



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

May 14, 2020

Mr. Richard Arnold
Pahrump Paiute Tribe/Consolidated
Group of Tribes and Organizations
TRMTC Co-Chair
C/O the National Conference of State
Legislatures
7700 E. First Place
Denver, CO 80230

Mr. Ron Johnson
Prairie Island Indian Community
TRMTC Co-Chair
C/O the National Conference of State
Legislatures
7700 E. First Place
Denver, CO 80230

SUBJECT: RESPONSES TO COMMENTS PROVIDED BY THE TRIBAL RADIOACTIVE
MATERIALS COMMITTEE ON NRC'S DRAFT OUTLINE FOR THE
DEVELOPMENT OF INTERIM STAFF GUIDANCE ON THE ADVANCE
NOTIFICATION PROGRAM.

Dear Mr. Arnold and Mr. Johnson:

The U.S. Nuclear Regulatory Commission (NRC) appreciates the comments submitted by the Tribal Radioactive Materials Transportation Committee (TRMTC) on the NRC's draft outline for the development of Interim Staff Guidance on the Advance Notification Program. The staff has reviewed your comments and provided responses to each in the enclosed document.

When drafted, the staff guidance will include text on Tribal sovereignty and will align with the language of the NRC Tribal Policy Statement and Tribal Protocol Manual. The agency is committed to maintaining government-to-government relations with participating governments and will strive to be responsive to specific considerations that arise.

The NRC spoke with representatives from the National Conference of State Legislatures (NCSL) about the comment in your letter on defective casks. NCSL representatives explained that the comment could be related to a TRMTC discussion on the shipment of weapons-grade nuclear material. The NRC has no regulatory authority for nuclear weapons, weapons material, or weapons components. The Department of Energy/National Nuclear Security Administration is responsible for the transportation of material and equipment in this area.

The NRC offers the following comments related to reporting requirements associated with a damaged transportation cask. Regulations in Title 10 *Code of Federal Regulations* (10 CFR) 71.95 require NRC licensees to submit a written report to the NRC documenting instances where a significant reduction in the effectiveness of any NRC-approved Type B packaging is identified during or after use. In such cases, the licensee must first provide details of the issue to the certificate holder. Licensees are users of the certificate of compliance, and the certificate of compliance is issued to a package/cask vendor (e.g., Holtec, EnergySolutions). Additionally, prior to first use of an NRC-approved Type B package, the licensee must register with the NRC in order to be authorized to use that package, the licensee must have an NRC-approved Quality Assurance Program, and they must have and use a copy of the current certificate of compliance. See 10 CFR 71.17 for details. The NRC offers to discuss this question/concern at a future TRMTC or similar meeting.

As also noted in your letter, there may be staff changes at the NRC, as well as within the Tribal governments that opt in to receive advance notification. The NRC's current regulations require the advance notification process, and the agency will maintain this process and transfer responsibilities, if staff changes occur. The guidance can include a requirement that staff, newly assuming responsibility for outreach for this program, notify all participants of this staff change. Current regulations also require annual outreach to participating Tribes to update contact information. The NRC's contact database relies on directories published by other Federal agencies. The NRC welcomes suggestions on other strategies to maintain the accuracy of contact information.

The NRC shared general comments on your responses to the draft guidance documents at the January 2020 TRMTC meeting. We look forward to further discussion of these responses and sharing NRC's plans for continued development of the guidance.

Sincerely,

Sandra Talley, Senior Liaison Project Manager
Materials Safety and Tribal Liaison Branch
Division of Material Safety, Security, States,
and Tribal Program
Office of Nuclear Material Safety
and Safeguards

Enclosures:
Responses to comments provided by
Tribal Radioactive Materials
Transportation Committee

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