



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

March 11, 2024

ALL AGREEMENT STATES
CONNECTICUT, INDIANA, WEST VIRGINIA

ISSUANCE OF A *FEDERAL REGISTER* NOTICE REQUESTING COMMENTS ON
PROPOSED RULE "ADVANCE TRIBAL NOTIFICATION OF CATEGORY 1
QUANTITIES OF RADIOACTIVE MATERIAL" (STC-24-018)

Purpose: To inform the Agreement States that the U.S. Nuclear Regulatory Commission (NRC) published a *Federal Register* notice (FRN) on March 8, 2024, requesting comments on the proposed rule, "Advance Tribal Notification of Category 1 Quantities of Radioactive Material" and associated guidance (89 FR 16701).

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 (ADAMS) 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 § 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 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](#)).

Discussion: The NRC developed a proposed rule that would revise the NRC's regulations to require NRC and Agreement State licensees to provide advance notification to participating Federally recognized Tribal governments regarding shipments of category 1 quantities of

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radioactive material shipments that pass within or across their reservation boundaries. The NRC published an FRN on March 8, 2024, requesting comments on the proposed rule and associated guidance (89 FR 16701).

The comment period closes on May 22, 2024. You can access the FRN and associated guidance using the following link: <https://www.federalregister.gov/documents/2024/03/08/2024-04771/advance-tribal-notification-of-category-1-quantities-of-radioactive-material-shipments>. We encourage electronic comment submission through the Federal rulemaking website (<https://www.regulations.com>). Please include Docket ID NRC-2022-0191 in your comment submission.

The NRC also plans to hold a public meeting on the proposed rule during the public comment period. The public meeting is tentatively scheduled for April 10, 2024. Additional details will be communicated to the Agreement States in a future STC letter.

If you have any questions regarding this correspondence, please contact me at 301-415-3521 or the individuals named below:

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Sincerely,



Signed by Giantelli, Adelaide
on 03/11/24

Adelaide S. Giantelli, Chief
State Agreement and Liaison Program Branch
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety and Safeguards

ISSUANCE OF A *FEDERAL REGISTER* NOTICE REQUESTING COMMENTS ON PROPOSED RULE “ADVANCE TRIBAL NOTIFICATION OF CATEGORY 1 QUANTITIES OF RADIOACTIVE MATERIAL” March 11, 2024.

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