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[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 71 and 73

RIN 3150-AG41

[NRC-1999-0005]

Advance Notification to Native American Tribes of Transportation of Certain Shipments of Nuclear Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; implementation.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC) licensees are currently required to provide advance notice to participating Federally-recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations. Agreement State licensees will be required to provide advance notifications for certain shipments of radioactive material at the time the applicable Agreement State implements its requirements. The NRC is maintaining and providing a list of Tribal contacts and an interactive map of Tribal boundaries of participating Federally-recognized Tribes that is available on the NRC's public Web site. The list will be published annually in the *Federal Register*.

DATES: This document is effective on [INSERT DATE OF PUBLICATION].

ADDRESSES: Please refer to Docket ID NRC-1999-0005 when contacting the NRC about the availability of information for this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-1999-0005. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this final rule.
- **NR's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: James Firth, Office of Federal and State Materials and Environmental Management Programs; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6628; e-mail: James.Firth@nrc.gov.

SUPPLEMENTARY INFORMATION:

On January 6, 1982 (47 FR 596 and 47 FR 600), the NRC published regulations that require licensees to provide advance notice of certain shipments of irradiated reactor fuel and nuclear waste to State Governors or their designees. On June 11, 2012 (77 FR 34194), the NRC amended the advance notification requirements of parts 71 and 73 of Title 10 of the *Code of Federal Regulations* (10 CFR) requiring licensees to provide advance notice to participating Federally-recognized Tribal governments regarding shipments of irradiated reactor fuel and certain nuclear wastes that pass within or across their reservations (i.e., Advance Tribal Notification Rule). The NRC's licensees are currently required to provide advance notification to participating Federally-recognized Tribal governments. Agreement State licensees will be required to provide advance notifications for certain shipments of radioactive material at the time the applicable Agreement State implements its requirements.

The licensees must provide to participating Tribal officials, or their designees, advance notice of shipments of irradiated reactor fuel meeting the 10 CFR 73.37 criteria and other nuclear wastes meeting the criteria in 10 CFR 71.97 before passing through or crossing the border of their reservations. Specifically, 10 CFR 71.97 requires licensees to provide advance notice of shipments of certain licensed material that meet the following requirements: 1) the material is required to be shipped in Type B packaging; 2) the licensed material is being transported within or across the boundary of the Tribe's reservation and the shipment is being transported outside of the licensee's place of use en route to a disposal facility or to a collection point for transport to a disposal facility; and 3) the quantity of licensed material in a single package exceeds at least one of the following: (a) 3000 times the A_1 value of the radionuclides as specified in appendix A, Table A-1 in 10 CFR part 71 for special form radioactive material;

(b) 3000 times the A_2 value of the radionuclides as specified in appendix A, Table A–1 in 10 CFR part 71 for normal form radioactive material; or (c) 1000 terabecquerels (27,000 curies).

As required by 10 CFR 73.37, licensees must provide advance notice of shipments of irradiated reactor fuel in excess of 100 grams in net weight of irradiated fuel, which has a total external radiation dose rate in excess of 1 Gray (100 rad) per hour at a distance of 0.91 meters (3 feet) from any accessible surface without intervening shielding. The licensee is required to make this notification to any Tribe for which the irradiated reactor fuel is being transported within its Tribal reservation or across its Tribal reservation boundaries.

Since the publication of the Advance Tribal Notification Rule, the NRC revised the advance notification requirements for certain shipments of irradiated reactor fuel in 10 CFR 73.37 — “Physical Protection of Byproduct Material” (March 19, 2013; 78 FR 16922). The revision requires licensees to provide advance notification for certain shipments of irradiated reactor fuel that are 100 grams or less in net weight of irradiated fuel. The compliance date of this new regulatory provision is March 19, 2014.

For the purposes of the Advance Tribal Notification Rule, an “Indian tribe” is defined as 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. Tribal participation is voluntary. Tribes may express interest in participating in the advance notifications and may discontinue their participation at any time. Currently, 27 Tribes have expressed interest in receiving the advance notifications. Tribes meeting the criteria may receive advance notifications after certifying that the Safeguards Information associated with the shipments of these materials will be adequately protected by complying with the requirements in 10 CFR 73.21 and 73.22.

After the NRC receives this certification and the contact information for the Tribal official or Tribal official's designee, the NRC will add the Tribe to the list of advance notification contacts and the Tribal reservation information to the interactive map of Tribal boundaries at <http://www.nrc.gov/about-nrc/state-tribal/tribal-advance-notification.html>. Current contact information can also be accessed throughout the year at <http://nrc-stp.ornl.gov/special/designee.pdf>. The list is published annually in the *Federal Register* on or about June 30 to reflect any changes in information. Licensees should check these sites to determine whether they need to provide advance notification when they have any shipments meeting the criteria in 10 CFR 71.97 or 73.37 that will pass within or across a participating Tribe's reservation.

Dated at Rockville, Maryland, this 10th day of June, 2013.

For the U.S. Nuclear Regulatory Commission.

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