

Interim Guidance for the Nuclear Regulatory Commission's Advance Notification Program

I. Introduction

II. Requirements of 10CFR Parts 71 and 73 Part 73.37

A. 10 CFR § 73.37

1. Requirements for licensees to establish and maintain a physical protection program.
2. Includes pre-planning and coordination with Federal, Tribal, State, and local law enforcement; the shipment receiver; and the NRC.
3. Advance notification to NRC, State and Tribal government officials.
4. Specific requirements for shipment by road, rail and water.
5. Responsibility for licensees to conduct investigations.

B. 10 CFR § 71.97

1. Requirement for each licensee to provide advance notification to State governors of shipment of licensed material within or across the boundary of a State.
2. Requirement for each licensee to provide advance notification to Tribal government designee officials of participating Tribes of shipment of licensed material within or across the boundary of a reservation tribal lands.
3. Procedure for notification, maintenance of contact information, schedule revisions and cancellation.

C. 10 CFR § 73.21

1. Requirement for any recipient of Safeguards information to ensure protection against unauthorized disclosure.

D. 10 CFR § 73.22

1. Specific requirements for the protection of Safeguards Information.
2. Description of the types of information to be protected, conditions for access, protection while in use or storage, preparation and marking of documents, transmission of documents, processing Safeguards Information on electronic systems, removal of material from Safeguards Information, and destruction of matter containing Safeguards information.

III. 2012 NRC Amendment of 10 CFR Parts 71 and 73

- A. Addition of requirement for licensee to notify Tribal governments who opt in to receive notification of the shipment of irradiated nuclear fuel and other nuclear waste
- B. Exempted Tribal government officials from fingerprinting requirements
- C. Effective August 10, 2012. Compliance date June 11, 2013
- D. Established need for coordination by NRC of the notification requirements for Tribal governments and the creation of the Advance Notification Program

IV. NRC Advance Notification Program for Tribal Governments

- A. Program designed to oversee and coordinate the participation of Tribal governments in advance notification of shipments of nuclear material

Commented [TM1]: The word "Interim" indicates temporary. Can we change the word to reflect longevity of the guidance?

Commented [KT2]: The guidance language should align with the Tribal Protocol Manual.

Commented [KT3]: Include language that this guidance entails general guidelines. The guidance should have language that recognizes the sovereignty of each tribe and their specific considerations.

Commented [KT4]: Please define what the process is for pre-planning and coordination.

Commented [TM5]: Consider adding government designee.

Commented [KT6]: Tribes have concerns about this language. This as rewritten, aligns with the NRC Tribal Protocol Manual.

Commented [TM7]:

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- B. Coordinated by NRC Office of Nuclear Material Safety and Safeguards (NMSS) in coordination with the Office of Nuclear Security and Incident Response (NSIR)
- C. Outreach and Communication to Tribal nations on procedures for participation in Advance Notification
- D. Enrollment for any Tribal nation that chooses to participate and any subsequent withdrawal
- E. Web site to house names of participating Tribes, contact information for Tribal officials and/or their designees, maps of Tribal lands/reservations for participating Tribes, national maps of routes and participants, and letters and other communication with Tribal government participants

V. NMSS Responsibilities for the Advance Notification Program

- A. Tribal liaisons coordinate and implement outreach and communication activities to disseminate information to eligible Tribal nations on the Advance Notification program in collaboration with NSIR
- B. Develop brochures, fact sheets, and other communication tools
- C. Participate in formal consultation meetings with Tribal government and designated representatives to share information on the Advance Notification program
- D. Establish and maintain an Advance Notification website to include names of participating Tribes, contact information for Tribal designated officials, maps of participating nations, notifications and communications to Tribal nations, and resources for participating nations
- E. Develop maps of Tribal reservations and corresponding tribal lands
- F. Contact all Federally-recognized Tribes no less than every 5 years to provide them an opportunity to review, opt in or opt out of receiving notification.

Tribes may contact NRC at anytime to opt-in or opt-out of notifications.

Commented [KT8]: Explore future guidance around this. Should it specify federally recognized tribes? Is it open to state recognized tribes?

