



Office of Nuclear Material Safety and Safeguards Procedure Approval

Principal NMSS Tribal Liaison Program Roles and Responsibilities Tribal Procedure (TR), TR-100

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Signed by Williams, Kevin
on 11/22/21

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of Arribas-Colon, Maria
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NOTE

***Any changes to the procedure will be the responsibility of the NMSS Procedure Contact.
Copies of NMSS procedures are available through the NRC Web site at <https://scp.nrc.gov>***

I. INTRODUCTION

This procedure provides general guidance and describes the implementation of Tribal-related organizational responsibilities to ensure effective engagement with other NRC offices and external stakeholders as described in Management Directive (MD) 5.1, “Consultation and Coordination with Governments and Indian Tribes” (ADAMS Accession No. [ML112351312](#)), using the principles found in the NRC’s Tribal Policy Statement ([82 FR 2402](#)), within the Office of Nuclear Material Safety and Safeguards (NMSS).

II. OBJECTIVES

- A. To delineate the roles, responsibilities, and duties that Tribal liaisons in NMSS have regarding the implementation of the NRC’s Tribal program in coordination with OEDO and NMSS Management;
- B. To provide background and reference materials related to the duties and responsibilities of the Tribal liaison; and
- C. To provide information for the NRC staff on how to effectively coordinate with the Tribal liaisons.

III. BACKGROUND

The NRC shares the Federal Government’s unique Trust Relationship with, and Trust Responsibility to, Indian Tribes¹. Under the Federal Trust Doctrine, the United States and the individual agencies of the Federal Government owe a fiduciary duty to Indian Tribes. As an independent regulatory agency that does not hold Tribal lands or assets in trust or provide services to federally recognized Tribes, the NRC fulfills its Trust Responsibility to federally-recognized Indian Tribes by implementing the six principles in the NRC Tribal Policy Statement, providing protections under its implementing regulations, and recognizing additional obligations consistent with other applicable treaties and statutory authorities.

On January 9, 2017, the NRC issued the agency’s Tribal Policy Statement. The purpose of the Tribal Policy Statement is to establish principles to be followed by the NRC to promote effective government-to-government interactions with federally recognized Indian Tribes and to encourage and facilitate Tribal involvement in the areas over which the Commission has jurisdiction. The Tribal Policy Statement’s six principles that guide the NRC’s interaction with Indian Tribes:

1. Recognizes the Federal Trust Relationship with and will uphold its Trust Responsibility to Indian Tribes,

¹ Similar to NUREG-2173, Revision 1, “Tribal Protocol Manual,” issued July 2018, this procedure uses various names when describing Native American peoples, because there is no specifically established name that describes Native American peoples. As noted on page ix of the Tribal Protocol Manual, Presidents, Executive orders, and Federal agencies have used terms such as “Native Americans,” “First Americans,” “Tribal Nations,” “Alaska Natives,” “American Indians,” and “Indian Tribes.”

2. Recognizes and is committed to a government-to-government relationship with Indian Tribes,
3. Will conduct outreach to Indian Tribes,
4. Will engage in timely consultation,
5. Will coordinate with other Federal agencies for joint Tribal consultation, and
6. Will encourage participation by State-recognized Tribes.

Management Directive 5.1 covers consultation and coordination with States, federally recognized Indian Tribes, other Federal agencies, local governments, and national or regional organizations of States. It also addresses general staff and management responsibilities for consultation and coordination with governments and federally and State-recognized Tribal governments, intertribal agencies, and Indian Tribal organizations.

IV. ROLES AND RESPONSIBILITIES

Section III of MD 5.1 contains detailed descriptions of the roles and responsibilities for the NRC executives, managers, and staff that have responsibilities associated with Tribal outreach and consultation. The Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration, and Human Capital Programs (DEDM) in the Office of the Executive Director for Operations (EDO) serves as the NRC's designated official for Tribal consultations. The Director, NMSS, maintains communication with the DEDM, during periodic meetings, to keep the EDO informed of pertinent Tribal actions including implementation of the Tribal Policy Statement, ongoing outreach activities, maintenance of working relationships with elected and appointed Tribal officials, discussions with directors and regional administrators regarding Tribal actions, the activities of the Tribal Liaisons, and opportunities to inform and educate the NRC staff about topics that would contribute to improving the consultation and coordination activities with Tribes. Alignment meetings should be conducted to seek the guidance of the DEDM regarding consultation requests from Tribes, Tribal concerns for matters that require Commission deliberation, and policy issues, concerns, and recommendations.

