



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

June 13, 2023

ALL FEDERALLY RECOGNIZED TRIBAL NATIONS

NOTIFICATION OF PROPOSED RULEMAKING AND INVITATION TO CONSULT:  
ADVANCE TRIBAL NOTIFICATION OF CATEGORY 1 QUANTITIES OF RADIOACTIVE  
MATERIAL (STC-23-043)

**Purpose:** To notify all Federally recognized Tribes of the U.S. Nuclear Regulatory Commission's (NRC) proposed rulemaking to revise its regulations to ensure consistency regarding advance Tribal notification of certain radioactive material shipments with similar regulations for State notification. Additionally, as part of the proposed rulemaking process, the NRC is offering a consultation opportunity to Federally recognized Tribes' leadership in accordance with the NRC's Tribal Policy Statement (82 FR 2402; Jan 9, 2017).

**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 10 CFR § 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 staff 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).

Additional information about the proposed rule may be found on the NRC public website at <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/ruledetails.html?id=2178> and at <https://www.regulations.gov> by searching Docket ID NRC-2022-0191.

**Discussion:** The NRC is offering consultation to the leadership of all Federally recognized Tribes under the NRC's Tribal Policy Statement. Accordingly, the NRC staff invites Tribal leaders who are interested in this voluntary consultation with the NRC during the proposed rulemaking process to contact Mr. Henry Lynn (contact information below), by **July 13, 2023 (insert 30 days from the date of this letter)**, to schedule a meeting.

If you have any questions regarding this rulemaking or this correspondence, please contact the individual named below.

POINT OF CONTACT: Henry Lynn  
TELEPHONE: 423-855-6509

EMAIL: [Henry.Lynn@nrc.gov](mailto:Henry.Lynn@nrc.gov)

Sincerely,



Signed by Giantelli, Adelaide  
on 06/13/23

Adelaide Giantelli, Branch Chief  
Division of Materials Safety, Security, State, and  
Tribal Programs  
Office of Nuclear Material Safety and  
Safeguards

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DATED June 13, 2023

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STC-23-043- NOTIFICATION OF PROPOSED RULEMAKING AND INVITATION TO CONSULT:  
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