

DRAFT SUPPORTING STATEMENT
FOR
TRIBAL PARTICIPATION IN THE ADVANCE NOTIFICATION PROGRAM

(3150-XXXX)

NEW

Description of the Information Collection

The U.S. Nuclear Regulatory Commission's (NRC) regulations in Title 10 of the Code of Federal Regulations (CFR) Parts 71 and 73 governing the packaging and transportation of radioactive material and the physical protection of nuclear power plants, other facilities, and materials were amended on June 11, 2012 ("Advance Notification to Native American Tribes of Transportation of Certain Types of Nuclear Waste," Final Rule, 77 FR 34194), respectively. When certain shipments of nuclear waste or shipments of irradiated reactor fuel will occur within or will cross the boundary of a federally recognized Indian Tribe's reservation, licensees must now provide advance notification to those Tribal governments that choose to receive the advance notifications.

In order to receive these notifications, federally recognized Indian Tribes will affirmatively opt-in to receive the notifications. However, participating Tribal governments who receive Safeguards Information (SGI) and those individuals handling the SGI are required to protect the SGI. SGI is a special category of sensitive unclassified information that must be protected, if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of source, special nuclear material, or byproduct material or the production or utilization facilities. Before participating in the advance notification program, the Indian Tribes will submit the following certifications: 1) the Tribal official or their designee(s) has (or have) taken training on the handling of SGI and 2) the Indian Tribe has the necessary protection measures in place and the Indian Tribe will protect the SGI. If the Tribal official is designating another person to receive the advance notifications, information on the designation will be provided. The Indian Tribe will also provide the contact information for the Tribal official or the Tribal official's designee(s). The Indian Tribe will also provide an affirmation of the boundaries of the Indian Tribe's reservation or the necessary corrections to a map provided by the NRC. The NRC will also collect the name and contact information for the Indian Tribe's emergency response contact(s).

A. JUSTIFICATION

1. Need For and Practical Utility of the Collection of Information

The information that the NRC requests is necessary to implement the advance notification program as it pertains to federally recognized Indian Tribes, ensure SGI

provided to participating Indian Tribes will be protected, and to respond to potential transportation incidents. NRC licensees will use the information to comply with the NRC's regulations that require them to provide advance notice of certain shipments of radioactive material to participating Indian Tribes. Agreement State licensees may use the information to comply with the compatible Agreement State regulations.

2. Agency Use of Information

The NRC uses the collected information to implement the advance notification program. The NRC uses the designation to determine who the Tribal official has designated to receive the advance notifications for the Indian Tribe and has the need-to-know the safeguards information that may be contained within the advance notifications. The NRC will use the contact information to direct correspondence on issues related to the transportation of radioactive materials and the advance notification program to the appropriate individual. The NRC verifies contact information on transportation routes submitted to the NRC for approval. The NRC requires the Tribal official or the Tribal official's designee to be trained on the handling of SGI and to certify that they have taken the training and for the Indian Tribe to certify that the Indian Tribe has the necessary protection measures in place to protect SGI and that they will protect the SGI. The NRC would collect information for the emergency response contact that would be used in the event of transportation incident occurring on the Indian Tribe's reservation.

The NRC makes information available to licensees to enable licensees to comply with the NRC's regulations at 10 CFR 71.97 and 10 CFR 73.37; these regulations require licensees to provide advance notice of certain shipments of radioactive material to participating Indian Tribes. This information includes the following:

1. Maps of the Tribal reservation boundaries, which allow licensees to identify which Indian Tribes require advance notice of their shipments; and
2. Contact information for the Tribal official or the Tribal official's designee, which allows licensees to know: 1) to whom they need to provide the advance notice, 2) who has the need-to-know the safeguards information that may be included in the advance notification, and 3) how to contact this person.

The NRC would also make the emergency response contact information available to licensees.

3. Reduction of Burden Through Information Technology

The NRC has issued *Guidance for Electronic Submissions to the NRC* which provides direction for the electronic transmission and submittal of documents to the NRC. Electronic transmission and submittal of documents can be accomplished via the following avenues: the Electronic Information Exchange (EIE) process, which is available from the NRC's "Electronic Submittals" Web page, by Optical Storage Media (OSM) (e.g.

CD-ROM, DVD), by facsimile or by e-mail. It is estimated that approximately 40% of the potential responses will be filed electronically.