Tribal Liaisons

Tribal liaisons at Headquarters and the Regional State Liaison Officers (RSLOs) share the responsibilities for the Tribal liaison functions. The NMSS Tribal liaisons serve as the primary points-of-contacts for federally and State-recognized Indian Tribes, intertribal agencies, and Indian Tribal organizations. Tribal liaisons have the following roles and responsibilities:

- A. Identify activities with potential Tribal interest and proactively engage with NRC staff regarding best practices for engagement with Indian Tribes.
- B. Ensure consistency in Tribal outreach and consultation across the NRC through ongoing communication with the staff and management.
- C. Implement NMSS's responsibilities related to the NRC's program of cooperation and liaison with Indian Tribes.

- D. Conduct Tribal liaison activities in accordance with the Tribal Policy Statement, MD 5.1, and TR-100.
- E. Maintain effective communications with Native American Tribal governments and other interested or affected organizations about NRC policies and programs that are national in scope or programmatic activities that are based at NRC Headquarters.
- F. Engage Federally Recognized Tribes on issues that arise within the NRC, significant Federal consultations, Federal Government-wide Tribal policy issues, and other matters that may impact Tribes, through ongoing communication with Tribal governments and organizations across the nation.
- G. Maintain liaison with Tribal relations offices of Federal agencies, such as the U.S. Department of Homeland Security, U.S. Environmental Protection Agency (EPA), and the U.S. Department of Energy (DOE) to collaborate on Tribal outreach and communication.
- H. Coordinate with RSLOs to share outreach and consultation work.
- I. Assist NRC staff in communicating and consulting with Tribal representatives,
- J. Develop and provide training to NRC staff on Tribal consultation activities.
- K. Maintain external and internal website containing instructions on how and when to contact NRC's Tribal liaisons.
- L. Develop and maintain a database of State and Tribal contacts in collaboration with RSLOs to support the staff in written communications with Tribes on the NRC's regulatory actions and activities.
- M. Support staff in fulfilling National Environmental Policy Act and the National Historic Preservation Act (NHPA) responsibilities involving the public and Tribes.
- N. Maintain the NRC Tribal Toolbox Web site at <https://tribal.nrc.gov/> that contains resources on outreach and consultation for Tribal nations.
- O. Lead and coordinate the operation of appropriate working groups and committees that address agencywide issues related to Tribal outreach and consultation, such as the Interoffice Tribal Working Group. The Interoffice Tribal Working Group is an informal group consisted of representatives from numerous agency organizations convened to help facilitate improved internal coordination involving NRC's Tribal efforts and to address short-term initiatives.
- P. Provide advice and support to the NRC's leadership on Tribal matters, including coordination with the Secretary of the Commission on meetings and other needs of the Commission and briefings for management, as requested.

- Q. Maintain communication with the NRC Office of Small Business and Civil Rights and coordinate and collaborate, as appropriate, on outreach and other programmatic activities associated with Tribal governments, businesses, colleges, universities, and communities.

RSLOs

The RSLOs serve as the primary points of contact for Tribal nations interested in NRC regulated activities within the NRC regions. The RSLOs may work independently with Tribal nations within their region or work collaboratively with the Tribal liaison at NRC Headquarters on outreach. Like Tribal liaisons, the RSLOs work with their counterparts in the regional offices of other Federal agencies to ensure effective Tribal interactions and to further support strong Federal-Tribal relations. The NMSS Policy and Procedure SL-100, "Regional State Liaison Officers (RSLOs)," describes the Tribal outreach and consultation responsibilities of the RSLOs.

V. DEFINITIONS

Outreach

NRC staff efforts to inform Federal agencies, States, local governments, federally recognized Indian Tribes, State-recognized Indian Tribes, quasi-governmental agencies, intertribal agencies, Indian Tribal organizations, interstate governmental agencies, and national or regional organizations of States about the agency's actions and plans. Outreach includes sharing information, encouraging the communication of concerns and interests to the NRC staff, as well as training and information exchanges. Outreach activities may also include informing federally and State-recognized Indian Tribes and Federal agencies that they may participate (1) in meetings or workshops, (2) on committees working with the NRC on a specific program, and (3) in taking independent or interdependent action towards a defined objective. Outreach may be oral or written and can take place remotely through electronic media or in face-to-face meetings.

Consultation

NRC staff efforts to conduct meaningful and timely discussions with Tribal governments on the NRC's regulatory actions that have substantial direct effects on one or more Indian Tribes and those regulatory actions for which Tribal consultation is required under Federal statute. The consultation process provides opportunities for appropriate Tribal officials or representatives to meet with NRC management or staff to achieve a mutual understanding between the NRC and the federally recognized Indian Tribes of their respective interests and perspectives.

