

Gallagher, Carol

From: James A McKenzie [jmckenzie@dinecollege.edu]
Sent: Tuesday, April 02, 2013 2:28 PM
To: Gallagher, Carol
Subject: Docket ID NRC-2012-0235, Draft Tribal Protocol Manual and Scoping for Proposed Policy Statement
Attachments: Comments_NRC_Tribal_Policy_Statement_3_31_13.pdf

Hello Ms. Gallagher,

I am writing in follow up to our phone conversation a few moments ago regarding difficulty/errors that I experienced in uploading comments on Docket ID NRC-2012-0235, **Draft Tribal Protocol Manual and Scoping for Proposed Policy Statement**, to the regulations.gov website.

Thank you for helping me in posting the comments we have prepared to the system for consideration.

Attached is the document with comments I am submitting on behalf of Diné Policy Institute at Diné College (one of the tribal colleges of the Navajo Nation). When you receive this email I would greatly appreciate it if you could email me to confirm that the attachment with comments has been successfully received.

Please feel free to contact me if you have any questions regarding our submission.

Thank you again,

James McKenzie
Interim Director
Diné Policy Institute
928-724-6946

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Ms. Cindy Bladey, Chief
Rules, Announcements and Directives Branch (RADB)
Office of Administration
Mail Stop: TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

RE: Draft Tribal Protocol Manual (TPM), Docket ID NRC-2012- 0235

Dear Ms. Bladey,

The following comments are being submitted in reference to Docket ID NRC-2012-0235, Nuclear Regulatory Commission (NRC) Draft Tribal Protocol Manual and Scoping for Proposed Policy Statement. We wish to thank the NRC for soliciting comments from tribal colleges and universities on this important matter. The following general comments are prepared to offer perspective to the NRC in relation to questions posed in the Federal Register and on the NRC website:

- How can the NRC strengthen government-to-government relationships with Native American tribes?
- What unique tribal issues should the NRC be aware of as a non-land holding, regulatory agency that issues licenses under the Atomic Energy Act?

Background:

Section 1.A: Shaping The Relationship Between Tribes And The Federal Government

In order for representatives utilizing this manual to better understand the perceptions and stances of citizens of Native Nations, it is important for them to be informed as to the effects of historical traumas experienced by Native peoples in relation to the federal government. Although current federal governmental policies differ from those of federal agencies from the past, it is important to note that the effects of policies that deeply impacted Native communities in the nineteenth and twentieth centuries are sometimes intergenerational in their reach, still affecting current perceptions of Native representatives and community members. More information on topics such as Manifest Destiny, estimated numbers of Native peoples lost to such policies, and numbers of those removed are all significant to the discussion of land management and regulation.

Of key importance, discussion should be included regarding the historical impacts of natural resource extraction and/or energy development on or affecting lands of Native Nations. This will help the NRC gain better understanding as to reasons Native communities and citizens hold certain views toward federal regulation of energy matters. In addition, providing references to historical texts written from Native perspectives would help readers to learn more about these perspectives.

Background and statistical information on socioeconomic conditions in Native communities and reservations would also aid readers in better understanding the

unique set of circumstances that Native Nations face in relation to natural resource/energy extraction and development, economic conditions and how they affect discourse on energy among Native Nations.

Finally, at times due to complex land status (such as “checkerboard” areas) multiple policies and regulations may be developed, especially where land status is outside tribal jurisdiction and Native communities are encompassing the lands. Applications of state regulation and policies may not be acceptable to local Native communities. These roles and policies must be clearly defined and communicated.

Sovereign Status of Tribes and Input from Native Citizens

In concurrence with the statement on page five, it is important that the sovereign status of Native Nations is duly respected and recognized. Specifically in relation to Native Nations who have established moratoriums or expressed explicit concerns related to natural resource extraction and energy development on lands close to or within their lands. With respect to the Navajo Nation, this applies to the current moratorium on uranium mining and milling processing sites throughout Navajo Trust lands. Sovereign status must be taken into account on a case-by-case basis, as stances regarding specific energy topics may differ between individual Native Nations. This supports case-by-case approaches to interaction with individual Native Nations.

While it is important that NRC respect and follow an approach of dealing with representative governments of Native Nations, it should not seek to limit the input it gathers to interaction and dialogue with governments, alone. Proper protocol, as identified by respective Native Nation governments should be followed for soliciting community input. Comments obtained at the community level, including guidance from elders and Traditional Knowledge Holders and Practitioners (medicine people) should be sought in matters that affect Native communities. Often times cross-cultural orientations are better addressed through these respected community members, providing for interpretation where necessary. It will be important for NRC to work with local agencies and institutions to gain better understanding of the complexities and uniqueness of each Native Nation’s culture and traditions as they apply to the manual and protocols.

Cultural Considerations:

Section 2.A: Differences In Tribal And Non-Native American Cultures

While some discussion is provided on the importance placed by some Native Americans on the relationship between themselves and the environment, it is important to recognize that some Native Nations may place *higher priority* on their relationship with environment (including natural resources) than on other considerations held as priorities to non-natives. This must be respected within the context of a government-to-government relationship. Further, as with Navajo Nation, culturally rooted traditional laws pertaining to a Native Nation’s relationship to the environment, and all elements therein, may exist in either written or unwritten form. These laws must be adhered to under the sovereign

status of Native Nations, and it is important for NRC to familiarize itself with such laws as deemed appropriate by such Nations.

Further, non-Native approaches to risk assessment and risk communication must be sufficiently sensitive to Native American ties to their environment, their lands and ancestral tradition from a holistic approach. It is advisable that assessment and risk communication strategies involve local Traditional Knowledge Holders and Practitioners (medicine people), or others with traditional and cultural awareness. In some cases, the specific concepts of ties to the environment differ from tribe to tribe. As such, any approach to assessment and communication must recognize these essential differences. This is critical when conceptual designs for construction, closures and/or abatement/remediation are developed to address hazardous and/or radioactive material and don't involve input of the Native citizens they will affect. Failure to incorporate such input can cause suspicions and mistrust that can resonate for decades.

Terminology:

In reference to the terminology described on page one of the introduction, the term, "Native Nation" is preferable in discussing government-to-government relationships. On page seven, the term "Sacred Sites" should be added to discussion on concerns expressed by Native peoples and Nations.

Again, thank you for providing the opportunity to comment on the Draft Tribal Protocol Manual.

Best Regards,

A handwritten signature in black ink, appearing to read 'J. McKenzie', with a long horizontal flourish extending to the right.

James McKenzie
Interim Director,
Diné Policy Institute
Diné College