4. Effort to Identify Duplication and Use Similar Information

The NRC uses information from the United States Census Bureau to develop the maps of the reservations that are provided to those federally recognized Indian Tribes that have expressed interest in participating in the advance notification program. Other agencies may have information on emergency management contacts within Indian Tribes; however, these contacts may not be the Indian Tribe's preference for shipments of radioactive material that require advance notification. The Agreement States do not collect similar contact information for their licensees. Consequently, Agreement State licensees will use the information that the NRC collects and makes available.

The advance notifications may contain SGI, so the NRC needs to have confidence that it has the correct mailing address for the Tribal official or the Tribal official's designee to receive the advance notifications and relying on other sources of information would increase the likelihood of the inadvertent release of SGI. For the other information that would be collected, there are no sources of similar information that are available.

5. Effort to Reduce Small Business Burden

Approximately 95% of responding Indian Tribes are estimated to be small entities. In order to minimize burden on the responding Indian Tribes, the NRC provides the Indian Tribes with reservation maps from the United States Census Bureau and requests confirmation of reservation boundaries. This allow the Indian Tribes to affirm that the map is correct or to provide changes. In addition, the NRC assists the Indian Tribes by providing training on how to protect safeguards information and provides this training in ways that will reduce the burden on the Indian Tribes. In addition, the NRC's regulations at 10 CFR 73.59 extended the relief from fingerprinting requirements required for access to SGI to Tribal officials, Tribal official designees, and Tribal law enforcement personnel. These individuals will not need to be fingerprinted for access to SGI.

6. Consequences to Federal Program or Policy Activities if the Collection Is Not Conducted or Is Conducted Less Frequently

The NRC requests information from those federally recognized Indian Tribes interested in receiving advance notifications. The NRC will provide federally recognized Indian Tribes with information about their ability to participate in the advance notification: 1) every five years, 2) after an Indian Tribe achieves Federal recognition, and 3) when a transportation route is approved that is within a reservation or crosses a reservation boundary. This allows Tribes that may be affected by the transportation of spent nuclear fuel or shipments of nuclear waste to participate in the advance notification program and to receive advance notice of higher risk shipments on their territory. If the information is not collected on this frequency, Tribes would be unaware of their ability to receive this

information and would not be notified of these higher risk shipments and shipments in, to, or through the Tribal reservation would occur without the federally recognized Indian Tribe receiving advance notice.

For participating Indian Tribes, the NRC will request information when there is a change in Tribal leadership and to inform them of their ability to discontinue their participation. The NRC will also request information when there is a change in the Tribal official's designation. This is the minimum frequency to ensure that the advance notice is provided to someone with a need-to-know and is the Tribal official or receiving the information on behalf of the Tribal official. If the information is not collected, NRC licensees would not be able to comply with the NRC's regulations to provide advance notice of certain shipments of radioactive material to participating Indian Tribes, the NRC would not know which Indian Tribes are interested in receiving the advance notifications, there would be an increased likelihood that SGI would not be sufficiently protected, and there would be an increased risk of unauthorized disclosure of SGI.

Indian Tribes may provide information in response to one of the reminders that the NRC will send to the Indian Tribe. Some information is requested only one time. The other information would only need to be provided when there is a change, making the update necessary. If this information is collected less frequently, the advance notification may not go to the appropriate individual and the Indian Tribe would not be properly informed of the shipment, affecting the opportunity provided to the Indian Tribe to identify concerns about the timing of the shipment to the licensee and there would be an increased risk of unauthorized disclosure of SGI. Collecting the information less frequently could also affect the timeliness of the emergency response activities related to a transportation incident.

The Tribal official, or the Tribal official's designee, needs to receive training on the protection of SGI one time before they can receive information to ensure that they understand their responsibilities for handling, storage, and disposal of safeguards information. This one-time training is considered the minimum necessary.

7. Circumstances Which Justify Variation from OMB Guidelines

There is no variation from OMB guidelines.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package will be published in the *Federal Register*.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17(a) and 10 CFR 2.390(b). However, no information normally considered confidential or proprietary is requested.

11. Justification for Sensitive Questions

No sensitive information will be requested.

