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**Duran-Hernandez, Doris**

**From:** Wu, Irene  
**Sent:** Friday, March 10, 2017 3:26 PM  
**To:** Duran-Hernandez, Doris  
**Subject:** FW: [External\_Sender]  
**Attachments:** Category 3 quantities letter.docx

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**From:** Ron Parsons [mailto:Ron.Parsons@tn.gov]  
**Sent:** Friday, March 10, 2017 2:11 PM  
**To:** Wu, Irene <Irene.Wu@nrc.gov>  
**Cc:** Debra Shults <Debra.Shults@tn.gov>  
**Subject:** [External\_Sender]

Ms. Wu,

Please see the attached comments from the Tennessee Division of Radiological Health regarding the Federal Register Notice published on January 9th, 2017 asking for feedback on "Category 3 Source Security and Accountability."

Should you have any questions, please feel free to contact us. Thanks



**Debra Shults**  
**Director**  
**Division of Radiological Health**  
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Add= R. Wu (Ivy 1)



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF RADIOLOGICAL HEALTH  
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NASHVILLE, TENNESSEE 37243

March 9, 2017

Irene Wu  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

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

Dear Ms. Wu

Below are the comments from the Tennessee Division of Radiological Health concerning Category 3 quantities of radioactive material source security and accountability.

Tennessee does not believe a realistic vulnerability assessment of potential risks of Category 3 sources has been performed and documented in support of a future rulemaking considering inclusion of Category 3 sources for increased source security and accountability requirements. There seems to be a lack of historical information to conclude these quantities are a significant risk.

We believe that adoption of Category 3 quantities of radioactive material into the LVS/NSTS systems will only marginally increase the safety and security of these quantities of radioactive material, while adding a significant regulatory and economic burden to the various State Radiation Control Programs, our licensed entities, and the Nuclear Regulatory Commission. Also, to realistically include these quantities would require changes in the regulations which would be a significant regulatory burden.

In addition, Tennessee concurs that there are devices containing Category 3 quantities of radioactive materials that can be possessed under a general license, and to increase the overall safety and security would require changes in the regulations and licensing culture.

#### **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?



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**No. There is no evidence in Tennessee that the current regulations have not been adequate to assure that these transfers occur safely and this would cause an extra burden, which would not accommodate the safety and security risk.**

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?

**Tennessee is not aware of a security and/or safety problem with current Category 3 quantity radioactive source transfer practices and we do not believe that requiring license verification through LVS or the Agreement States' regulatory authorities would result in any improvement in safety or security.**

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 excepted from the limitation?

**Yes, we believe this would cause undue burden.**

4. Is there anything else we should consider when evaluating different methods of license verification prior to transferring Category 3 quantities of radioactive material?

**Tennessee concurs that the NRC should perform an analysis of the cost benefit of any new rules and the security benefit based on the present threat environment and allow for public discussion of this analysis before creating any additional requirements.**

#### **General Questions Related to the NSTS**

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

**Tennessee does not believe that Category 3 quantity sources should be included in the NSTS. As with the statements concerning LVS, this will be an unnecessary burden on licensees and the State because of the limited increase in source safety or security.**



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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))?

**No. Rationally Category 1 and 2 sources should have a greater value imposed on their source safety and security.**

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. NRC has reviewed their program and the adequacy of 10 CFR Part 37 and concluded the existing reporting requirements seem to be adequate for the transfer and accounting of Category 1 and 2 quantities of radioactive materials. If future reviews show otherwise, then it can be addressed at that time.**

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?

**No. See answer in Question 1.**

5. Is there anything else we should consider as part of our evaluation of including Category 3 sources in the NSTS?

**As stated with regards to the LVS question, Tennessee concurs that the NRC should perform an analysis of the cost benefit of any new rules and the security benefit based on the present threat environment and allow for public discussion of this analysis before creating any additional requirements.**

**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



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Agreement States to perform the annual inventory reconciliation for Category 1, 2, and 3 sources?

**This would create a significant burden and cost for the licensing staff in Tennessee. Since this is a National System, unless all aspects of the ISMP system becomes a required standard and all states are allowed to have access to all aspects of the system, then having the states input data would not be efficient.**

**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 historical data to conclude this is a rational decision.**

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?

**Yes, but also the requirements for general license devices are not conducive for a regulatory authority to monitor security of these devices. If security requirements are forthcoming then Category 3 GL devices should be required to be specifically licensed.**

If you have any questions, please feel free to contact me at 615-532-0364 or Debra.Shults@tn.gov.

Debra G. Shults  
Director  
Department of Environment and Conservation  
Division of Radiological Health