

WORKING GROUP CHARTER
Petition for Rulemaking (PRM)-37-2,
“Advance Tribal Notification of Certain Radioactive Material Shipments”

PURPOSE: The purpose of this working group (WG) is to review the petition, analyze public comments on the petition, facilitate communications with internal and external stakeholders, and provide a recommendation for closing Petition for Rulemaking PRM-37-2, “Advance Tribal Notification of Certain Radioactive Material Shipments.”

BACKGROUND: In a letter dated December 4, 2020 (ADAMS Accession No. ML21042B011), Richard Arnold and Ron Johnson, Co-Chairs of the Tribal Radioactive Materials Transportation Committee (TRMTC) of the National Conference of State Legislatures, requested that the U.S. Nuclear Regulatory Commission (NRC) examine its regulations in Part 37 of Title 10 of the *Code of Federal Regulations* (10 CFR) and modify the rule language to include advance Tribal notification (in addition to advance notification of states and the NRC that is already in the Part 37) of certain radioactive material shipments to ensure consistency with 10 CFR Parts 71 and 73. The letter from the petitioner states, “TRMTC believes consistent notification standards must be applied to states and tribal governments...”. This letter identifies a discrepancy between Part 37 and Parts 71 and 73 regarding advance notification of tribal governments for certain radioactive material shipments. The NRC reviewed this letter and determined it met the docketing criteria of 10 CFR 2.803, “Petition for rulemaking—NRC action,” on February 11, 2021. The NRC is therefore addressing this letter as a petition for rulemaking (PRM) and assigned it Docket No. PRM-37-2. The petition can be monitored on the Federal rulemaking website, <https://www.regulations.gov>, by searching on Docket ID NRC-2021-0051. The NRC also tracks all petition actions on its website at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html> and <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html>.

MEMBERSHIP: This WG is sponsored by the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Rulemaking, Environmental, and Financial Support (REFS); Division of Fuel Management (DFM); and Division of Materials Safety, Security, State and Tribal Programs (MSST). The rulemaking organization, REFS, will be the rulemaking lead organization, and MSST will be the lead technical organization. The management sponsors for this activity are Tania Martinez Navedo, Branch Chief (BC), NMSS/REFS/Materials Rulemaking and Project Management Branch (MRPB); James Rubenstone, BC, NMSS/Division of Fuel Management (DFM)/Materials Control and Accounting Branch (MCAB); George Smith, Acting BC, NMSS/MSST/Source Management and Protection Branch (SMPB); Jill Shepherd, Acting BC, NMSS/MSST/Material Safety and Tribal Liaison Branch (MSTB); Brian Harris, Associate General Counsel for Reactor and Materials Rulemaking, Office of the General Counsel (OGC)/General Counsel for Reactors and Materials Rulemaking (RMR); and Brian Anderson, BC, NMSS/MSST/State Agreement and Liaison Programs Branch. The WG will consist of NRC staff members and a representative from the Organization of Agreement States, Inc. (OAS). The membership of the WG is provided in the table below. The WG members will be updated if there are changes in membership. The WG may seek additional expertise as needed.

Organization	WG Member
NRC/NMSS/MSST/SMPB	Anita Gray, Regulatory Basis Project Technical Lead Paul Goldberg George Smith
NRC/NMSS/REFS/MRPB	David Drucker, Rulemaking Project Manager, Co-Lead Alexa Sieracki, Rulemaking Project Manager, Co-Lead

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NRC/NMSS/DFM/MCAB	David Pstrak
NRC/NMSS/REFS/MRPB	Torre Taylor
NRC/NMSS/MSST/MSTB	Sandra Talley
NRC/OGC/RMR & HLW	Joan Olmstead/Angela Coggins
OAS	Chelsea Smith, Oklahoma, Department of Environmental Protection

A Petition Review Board (PRB) will advise the WG and review and consider the WG’s recommended closure of a PRM under 10 CFR 2.803. A PRB briefing is normally performed within 6 months from the date that the notice of docketing of the PRM was published in the *Federal Register* or the end of the PRM comment period, if applicable. The PRB votes on the WG’s recommendation to close the petition.

The PRB is made up of:

1. The REFS Director, who serves as Chair;
2. The Division Director associated with each affected technical branch;
3. The Assistant General Counsel; and
4. The Branch Chief of RASB.

