

RESPONSES TO  
COMMENTS PROVIDED BY THE NATIONAL TRANSPORTATION STAKEHOLDERS FORUM  
TRIBAL RADIOACTIVE MATERIALS TRANSPORTATION COMMITTEE ON THE  
NRC'S DRAFT OUTLINE OF INTERIM STAFF GUIDANCE ON THE ADVANCE  
NOTIFICATION PROGRAM

Comment	Response
<p><b>Commented [TM1]:</b> The word "Interim" indicates temporary. Can we change the word to reflect longevity of the guidance?</p> <p><b>ST</b></p>	<p>The Nuclear Regulatory Commission (NRC) publishes several categories of guidance for use by applicants and/or staff in carrying out the business of the agency. The revision dates for many of these documents may follow a regular schedule, and the process of development may be lengthy. If staff identifies processes, such as the Advance Notification Program, that need to be defined and documented prior to the update of existing guidance documents, interim staff guidance may be developed to be converted to a permanent status in the future. The interim guidance on Advance Notification will be reviewed by NRC management and, if approved, published for implementation. The interim guidance would then be converted to a permanent status.</p>
<p><b>Commented [KT2]:</b> The guidance language should align with the Tribal Protocol Manual.</p> <p><b>ST</b></p>	<p><b>Introduction</b> The purpose of this interim guidance is to describe procedures to be followed by the staff in establishing and carrying out a program to notify Tribal governments of shipments of nuclear material as defined in 10 CFR Parts 71 and 73. The NRC recognizes the unique relationship that the Federal Government has with Federally recognized Tribes and is committed to government to government relationships with Indian Tribes. The NRC shares the Federal Government's unique Trust Relationship with, and Trust Responsibility to Indian Tribes. The NRC fulfills its Trust Responsibility by implementing the principles of the Tribal Policy Statement, providing protections under its implementing regulations, and recognizing additional obligations consistent with other applicable treaties and statutory authorities. The Advance Notification program is consistent with these principles, creating an opportunity for Tribes to participate in safety and security activities associated with the shipment of spent nuclear fuel.</p>
<p><b>Commented [KT3]:</b> Include language that this guidance entails general guidelines. The guidance should have language that recognizes the sovereignty of each tribe and their specific considerations.</p> <p><b>ST</b></p>	<p>The Advance Notification program recognizes Tribal sovereignty and provides for coordination with each participating Tribal government and the unique needs of that government to protect its people and ensure the safe transport of nuclear materials through the Tribe's reservation boundaries.</p>

<p><b>Commented [KT4]:</b> Please define what the process is for pre-planning and coordination.</p> <p><b>GJ</b></p>	<p>NRC regulations, 10CFR Section 73.37(b)(1) requires the licensee to preplan and coordinate shipment details no later than two weeks before the SNF shipment or before the first shipment of a series of shipments, with the governor, or the governor's designee, of each State through which or across whose boundaries the shipment will pass. Although currently not a requirement, a best practice also would be to preplan and coordinate shipment details no later than 2 weeks before the shipment or before the first shipment of a series of shipments with the Tribal official, or the Tribal official's designee of each participating Tribe's reservation through which or across whose boundaries the shipment will pass. A detailed description of what pre-planning activities entail are found in section 2.2. Preplanning and Coordination of Shipments, of NRC's NUREG 0561 Rev 2 Physical Protection of Shipments of Irradiated Reactor Fuel:</p> <p><a href="https://www.nrc.gov/docs/ML1312/ML13120A230.pdf">https://www.nrc.gov/docs/ML1312/ML13120A230.pdf</a></p>
<p><b>Commented [TM5]:</b> Consider adding government designee.</p> <p><b>ST</b></p>	<p>This text can be revised to: "Requirement for each licensee, under 10CFR 73.37(b) to provide advance notification to the Tribal official or the Tribal officials designee of participating Tribes..."</p>
<p><b>Commented [KT6]:</b> Tribes have concerns about this language. This as rewritten, aligns with the NRC Tribal Protocol Manual.</p> <p><b>ST</b></p>	<p>This guidance must reflect the language that is in the NRC's current regulations. The current section of the regulations, 10 CFR § 71.97 uses the term "reservation." The phrase "tribal lands" that encompasses more than reservation land would alter the meaning of the regulations. Such a change could only be made through a rulemaking process to change the regulations.</p>
<p><b>Commented [TM7]:</b></p> <p><b>ST</b></p>	<p>See response to KT6</p>
<p><b>Commented [KT8]:</b> Explore future guidance around this. Should it specify federally recognized tribes? Is it open to state recognized tibes [sic]?</p> <p><b>ST</b></p>	<p>The text will be changed from "Tribal nation" to "<i>federally-recognized Tribal nation</i>." This guidance must reflect the language that is in the NRC's current regulations that allow only federally recognized Tribes to receive advance notification. Inclusion of other Tribes, such as State-recognized Tribes could be accomplished only through the rule-making process to change the regulations.</p>
<p><b>Commented [TM9]:</b> This could prove difficult. However, if NRC is willing to</p>	<p>Maintaining current contact information is difficult, but essential for the effectiveness of the program. The NRC currently checks annually for the accuracy of contact information. The agency would welcome</p>

