

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Brooke P. Clark, Secretary  
**FROM:** Commissioner Baran  
**SUBJECT:** SECY-22-0074: Petition for Rulemaking and Rulemaking Plan on Advance Tribal Notification of Certain Radioactive Material Shipments (PRM-37-2; NRC-2021-0051)

Approved  Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached  None

**Entered in STAR**

Yes

No

\_\_\_\_\_  
**Signature**

9/1/22

\_\_\_\_\_  
**Date**

**Commissioner Baran's Comments on SECY-22-0074,  
"Petition for Rulemaking and Rulemaking Plan on Advance Tribal Notification  
of Certain Radioactive Material Shipments"**

In December 2020, the Tribal Radioactive Materials Transportation Committee, which includes representatives of 20 Tribal nations, submitted a petition for rulemaking. The petition seeks to amend Part 37 to "require NRC and Agreement State licensees to provide advanced notification to participating Federally recognized Tribal governments when shipments of Category 1 quantities of radioactive material pass within or across the boundaries of the reservations."<sup>1</sup> According to the NRC staff, "approximately nine Category 1 shipments cross Tribal reservations each year."<sup>2</sup> The staff recommends granting the petition and conducting the rulemaking.

There are good reasons for proceeding with the requested rulemaking. First, it would ensure parity between Tribes and States and consistency across NRC's regulations. Currently, Tribes and States both receive advance notification of shipments of irradiated reactor fuel and nuclear waste under 10 CFR 71.97 and shipments of irradiated reactor fuel under 10 CFR 73.37. However, only States receive advance notification of the shipment of Category 1 quantities of radioactive material under 10 CFR 37.77. The requested rulemaking would address this inequitable discrepancy. Second, the requested change is needed to implement the principles of the Commission's Tribal Policy Statement. To respect Tribal sovereignty and recognize a Tribal government's interest in being informed of activities occurring on its reservation land, NRC should ensure that Tribal governments receive advance notification of Category 1 shipments. Finally, there is broad stakeholder support for the petition. All nine of the within-scope public comments endorse the petition, including those from organizations representing multiple State governments.

For these reasons, I approve the staff's recommendation to conduct the requested rulemaking as well as publication of the *Federal Register* notice announcing this decision. Because the regulatory changes are straightforward, limited in scope, and likely to be non-controversial, I also approve delegating signature authority for the rulemaking to the Executive Director for Operations.

---

<sup>1</sup> SECY-22-0074 at 1.

<sup>2</sup> *Id.* at 6.