

**Advance Notification to Native American tribes of Transportation of Certain Types of Nuclear Waste
 (77 FR 34194, Published June 11, 2012) RATS ID: 2012-2 Effective: August 10, 2012
 Date Due for State Adoption August 10, 2015**

REVIEWER PLEASE NOTE: 79 FR 75735, 12/19/2014 – Organization change from FSME to NMSS

Change to NRC Section	Title	State Section	Compatibility Category	Summary of Change to CFR	Difference Yes/No	Significant Yes/No	If Difference, Why or Why Not Was a Comment Generated
§71.4	Definition: Indian tribe	28-35-135i (g) “Indian tribe” and “tribe” mean any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the United States department of the interior because of their status as Indians.	B	In § 71.4, the new definition for the term “Indian tribe” was added as follows: <i>Indian tribe</i> means an Indian or Alaska native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.	No Definition in State regulation is compatible.		
§71.4	Definition: Tribal official	28-35-135i (h) “Indian tribal official” and “tribal official” mean the highest-ranking individual who represents tribal leadership, including the chief, president, and tribal council leader.	B	In § 71.4, the new definition for the term “Tribal official” was added as follows: <i>Tribal official</i> means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.	No Definition in State regulation is compatible		

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§71.97(a)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 Advanced notification of shipment of certain types of licensed or registered material. (a) (1) As specified in subsections (b), (c), and (d) each licensee shall provide advanced notification to the governor, or the governor's designee; of each state of each shipment of licensed or registered material through or across the boundary of the governor's state. The licensee shall provide this advanced notification before transporting, or delivering to a carrier for transport, any licensed or registered material outside the confines of the licensee's facility or other place of use or storage. (2) As specified in subsections (b), (c), and (d), each licensee shall provide advanced notification to the Indian Tribal official or tribal official of participating tribes referenced in subsection (c), or the official's designee, of the	B	In § 71.97, paragraph (a) is revised to read as follows: (a)(1) As specified in paragraphs (b), (c), and (d) of this section, each licensee shall provide advance notification to the governor of a State, or the governor's designee, of the shipment of licensed material, within or across the boundary of the State, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage. (2) As specified in paragraphs (b), (c), and (d) of this section, after June 11,2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of this section, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of	No State regulation is compatible		

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		shipment of licensed material, within or across the boundary of the tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.		licensed material outside the confines of the of the licensee's plant or other place of use or storage.			
§71.97(c) (1)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 (C) (1) The notification shall be submitted, in writing, to the office of each appropriate governor or governor's designee and each appropriate Indian tribal official and to the director of the division of nuclear security in the office of nuclear security and incident response.	B	In § 71.97, paragraph (c)(1) is revised to read as follows: <i>(c) Procedures for submitting advance notification.</i> (1) The notification must be made in writing to: (i) The office of each appropriate governor or governor's designee; (ii) The office of each appropriate Tribal official or Tribal official's designee; and (iii) The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.	No State regulation is compatible		

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§71.97(c)(3)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 (C) (3) Each notification delivered by any means other than mail shall reach the office of the governor or of the governor's designee and each appropriate Indian tribal official at least 4 days before the beginning of the seven-day period during which departure of the shipment is estimated by the licensee to occur.	B	<p>In § 71.97, paragraph (c)(3) is revised to read as follows:</p> <p>(c) * * *</p> <p>(3) A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee or the Tribal official or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.</p> <p>(i) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the <i>Federal Register</i> on June 30, 1995 (60 FR 34306).</p> <p>(ii) The list of governor's designees and Tribal official's designees of participating Tribes will be published annually in the <i>Federal Register</i> on or about June 30th to reflect any changes in information.</p> <p>(iii) A list of the names and mailing addresses of the governors' designees and Tribal officials' designees of participating Tribes is available</p>	No State regulation is compatible		

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				on request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.			
§71.97(d) (4)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 (C) (2) Each notification delivered by mail shall be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated by the licensee to occur. 28-35-504 (3) (C) The destination of the shipment and a specification of the seven-day period during which arrival of the shipment at the destination is estimated by the licensee to occur: and	B	In § 71.97, paragraph (d)(4) is revised to read as follows: (d) * * * (4) The 7-day period during which arrival of the shipment at State boundaries or Tribal reservation boundaries is estimated to occur;	No State regulation is compatible		

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§71.97(e)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 (4) (e) If any licensee finds out that the shipment scheduled previously furnished to any governor, governor's designee, or Indian tribal official in accordance with this regulation will not be met, that licensee shall perform the following: (1) Telephone a responsible individual in the office of the governor or governor's designee, or Indian tribal official as soon as practical after the licensee has found out that the shipment schedule will not be met and inform that individual of the revised schedule; and (2) Maintain a record of the name of the responsible individual contacted and the date of this contact for three years.	B	In § 71.97, paragraph (e) is revised to read as follows: (e) <i>Revision notice.</i> A licensee who finds that schedule information previously furnished to a governor or governor's designee or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall telephone a responsible individual in the office of the governor of the State or of the governor's designee or the Tribal official or the Tribal official's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for 3 years.	No State regulation is compatible		

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§71.97(f)(1)	Advance notification of shipment of irradiated reactor fuel and nuclear waste	28-35-504 (f) Each licensee who cancels an irradiated reactor fuel or nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state; or the governor's designee or to the Indian tribal official who was previously notified and the director, division of nuclear security in the office of nuclear security and incident response.	B	<p>In § 71.97, paragraph (f)(1) is revised to read as follows:</p> <p>(f) <i>Cancellation notice.</i> (1) Each licensee who can cancel an irradiated reactor fuel or nuclear waste shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified, each Tribal official or to the Tribal official's designee previously notified, and the Director, Division of Security Policy, Office of Nuclear Security and Incident Response.</p>	No State regulation is compatible		
§ 73.2	Definition: Indian tribe		NRC	<p>In § 73.2, the new definition for the term "Indian tribe" was added:</p>			
§ 73.2	Definition: Tribal official		NRC	<p>In § 73.2, the new definition for the term "Tribal official" was added:</p>			

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§ 73.21	Protection of Safeguards Information: Performance Requirements.		NRC	In § 73.21, paragraph (a)(2) is revised:			
§ 73.37	Requirements for physical protection of irradiated reactor fuel in transit		NRC	In § 73.37, paragraphs (f) and (g) are revised:			
§ 73.59	Relief from fingerprinting, identification and criminal history records checks and other elements		NRC	In § 73.59, new paragraph (l) is added:			

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	of background checks for designated categories of individuals						