:

The Arkansas Radioactive Materials Program is submitting the following comments regarding the proposed basis change for the National Source Tracking System (NSTS) rulemaking for Category 1 and Category 2 sources. The U.S. Nuclear Regulatory Commission (NRC) is proposing that this rule be issued under public health and safety authority instead of the originally proposed common defense and security authority.

The Arkansas Department of Health and Human Services supports the issuance of the NSTS rulemaking under public health and safety and the Category "B" level of compatibility. The following is the rationale for support of this change:

- The NSTS does not necessarily increase source security but it does increase source accountability. Accountability is a function under health and safety.

- The Agreement States have demonstrated the ability to work cooperatively with the NRC on national security initiatives under public health and safety with the issuance of Increased Controls to licensees possessing risk-significant quantities of radioactive material.

- Agreement State Programs continue to maintain a close working relationship with the licensees affected by this rulemaking and this working relationship will ensure that the validity of source accountability maintained in the NSTS is accurate. The States should continue to have a vital role in national security.

- Reduces the probability of dual regulation for Agreement State licensees possessing Category 1 and Category 2 sources thus avoiding possible confusion and conflict.

The Federal Register Notice (FRN) dated June 13, 2006 states "....the final rule would be an immediate mandatory matter of compatibility...". It is my understanding that the NSTS is scheduled to go on-line in March 2007. Agreement States should have until at least March 2007 to issue legally binding requirements, revise regulations or issue orders to the affected licensees. The timeframe of Agreement State implementation is not clear in the FRN.

I would like to recommend that the NRC consider issuing revised security orders to Manufacturer and Distributor (M&D) licensees. This revision should require the M&D licensees to implement the reporting requirements for the NSTS. This could reduce the regulatory burden for those Agreement States that have large M&D licensees that routinely transfers large numbers of Category 1 and Category 2 sources.

We would like to thank the NRC for the opportunity to comment on this basis change for the NSTS rulemaking. If you have any questions or should need additional information, please contact me at 501-661-2173.

Sincerely,

Jared W. Thompson, Program Manager
Radioactive Materials Program

cc: Barbara Hamrick, Chair
Organization of Agreement States

Janet Schlueter, Director
USNRC, State and Tribal Programs