



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

May 1, 2018

MEMORANDUM TO: Dr. Brett M. Baker
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Daniel H. Dorman */RA/*
Acting Deputy Executive Director for Materials, Waste,
Research, State, Tribal, Compliance, Administration
and Human Capital Programs
Office of the Executive Director for Operations

SUBJECT: STAFF RESPONSE TO THE OFFICE OF THE INSPECTOR
GENERAL'S AUDIT OF THE U.S. NUCLEAR REGULATORY
COMMISSION'S CONSULTATION PRACTICES WITH FEDERALLY
RECOGNIZED NATIVE AMERICAN TRIBAL GOVERNMENTS
(OIG-18-A-10)

The staff has received the report, "*Audit of NRC's Consultation Practices With Federally Recognized Native American Tribal Governments*," dated April 4, 2018, from the Office of the Inspector General (OIG). The OIG Audit Report makes five recommendations to improve the consultation practices of the U.S. Nuclear Regulatory Commission (NRC) with federally recognized Native American Tribal governments. This memorandum provides the staff's response to the five audit recommendations. The response includes the staff's planned actions and the target dates for completing the planned actions.

Recommendation 1:

Update MD [Management Directive] 5.1 to include FSTB [Federal, State, and Tribal Liaison Branch] when working with Tribes. The guidance should also clearly define FSTB's role and responsibilities with regard to Tribal outreach and consultation.

Response

The staff agrees with the recommendation to update Management Directive (MD) 5.1 to include the Federal, State, and Tribal Liaison Branch (FSTB) when working with Tribes. To complement the changes in MD 5.1, the staff will provide more detail on the roles and responsibilities of FSTB pertaining to outreach and consultation in a new procedure that the staff will develop.

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MD 5.1 is currently being revised and will include additional responsibilities for the FSTB Tribal liaisons. The revision will also update the Tribal outreach and consultation responsibilities to reflect the Tribal Policy Statement and three delegations of authority for intergovernmental consultation and coordination that were issued after the Tribal Policy Statement.

In addition to the changes being made to MD 5.1, the staff will develop a new procedure that will further define the roles and responsibilities of the FSTB within the Office of Nuclear Material Safety and Safeguards (NMSS) pertaining to Tribal outreach and consultation. This will be the first Tribal Liaison (TL) series procedure and would be analogous to SL-100, "*Regional State Liaison Officers (RSLOs)*" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML101810461). This procedure would provide greater specificity and detail for the Tribal outreach and consultation roles and responsibilities of FSTB and would provide more detailed information than that which is necessary and appropriate for the MD.

Planned Actions:

1. Complete the revision to MD 5.1, which will include additional FSTB and FSTB Tribal liaison responsibilities.
2. Develop a new TL-series procedure to provide additional detail on the roles and responsibilities for FSTB and the FSTB Tribal liaisons.

Target dates for completion:

1. Update to MD 5.1: October 2018
2. Develop the new TL-series procedure: December 2018

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Recommendation 2:

Update NRC office procedures to include more specific direction on how to coordinate with FSTB and how to work with Tribes.

Response

The staff agrees with the recommendation.

As described in the response to Recommendation 1 above, the staff will develop a new TL-series procedure that will include the roles and responsibilities of FSTB and the FSTB Tribal liaisons in Tribal outreach and consultation. While the TL-series procedure is being finalized, FSTB staff will provide interim training to program office staff who interact with Tribes regarding coordination with FSTB Tribal liaisons and available resources. Once finalized, the TL-series procedure will be shared with other offices to incorporate into their procedures, as appropriate.

Planned Actions:

1. Develop a new TL-series procedure to provide additional detail on the roles and responsibilities for FSTB and the FSTB Tribal liaisons.

2. While the TL-series procedure is being finalized, FSTB staff will provide interim training to program office staff who interact with Tribes regarding coordination with FSTB Tribal liaisons and available resources.
3. Offices to complete updates to their respective procedures/guidance documents and include more specific direction on how to coordinate with FSTB and how to work with Tribes.

Target dates for completion:

1. Develop the new TL-series procedure: December 2018
2. Provide training to program staff who interact with Tribes regarding coordination with FSTB Tribal liaisons and available resources: October 2018
3. Offices to complete the updates to their procedures/guidance documents: March 2020

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Recommendation 3:

Require all staff and management that may interact with Tribes to take Tribal relations training, as well as any other relevant training courses related to Tribes.

Response

The staff agrees with the recommendation.

The Human Capital Council has to approve any mandatory training imposed on the NRC staff. The staff will request that the Human Capital Council make training, i.e., cultural sensitivity training, mandatory for those staff positions most likely to involve substantive interactions with Indian Tribes.

Planned Actions:

1. Obtain Human Capital Council approval to require employees to complete the cultural sensitivity training.
2. Implement the Human Capital Council decision and have the identified pool of NRC employees complete the training.

Target date for completion:

1. Human Capital Council decision on the mandatory training: June 2018
2. Identified pool of NRC employees complete training: September 2018

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Recommendation 4:

Develop and implement a qualification program that assures the minimum level of skills and knowledge required for each FSTB staff member to effectively interact with Tribes and other NRC staff.

Response

The staff agrees with the recommendation that the FSTB Tribal liaison staff have a minimum level of skills and knowledge to effectively interact with Tribes and other NRC staff. The staff has determined that this outcome can be accomplished by assigning and tracking the completion of the appropriate training in lieu of a formal qualification program.

Planned Actions:

1. Define and document the minimum level of knowledge and skills necessary to fulfill FSTB's roles and responsibilities for Tribal outreach and consultation.
2. Identify skill gaps of existing FSTB Tribal liaison staff.
3. Current staff will complete the identified training that is necessary to close any gaps in knowledge or skills.

Target date for completion:

1. Define and document the minimum level of knowledge and necessary skills: July 2018
2. Identify skill gaps of existing FSTB Tribal liaison staff: July 2018
3. Current staff will complete the necessary training: December 2018

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Recommendation 5:

Include sufficient resources to allow for necessary outreach and consultation activities by FSTB staff. This should be done, in part, by tracking FSTB travel expenditures to help better inform future travel budgets.

Response

The staff agrees with the recommendation.

The staff agrees that sufficient resources should be available for necessary outreach and consultation activities by FSTB staff. In fact, the NRC staff has mechanisms in place to ensure that resources are evaluated and allocated for Tribal activities as part of the budget formulation process. In response to OIG's audit, the Division of Materials, Safety, Security, State, and Tribal programs (MSST) added additional tracking capability to the MSST SharePoint travel site in February 2018. This new capability allows for easier sorting of travel by activity and branch and can be used to help better inform future travel budgets. MSST also confirmed that there are sufficient resources within the budget for FSTB Tribal liaison outreach and consultation activities. No additional actions are necessary to implement the recommendation.

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