<p>stay updated on contact information for tribal officials and their designees that is a great communication strategy.</p> <p><b>ST</b></p>	<p>suggestions on better ways to ensure the accuracy of this information.</p>
<p><b>Commented</b>  <b>[TM10]:</b> Inserted <b>and/or</b> designee as this language could 'speed' up the process of notification to ensure officials/designees were notified.</p> <p><b>ST</b></p>	<p>Agree.</p>
<p><b>Commented</b>  <b>[TM11]:</b> "Tribal lands" language aligns with the NRC Tribal Protocol Manual.</p> <p><b>ST</b></p>	<p>See response to KT6</p>
<p><b>Commented</b>  <b>[TM12]:</b> A reference to the NRC Tribal Protocol Manual will be helpful for reviewers.</p> <p><b>ST</b></p>	<p>Agree. As required by the NRC Tribal Protocol Manual and Tribal Policy Statement, the NRC staff will conduct outreach, and if requested participate in formal government to government consultation with Tribal governments and designated representatives to share information on the Advance Notification program.</p>
<p><b>Commented</b>  <b>[TM13]:</b> Can we describe the process that NRC will use to develop maps of tribal reservations and corresponding tribal lands?</p> <p><b>AG</b></p>	<p>The American Indian/Alaska Native/Native Hawaiian Area (AIANNH) file is downloaded for the most recent year available from the U.S. Census Bureau in TIGER Line Shapefile format. The URL to download this file for 2019 is <a href="https://www.census.gov/cgi-bin/geo/shapefiles/index.php?year=2019&amp;layergroup=American+Indian+Area+Geography">https://www.census.gov/cgi-bin/geo/shapefiles/index.php?year=2019&amp;layergroup=American+Indian+Area+Geography</a>. This file contains boundaries of reservation and off-reservation lands for both federally and state recognized tribes. Maps created by the NRC for the Advance Notification Program only show the boundaries for reservations of federally recognized tribes. The NRC maps include the reservation boundaries for the tribe of interest along with other geographic information system (GIS) layers such as roads, municipal boundaries, streams, waterbodies, and federally owned land for geographic context. Roads that are part of</p>

	an approved irradiated reactor fuel transportation route are highlighted. The maps are created using Esri, Inc. ArcGIS software.
<p><b>Commented</b>  <b>[KT14]:</b> Are there terms or processes already in place that you can include for references to documentation such as the NRC Tribal Protocol Manual.</p> <p><b>ST</b></p>	<p>This text can be introduced with the following: In alignment with the Tribal Protocol Manual, the NRC will periodically reach out to Tribal governments to maintain awareness of the opportunity to opt in to receive advance notifications.</p>
<p><b>Commented</b>  <b>[TM15]:</b> Suggest references to documentation or describe formats.</p> <p><b>GJ/DP</b></p>	<p>The NRC Office of Nuclear Security and Incident Response is willing to work with Tribal government representatives to determine the best training format for Tribal use. The NRC has developed training for Tribes wishing to opt-in to notices. The training includes a PowerPoint slide set and written guidance. Training can be offered in person at annual NTSF or mid-year meetings, subject to available resources. The NRC is open to suggestions of other formats for this training.</p>
<p><b>Commented</b>  <b>[KT16]:</b> It would be best to spell out acronyms initially and/or have a glossary of terms.</p> <p><b>GJ/DP</b></p>	<p>Agree: The NRC will develop a glossary or definitions section in the document as well as spell out the initial use of such acronyms or abbreviations.</p>
<p><b>Commented</b>  <b>[KT17]:</b> Suggest expanding information in this section such as who decides the route, what are the maps, what is outreach?</p> <p><b>GJ/DP</b></p>	<p>The NRC agrees that this section requires additional text. A more detailed explanation of the topics in this section will be provided in the guidance document.</p>
<p><b>Commented</b>  <b>[TM18]:</b> How do tribes notify NRC? By phone, mail, etc. Is there a specific point person with title for NRC that will need to be contacted?</p>	<p>Tribal official should notify the NRC by letter or email of a desire to opt in to the Advance Notification program. The written correspondence should be sent to</p> <p style="padding-left: 40px;">Branch Chief NRC Tribal Program  Office of Nuclear Materials, Safety and Safeguards  U.S. Nuclear Regulatory Commission  Washington DC 20555-0001</p>

<b>ST</b>	
<b>Commented</b> <b>[TM19]:</b> Is there funding to establish a mechanism/infrastructure? If so, identify resources that tribes can review.  <b>GJ/DP</b>	The NRC does not have funding for a mechanism/infrastructure.
<b>Commented</b> <b>[TM20]:</b> What is the definition of means?  <b>GJ</b>	The term “means” refers to the method of notification, such as U.S. mail or other courier service.