A Steering Committee will be convened if the WG needs management support with complex or controversial issues or policy and resource issues. The Steering Committee Chairperson would be the Director or Deputy Director of REFS, and the members would include the:

1. Director (or designated alternate) of NMSS/DFM
2. Director (or designated alternate) of NMSS/MSST
3. OGC Assistant General Counsel for Reactors and Materials Rulemaking
4. OAS Director of Rulemaking or their designee

OBJECTIVES: The WG has the following objectives/deliverables:

1. Develop and issue a *Federal Register* notice (FRN) requesting public comment on the PRM.
2. Evaluate the petition and comments.
3. Brief the PRB and obtain their decision on the WG’s recommendation for the PRM
4. Develop a PRM closure package (with a recommendation for closing the petition) for Commission review and approval.

SCHEDULE: The estimated high-level schedule below covers the petition review process up to the recommendation and resolution of this PRM. The schedule is preliminary and may change. Detailed schedule information will be provided to WG members.

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WG kickoff meeting	March 2021
Docketing published FRN and when public comment period begins	April 2021
Public comment period	May - July 2021
Evaluate petition and comments; develop analysis and WG recommendations	August 2021
Petition Review Board decision-making on WG recommendations and proposed path forward	September - December 2021
WG prepares PRM closure package	January 2022
Concurrences	January 2022 - April 2022
Package to Commission	April 2022
Commission issues staff requirements memorandum (SRM)	TBD
Make SRM changes	SRM + 30
Forward PRM closure package to NMSS/REFS/Regulatory Analysis and Rulemaking Support Branch	SRM + 45
Letter to petitioner sent	SRM + 60
Publication in <i>Federal Register</i> (petition closed)	SRM + 90

LEVEL OF EFFORT EXPECTED OF MEMBERS: The level of effort for each WG member is estimated to be is 1-3 hours per 2 weeks over 14-18 months. The level of effort is highly dependent on the number and complexity of public comments received. The level of effort is subject to change. The highest estimated level of effort is expected in August 2021 to review public comments.

Management briefings will be held as needed throughout this effort. Members of the WG will be asked to attend and support these briefings. All WG meetings and briefings will be by teleconference or Microsoft Teams. Maximum use will be made of available electronic communication to facilitate interaction within the WG. Examples of these include conference calls, e-mails, and other options. There is no travel anticipated with this activity.

This WG operates as an NRC/Agreement State WG with the roles and responsibilities described in Section IV of “[Agreement State Participation in Rulemaking Working Groups SA-801A](#),” and NRC [Management Directive 5.3](#), “Agreement State Participation in Working Groups.”

This WG will be sunset (dissolved) and the effort considered complete upon satisfaction of the charter OBJECTIVES and publication of closure of the PRM in the *Federal Register*.

Christopher Regan, Deputy Director, NRC/NMSS/DFM

Kevin Coyne, Acting Director, NRC/NMSS/REFS

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Kevin Williams, Director, NRC/NMSS/MSST

David Crowley, Chair, OAS

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SUBJECT: CHARTER FOR NRC/AGREEMENT STATE WORKING GROUP ON PETITION
 FOR RULEMAKING – PRM-37-2, "ADVANCE TRIBAL NOTIFICATION OF
 CERTAIN RADIOACTIVE MATERIAL SHIPMENTS"

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ADAMS Accession No.: ML21049A092

OFFICE	NMSS/REFS/MRPB	NMSS/REFS/MRPB	NMSS/MSST/SMPB	NMSS/MSST/MSTB
NAME	DDrucker	ASieracki	AGray	STalley
DATE	2/18/2021	2/18/2021	2/22/2021	2/23/2021
OFFICE	NMSS/DFM/MCAB	NMSS/REFS/MRPB	NMSS/MSST/SALB	NMSS/DFM/MCAB
NAME	DPstrak	TMartinezNavedo	BAnderson	JRubenstone
DATE	2/23/2021	3/01/2021	2/23/2021	2/26/2021
OFFICE	NMSS/MSST/SMPB	NMSS/DFM	NMSS/MSST	NMSS/REFS
NAME	GSmith	AKock (CRegan for) (w/edits)	KWilliams	KCoyne
DATE	2/23/2021	3/22/2021	3/22/2021	3/23/2021

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