12. Estimated Burden and Burden Hour Cost

The NRC staff estimates that it takes 6 hours for the initial request to participate in the advance notification program, which includes the following:

Reporting

- Preparing the Tribal official's designation (0.75 hours)
- Providing contact information for the Tribal official or Tribal official's designee and the Indian Tribe's emergency response contact (0.25 hours)
- Confirming reservation boundaries (1 hour)
- Taking SGI training and certifying completion (1 hour)
- Establishing the necessary protection measures in place and certifying that the Indian Tribe will protect the SGI (3 hours)

In addition, the NRC staff estimates that it takes 2 hours for subsequent requests, such as when there is a change in the Tribal official or Tribal official's designee.

Table 1 summarizes the annual anticipated recordkeeping responses and burden.

Table 1. Annual Reporting Burden					
	Respondents	Responses per respondent	Total responses	Burden per response	Total burden
Initial requests	3	1	3	6	18
Change requests	4	1	4	2	8
Total reporting	7		7		26

Recordkeeping

- Maintaining procedures for the protection of SGI (0.5 hour)
- Protecting retained SGI before it is decontrolled or destructed (1 hour)

Information protection procedures employed by Tribal law enforcement agencies are presumed to meet the general performance requirements for protecting safeguards information. The staff estimates that 67% of 15 federally recognized Indian Tribes requesting to participate in the advance notification program will need to maintain procedures that are not used by Tribal law enforcement agencies. The staff estimates that federally recognized Indian Tribes not using the procedures of a Tribal law enforcement agency will spend 0.5 hours annually for maintaining these procedures.

The staff estimates that participating federally recognized Indian Tribes choosing to store SGI will spend 1 hour annually for recordkeeping associated with the storage of SGI before it is decontrolled or destructed.

Table 2 shows a summary of recordkeeping burden.

Table 2. Annual Recordkeeping Burden			
	Recordkeepers	Burden per recordkeeper	Total burden
Maintaining SGI procedures	10	0.5	5
SGI storage	5	1	5
Total recordkeeping	15		10

The total burden for the proposed information collection is shown in Table 3. The total burden is estimated to be 36 hours annually at a cost of \$10,008 (36 hours x \$278/hr).

Table 3. Burden Totals and Cost			
	Responses	Hours	Cost at \$278/hr
Reporting	7	26	\$7,228
Recordkeeping	15	10	\$2,780
Total	22	36	\$10,008

The \$278 hourly rate used in the burden estimates is based on the Nuclear Regulatory Commission's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per professional staff-hour." For more information on the basis of this rate, see the Revision of Fee Schedules; Fee Recovery for Fiscal Year 2019 (84 FR 22331, May 17, 2019).

13. Estimate of Other Additional Costs

Federally recognized Indian Tribes receiving SGI would need a way of destroying the SGI. Federally recognized Indian Tribes choosing to store SGI would need a way of storing the information in an approved storage container (e.g., a secure filing cabinet). The staff estimates that a one-time purchase of an approved shredder would cost \$250. The staff estimates that a one-time purchase of a secure filing cabinet would cost \$500.

The staff estimates that 100% of participating federally recognized Indian Tribes would purchase both a shredder and a secure filing cabinet. The staff estimates that the burden for storing and destroying SGI using approved methods is \$11,250 (15 participating federally recognized Indian Tribes x \$250 for each shredder and \$500 for each secure filing cabinet = \$11,250), annualized to \$3,750 over the three year clearance period (\$11,250/3 years).

14. Estimated Annualized Cost to the Federal Government

The NRC professional staff will review the information submitted and update the web site used to provide the information to licensees, which requires 25 hours of staff time annually at a cost of \$6,950 (25 hours x \$278/hr.).

15. Reasons for Change in Burden or Cost

This is a new information collection that would impose an estimated 26 hours of annual burden at a cost of \$10,008 (36 hours x \$278/hr.) on federally recognized Indian Tribal governments that opt-in to receiving notifications when certain shipments of nuclear waste or shipments of irradiated reactor fuel occur within or cross the boundary of their reservations. The information provided is the minimum necessary to satisfy the Commission's policy decisions on the information needed for federally recognized Indian Tribes to opt-in to receive advance notice of certain shipments of radioactive material and for the NRC to have confidence that the SGI would be adequately protected.

16. Publication for Statistical Use

This information will not be published for statistical use.

17. Reason for Not Displaying the Expiration Date

The expiration date will be displayed in correspondence to the federally recognized Indian Tribes.

18. Exceptions to the Certification Statement

Not applicable.

B. Collections of Information Employing Statistical Methods

Not applicable.