



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 5, 2024

ALL FEDERALLY RECOGNIZED TRIBAL NATIONS
ALL AGREEMENT STATES

CORRECTION TO STC-23-067, NOTIFICATION OF UPCOMING GOVERNMENT-TO-GOVERNMENT MEETING TO PROVIDE AN OVER OF THE ADVANCE TRIBAL NOTIFICATION OF CATEGORY 1 QUANTITIES OF RADIOACTIVE MATERIAL RULEMAKING

Purpose: To notify all Federally recognized Tribes that the U.S. Nuclear Regulatory Commission (NRC) will not be conducting a series of three online public meetings to share an overview of the preliminary proposed rule language and draft frequently asked questions that would revise the NRC's regulations.

Background: On December 4, 2020, the NRC received a petition for rulemaking (PRM) from Richard Arnold and Ron Johnson, on behalf of the Tribal Radioactive Materials Transportation Committee (Agencywide Documents Access and Management System Accession No. [ML21042B011](#)). The petitioners identified a discrepancy between 10 CFR Part 37 and 10 CFR Parts 71 and 73 regarding advanced notification for Tribal governments concerning certain radioactive material shipments. The NRC regulations in 10 CFR § 71.97 "Advance notification of shipment of irradiated reactor fuel and nuclear waste" and § 73.37 "Requirements for physical protection of irradiated reactor fuel in transit," require licensees to provide advance notification to the NRC, States, and participating Tribes of certain types of radioactive material shipments. In comparison, §37.77, "Advance notification of shipment of category 1 quantities of radioactive material," only requires licensees to provide advance notice to the NRC and States for the shipment of licensed material in category 1 quantities. There is no requirement for licensees to provide advance notification to Tribes for category 1 shipments.

The NRC staff docketed the petition on February 11, 2021, as PRM-37-2 and published a request for public comment in the Federal Register (86 FR 18477; April 9, 2021). The NRC also sent a letter to Federally recognized Tribes requesting their comments on the PRM on April 8, 2021 ([ML21097A265](#)).

The NRC staff subsequently recommended that the NRC Commission consider the issue raised in the petition within the NRC's rulemaking process (SECY-22-0074; [ML22056A326](#)). On October 17, 2022, the NRC Commission agreed with the staff's recommendation to initiate rulemaking to amend Part 37 to require advanced Tribal notification for shipments of Category 1 quantities of radioactive material (SRM-SECY-22-0074; [ML22290A244](#)).

Additional information about the proposed rule may be found on the NRC public website at <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/ruledetails.html?id=2178> and at <https://www.regulations.gov> by searching Docket ID NRC-2022-0191.

On June 13, 2023, the NRC issued STC-23-043 "Notification of Proposed Rulemaking And Invitation To Consult: Advance Tribal Notification of Category 1 Quantities Of Radioactive Material," in which the NRC offered consultation to all federally recognized Tribes.

Discussion: On September 15, 2023, the NRC issued STC-23-067 to invite Tribes to attend a government-to-government meeting with the Agreement States held on October 4, 2023. The purpose of the meeting was to provide an overview of the Advanced Tribal Notification of Category 1 Quantities of Radioactive Material Rulemaking. In the letter, the NRC staff erroneously stated that the NRC would hold a series of three online public meetings to share an overview of the preliminary proposed rule language and draft frequently asked questions that would revise the NRC's regulations to ensure consistency regarding advance Tribal notification of certain radioactive material shipments with similar regulations for State notification.

Currently, the proposed rule package is under management review and is estimated to be published in Spring 2024. Following publication, the NRC staff will hold a public meeting. Tribes will be notified and afforded the opportunity to provide comments.

If you have any questions regarding this correspondence, please contact Dee Morgan of my staff at 301-415-5836 or via email at Nadiyah.Morgan@nrc.gov.

Sincerely,



Signed by Williams, Kevin
on 02/05/24

Kevin Williams, Director
Division of Materials Safety, Security,
State, and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

NOTIFICATION OF UPCOMING GOVERNMENT-TO-GOVERNMENT MEETING TO PROVIDE AN OVER OF THE ADVANCE TRIBAL NOTIFICATION OF CATEGORY 1 QUANTITIES OF RADIOACTIVE MATERIAL RULEMAK (STC-23-067 CORRECTION) DATE February 6, 2024

DISTRIBUTION:

ADAMS Accession No.: ML24025A184

OFFICE	NMSS/REFS /MRPB	NMSS/REFS/MRPB	NMSS/MSST	NMSS/MSST
NAME	CKenny CK	JShepherd JS	NMorgan NM	KWilliams KW
DATE	Jan 30, 2024	Jan 30, 2024	Feb 2, 2024	Feb 5, 2024

OFFICIAL RECORD COPY