Note: This definition does not include consultation conducted under NHPA Section 106, which requires that independent agencies having the authority to license any undertaking shall, prior to issuance of a license, take into account the effect of the undertaking on any historic property. The Environmental Center of Expertise has the lead in fulfilling NHPA Section 106 consultation requirements and the Tribal Liaisons will support those activities.

VI. GUIDANCE

Tribal liaisons have responsibility for the implementation of activities for the NRC's Tribal program in the areas of Tribal outreach, Tribal consultation, knowledge development and training within the NRC, and program development and management. Below is a list of general tasks and duties that may be required in each area. Detailed guidance for certain NRC regulatory processes is provided in the procedures listed in Appendix A.

A. Tribal Outreach

Tribal liaisons have the following responsibilities for Tribal outreach:

1. Serve as the primary point of contact for federally and State-recognized Indian Tribes, intertribal agencies and Indian Tribal organizations for outreach and communication of general information on the NRC's regulatory actions that may have direct effects on one or more Indian Tribes. Upon request, Tribal liaisons support the RSLOs with outreach activities within their regions.
2. Engage Tribes on issues related to NRC activities to establish relationships with Tribal government representatives to seek opportunities to share information on the NRC's regulatory activities, address concerns on the NRC's regulatory activities, and exchange information for engaging specific Tribal governments in the NRC's regulatory activities.
3. Coordinate participation by federally and State-recognized Indian Tribes in meetings or workshops and on committees working with the NRC on a specific program
4. Coordinate a timely response to inquiries posed by federally and State-recognized Indian Tribes, intertribal agencies and Indian Tribal organizations.
5. Identify both internal organizations and other Federal agencies that focus on Tribal nations for sharing information, cooperation, collaboration, and coordination for greater efficiency and effectiveness.
6. Conduct or arrange for staff presentations, training, and information exchanges with Tribal nations and organizations. Meetings with representatives of Tribal nations are considered government-to-government interaction and thus do not follow the guidelines established for public meetings in MD 3.5, "Attendance at NRC Staff-Sponsored Meetings."
7. Participate in Tribal outreach activities of other agencies, when invited by these agencies, such as DOE, EPA, Tribal Radioactive Materials Transportation Committee, and Nuclear Energy Tribal Working Group.

B. Tribal Consultation

Tribal liaisons have the following responsibilities for Tribal consultation:

1. Advise staff on consultation activities, including the approach, appropriate staff level, and timing.²
2. Coordinate with Tribal government officials when the staff or a Tribe requests government-to-government consultations.
3. Support the development of follow up communications for government-to-government consultations. This includes supporting agency officials in developing communications with Tribes explaining how Tribal input was considered in agency decisions regarding infrastructure projects.
4. Provide general training and education to the staff on the NRC's roles and responsibilities in consulting with Tribes.
5. Support staff outreach and consultations with Tribal nations. As appropriate, Tribal liaisons will assist project managers in identifying federally and State-recognized Indian Tribes, intertribal agencies, and Indian Tribal organizations that may have an interest in an NRC licensing or regulatory activity. Examples include consulting with project managers to ensure that the list of Tribes used during the NHPA Section 106 consultation will match the list that will be provided to the Commission for a mandatory hearing and access the potential effects of a rulemaking on Tribal lands, interests and trust resources.

C. Knowledge Development and Training within the NRC

Tribal liaisons have the following responsibilities for knowledge development and training within the NRC:

1. Develop and deliver formal training for the staff, through a variety of formats, on topics that could contribute to improving the Agency's effectiveness in consultation and coordination with federally recognized Indian Tribes, including the Federal Trust Responsibility, the NRC Tribal Policy Statement, known issues of concern for specific federally recognized Indian Tribes, and cultural considerations for working with federally recognized Indian Tribes.
2. Create opportunities for knowledge sharing for the staff through seminars, guest speakers, newsletters, news sharing, and other tools. Maintain the NRC Tribal Liaison Program website at <https://tribal.nrc.gov> to provide publicly available information and resources regarding NRC-regulated activities in proximity to Tribal lands.

² In accordance with MD 5.1, the cognizant Office Director will be the decision maker for consultation and coordination activities in their respective areas of responsibility.

3. Participate in Federal meetings, conferences, working groups, and other collaborative efforts to develop and share knowledge and improve Federal-Tribal relations.
4. Engage in continuous learning activities, including formal training, conferences, seminars, and independent study to increase knowledge of Tribal history, culture, socioeconomic status, and other areas that may impact the NRC's interaction with Tribes, and create opportunities to share this knowledge with staff.

