

April 11, 2013

Governor Bill Anotaubby
Chickasaw Nation
520 East Arlington
Ada, OK 74821

Governor Bill Anotaubby,

On June 11, 2012, the U.S. Nuclear Regulatory Commission (NRC) published a final rule "Advance notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste" (77 FR 34194), which amends its regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 71 and 73 to: 1) require licensees to provide participating Federally-recognized Tribes advance notification of commercial irradiated reactor fuel shipments and nuclear waste shipments meeting the criteria of 10 CFR §71.97(b) that may be transported within or across Tribal reservations; and 2) to relieve Tribal officials, Tribal officials' designees, and Tribal law enforcement personnel from the criminal history checks, fingerprinting, and other elements of background checks required to allow access to Safeguards Information. The rule became effective on August 10, 2012, and compliance with the notification provisions of the rule is not required until June 11, 2013.

The NRC staff received a communication on 08/28/2012 from your tribe requesting to receive advance notification of commercial irradiated reactor fuel shipments and nuclear waste shipments. The Advanced Notification Rule only requires licensees to notify participating Federally-recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations. The NRC limited the rule application to reservation lands to provide a clearly defined area that can be used by the licensee to evaluate their routes and provide notification to participating Tribal governments. For areas outside the external Tribal reservation boundaries, the current regulations require that the licensee provide notice to the applicable State government. Based on the requirements set forth in the final rule, the Chickasaw Nation does not meet the requirements to receive such advance notifications because the tribe does not have reservation land.

If a federally-recognized tribe desires notification related to trust land under exclusive federal jurisdiction, it can request a specific exemption from the regulation's restriction of advanced notification to tribal reservation land. To request an exemption, a tribe would send a letter to the point of contact at the bottom of this letter requesting a specific exemption as authorized by 10 CFR §71.12, from the regulatory requirements in 10 CFR §71.97. The letter should request an exemption from the regulatory requirements in order to allow advanced notification of irradiated reactor fuel and nuclear waste shipments which occur within or across the boundary of tribal trust land under exclusive federal jurisdiction. The exemption request should also include information about the location of the tribal trust land under exclusive federal jurisdiction. The Commission would then have to evaluate and decide whether to grant the specific exemption request from the regulatory requirement of the Advanced Notification Rule.

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The NRC is committed to engage in meaningful government-to-government interaction with Tribes and to inform Native American communities of the nature of NRC's regulatory activities. If you wish to speak to someone at the NRC about the contents of this letter, please contact Mr. Stuart Easson of the Intergovernmental Liaison Branch, at 301-415-5134 or by e-mail at Stuart.Easson@NRC.gov.

Sincerely,

/RA/

Deborah Jackson, Acting Director
Division of Intergovernmental Liaison
and Rulemaking
Office of Federal and State Materials
and Environmental Management Programs

cc: Eric Benner (U.S. NRC)
Deanna Hartley (Administrator of the
division of justice, Chickasaw Nation)

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Deanna Hartley (Administrator of the
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