Commented [TM9]: This could prove difficult. However, if NRC is willing to stay updated on contact information for tribal officials and their designees that is a great communication strategy.

Commented [TM10]: Inserted and/or designee as this language could 'speed' up the process of notification to ensure officials/designees were notified.

Commented [TM11]: "Tribal lands" language aligns with the NRC Tribal Protocol Manual.

Commented [TM12]: A reference to the NRC Tribal Protocol Manual will be helpful for reviewers.

Commented [TM13]: Can we describe the process that NRC will use to develop maps of tribal reservations and corresponding tribal lands?

Commented [KT14]: Are there terms or processes already in place that you can include for references to documentation such as the NRC Tribal Protocol Manual.

- G. Develop Safeguards Information Training for designated Tribal government representatives in several formats

Commented [TM15]: Suggest references to documentation or describe formats.

VI. NSIR Responsibilities for the Advance Notification Program

Commented [KT16]: It would be best to spell out acronyms initially and/or have a glossary of terms.

- A. Routes
- B. Maps
- C. Outreach

Commented [KT17]: Suggest expanding information in this section such as who decides the route, what are the maps, what is outreach?

VII. Tribal Nations in the Advance Notification Program

A. Process of Enrollment for Tribal Nations in the Advance Notification Program

1. Tribal official notifies the NRC of interest in receiving advance notification.
2. The NRC sends the Tribal official an introduction letter, program fact sheet, reservation map and information on the requirements to protect Safeguards Information.
3. Tribal nation officials review reservation boundaries and tribal lands.
4. Tribal nation designates the government official(s) who will be the contact(s) for notification.
5. Tribal nation designees completes Safeguards Information training.
6. Tribal nation establishes a mechanism/infrastructure to protect Safeguards information.
7. Tribal nation provides NRC with contact information for designee(s), confirmation of map boundaries, and confirmation of completion of Safeguards information training.

Commented [TM18]: 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?

B. Tribal Government Officials Responsibility to Protect Safeguards Information

1. Tribal government officials and designees must complete Safeguards Information Training and comply with requirements to protect Safeguards Information under penalty of law.
2. Tribe must establish basic protection requirements for Safeguards Information.
3. Tribe must store Safeguards information in a locked security container with restricted access.
4. Tribe must restrict access to Safeguards Information to individuals who have undergone an FBI background check or been exempted from this check who also have a "need to know."

C. Notification of Tribal Government by Licensees

1. The licensee will send a written advance notification to the office of the Tribal official or official's designee of the shipment of irradiated reactor fuel or nuclear waste.
2. Notification by mail must be postmarked at least 7 days before the beginning of the 7-day period during which departure of the shipment is expected to occur.
3. Notification by any other means must reach the office of the Tribal official or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.
4. The advance notification of shipment ~~of~~ shall contain:

Commented [TM19]: Is there funding to establish a mechanism/infrastructure? If so, identify resources that tribes can review.

Commented [TM20]: What is the definition of means?

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- a) Name, address, and telephone number of the shipper, carrier, and receiver of the shipment.
 - b) A description of the contents of the shipment.
 - c) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur.
 - d) The 7-day period during which arrival of the shipment at the Tribal reservation boundary is expected to occur.
 - e) The destination of the shipment and the 7-day period during which arrival of the shipment is estimated to occur.
 - f) A point of contact, with a telephone number, for current shipment information.
5. Revisions and cancellations of notices
- a) If information previously provided in an advance notification changes, the licensee shall telephone a responsible individual in the office of the Tribal official or official's designee and inform the individual of the change.
 - b) The licensee who cancels a shipment for which advance notification has been sent shall send a cancellation to the Tribal official or official's designee.
 - c) The notice will state that it is a cancellation and identify the advance notification that is being cancelled.
- D. Cancellation of participation in the Advance Notification Program
- 1. Tribes may withdraw from participation in Advance Notification program at any time by sending a written notification to the NRC.
 - 2. NRC will remove maps and contact information for Tribe withdrawing from the program from the NRC Web site, upon receipt of notification.