D. Program Development and Management

Program development and management involves developing policies and guidance related to implementation of the Tribal program and providing interpretations and support to the staff and managers related to these policies and guidance. Tribal liaisons have the following responsibilities for program development and management:

1. Lead the development of policies and guidance related to implementation of the Tribal program and provide interpretations and support to the staff and managers related to these policies and guidance.
2. Support the Agency's staff in the development of program guidance in their respective offices to ensure alignment with Tribal Policy Statement principles.
3. Increase awareness of the Tribal liaisons as an agency resource by coordination across organizations, as needed, to hold meetings to support the implementation of MD 5.1 and the Tribal Policy Statement.
4. Collect and periodically publish data and reports on the NRC's interactions with Native American governments.

VII. APPENDICES

- A. Tribal Liaison Qualification Training
- B. Basic Outreach Process for Tribal Liaisons
- C. Informing Tribes of Final Agency Decisions
- D. Process for Granting or Denying a Request for Consultation

VIII. REFERENCES

Management Directives and Addendums

1. U.S. Nuclear Regulatory Commission, Management Directive 5.1, "Consultation and Coordination with Governments and Indian Tribes," July 6, 2020 (ADAMS Accession No. [ML112351312](#)).

NMSS Policies and Procedures and Other NMSS Guidance

2. U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards Policy and Procedure SL-100, "Regional State Liaison Officers (RSLOs)," July 28, 2021 (ADAMS Accession No. [ML21168A326](#)).

NRC Regulations, Policy Statements, and Related Reference Documents

3. U.S. Nuclear Regulatory Commission, "Tribal Policy Statement," January 9, 2017 ([82 FR 2402](#)) (ADAMS Accession No. [ML17011A243](#)).

NUREGs and Brochures

4. U.S. Nuclear Regulatory Commission, NUREG-2173, Revision 1, "Tribal Protocol Manual," July 2018 (ADAMS Accession No. [ML18214A663](#)).

IX. ADAMS REFERENCE DOCUMENTS

For knowledge management purposes, all previous revisions to this procedure, as well as all associated correspondence with stakeholders that have been entered into ADAMS and are listed below.

No.	Date	Document Title/Description	Accession No.
0	12/19/2018	Tribal Liaison Roles and Responsibilities TR-100	ML18275A329
1	11/XX/2021	Principal NMSS Tribal Liaison Program Roles and Responsibilities, TR-100	ML21088A259

Appendix A — Tribal Liaison Qualification Training

The Tribal liaisons should have a basic level of knowledge and skills to effectively work with staff and Native American Tribal governments to establish and maintain relations and communications and to promote greater awareness and mutual understanding of the policies, activities, and concerns of all parties related to the NRC's regulatory actions and activities. The necessary knowledge and skills can be acquired through training and on-the-job experience. The Tribal Liaison Knowledge and Skills Checklist identifies a basic level of training and qualifications to ensure successful implementation of the Tribal Liaison Program. Tribal liaisons are expected to complete each activity. The branch chief's (BC's) signature indicates successful completion of all required courses and activities listed in the checklist.

Continuing training is recommended to increase the depth of a Tribal liaison's knowledge in specific areas. The following courses and/or panel discussions are strongly recommended:

- Advisory Council on Historic Preservation – Section 106 Essentials (preferable first)
- TMS Panel Discussions
 - Tribal Interactions: Staff Support & Other Resources
 - Tribal Interactions: NHPA – A Multiple Agency & Tribal Panel Discussion (Modules 1 – 3)
- U.S. Department of Interior University – Consulting with Tribal Nations

Appendix B — Basic Outreach Process for Tribal Liaisons

Upon request, Tribal liaisons provide outreach³ support to program office staff. Although each tribal outreach effort is unique, the liaisons follow the same basic steps. It is ideal to request support early in the regulatory process, as a plan and schedule can be established for Tribal outreach. Tribal liaison support can be requested by contacting the Materials Safety and Tribal Liaison Branch (MSTB) Chief or sending an email to Tribal_outreach.resource@nrc.gov.

In fulfilling its duties, the Tribal liaison will perform the following tasks:

- Search databases for tribes potentially interested and/or impacted by the specific regulatory activity and generate a list
- Develop a map of Tribal geographic areas of interest
- Consult with State and Tribal Historic Preservation Officers to ensure that all potentially interested and/or impacted tribes are included on the list

The list of tribes is provided to the cognizant staff, where a discussion can begin on the necessary approach for outreach. In cases where outreach to all federally and State-recognized Tribes are appropriate, a State and Tribal Communications letter may be drafted and issued to communicate information such as public meetings, training course offerings, solicitation of comments, and alerts that proposed NRC rules are being published in the *Federal Register* (FR).

³ Tribal outreach and consultation meetings may result in information collections that require a clearance from the Office of Management and Budget (OMB) if more than nine respondents are involved (see Title 5 of the *Code of Federal Regulations* (5 CFR) 1320.3(c)). The NRC received guidance from OMB in 2014 that indicated that, if the NRC met with Tribes on a topic and individuals responded with their own opinions, each attendee counted as a respondent. However, a Tribal government submitting a comment as a single entity would be considered a single respondent. The staff conducting outreach and consultations should ensure compliance with this guidance.

Appendix C — Informing Tribes of Final Agency Decisions

The FR is the Federal Government's official vehicle for informing the public about NRC regulatory actions. For actions related to proposed rules and policies, licensing activities, and draft technical documents, the staff may issue a notice in the FR to solicit public comments, afford an opportunity to request a hearing, and provide notification of the disposition of the agency's final decision. Upon special request from members of the public, the staff may provide direct notification of the NRC's regulatory actions related to processes (rulemaking, licensing, enforcement, and hearings) of interest.

On December 10, 2010, NRC issued interim guidance clarifying that when input is received on any NRC regulatory action from a federally recognized tribe, the NRC staff is responsible for providing written communication to inform the Tribe of the agency's final decision, describe how the Tribe's input was considered, and directly respond to the Tribe's comment(s). Therefore, the staff leading the regulatory action should coordinate with the Tribal liaison staff to provide this written communication as soon as practical, after the agency's final decision. Typically, the staff leading the regulatory action will draft the written communication and will coordinate with the Tribal liaison to determine who will issue the communication to the Tribes.

Appendix D — Process for Granting or Denying a Request for Consultation

The NRC consults with Tribes as required by Treaty, statute, or regulation when those actions have a substantial and direct effect on the Tribe. Tribal officials may request that the NRC engage in consultation on matters that have not been identified by the NRC to have substantial direct effects on one or more Indian Tribes or those regulatory actions for which Tribal consultation is not required under Federal statute. The NRC will make efforts to grant such requests, taking into consideration the nature of the activity at issue, past consultation efforts, available resources, timing issues, and other relevant factors. The NRC staff will evaluate consultation requests in accordance with the following procedure.

1. All requests should be forwarded to the MSTB Chief.
2. The MSTB Chief will assign a Tribal liaison to perform the following tasks:
 - a. Issue a letter of acknowledgement to the requesting Tribal official within 5 days of receipt.
 - b. Review the request and establish a work plan that identifies the appropriate review team and milestone dates.
 - c. Prepare a Purpose, Outcome, & Process agenda and brief the MSTB Chief and Materials Safety, Security, State and Tribal Program (MSST) management.
 - d. Inform OGC of the request.
 - e. Coordinate with the appropriate BC(s) to assemble additional expertise needed for the review.
 - f. Brief the NMSS front office, if instructed by MSST management.
 - g. Coordinate with the MSST and NMSS technical assistants to inform the NMSS Executive Technical Assistant in the EDO's office about the request and work plan.
 - h. Coordinate and consult with the review team to align on a recommendation to grant or deny the request for consultation.
 - i. Complete the Consultation Response Form.
 - j. Obtain concurrence on the recommendation from the MSTB chief and cognizant program office BC(s), MSST management, OGC, and NMSS front office.
 - k. Draft a response letter of the NRC's decision for the DEDM's signature.
 - l. Issue the response letter within 60 days of receipt of the initial request letter.

CONSULTATION RESPONSE FORM

Tribal Liaison Project Manager Lead:

Date Request Received:	ADAMS Accession Number:
Summary of Request:	
Questions to address	
Is consultation required by regulation?	
Does the issue of concern (IOC) have the potential to have substantial direct effects on the requesting Tribe(s)?	
Does the tribe have current or historic ties to the project area?	
Has the NRC previously responded to a request for consultation involving this IOC? If so, have any circumstances changed that would result in a different response?	
Is the IOC a State issue or an NRC issue?	
Recommended Response: <input type="checkbox"/> Grant <input type="checkbox"/> Deny <input type="checkbox"/> Grant, in Part	
Basis of Recommendation:	
Proposed Response Issuance Date (60 Days from Request):	