

DRAFT SUPPORTING STATEMENT
FOR
TRIBAL PARTICIPATION IN THE ADVANCE NOTIFICATION PROGRAM

3150-0250

REVISION

Description of the Information Collection

The U.S. Nuclear Regulatory Commission's (NRC) regulations in Title 10 of the *Code of Federal Regulations* (10 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). When certain shipments of irradiated reactor fuel and/or nuclear waste will pass within or across the boundary of a federally recognized Indian Tribe's (hereinafter referred to as "Tribe") reservation, licensees must provide advance notification to those Tribes that choose to receive the notifications.

In order to receive notifications, Tribes shall affirmatively opt into the advance notification program. These notifications may contain safeguards information (SGI). SGI is a special category of sensitive unclassified information that, if disclosed, could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security. Therefore, prior to participating in the program, Tribes and those individuals handling the SGI must be prepared to protect the SGI.¹

Before participating in the advance notification program, the Tribe will submit the following information:

- 1) a certification that the Tribal official or their designee(s) has (or have) taken training on the handling of SGI;
- 2) a certification that the Tribe has the necessary protection measures in place and the Tribe will protect the SGI;
- 3) the contact information for the Tribal official or the Tribal official's designee(s);
- 4) a confirmation of the Tribe's reservation boundaries or the necessary corrections to a map provided by the NRC; and
- 5) the name and contact information for the Tribe's emergency response contact(s).

The information collection instruments have been uploaded separately. This includes a template letter sent to Tribes every five years to ascertain interest in Tribal participation in the program and an acknowledgment letter template with instructions on how to opt into the program for Tribes who have expressed interest in participating.

¹ The NRC is in the process of implementing its Controlled Unclassified Information (CUI) program, which will include SGI.

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 Tribes and ensures SGI provided to participating Tribes will be protected. The NRC makes this information available to others, including NRC licensees and Agreement State licensees, to enable compliance with NRC and Agreement State regulations. 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 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 facilitate correspondences with Tribal officials, Tribal official's designated representative, or the Tribe's emergency response contact on matters related to transportation or the implementation of the advance notification program. The collected information is made available to licensees to enable compliance with NRC and Agreement State regulations.

Tribal officials will designate a contact who has a need-to-know to receive the advance notifications for the Tribe. The NRC requires that the Tribal official certify that the Tribal official or the Tribal official's designee(s) is trained on the handling of SGI and has the necessary protection measures in place to protect SGI for implementation. The NRC will provide the Tribal official a map identifying its reservation boundaries and any NRC approved transportation routes for verification. 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 will also collect information for the emergency response contact that will be used in the event of transportation incident occurring on the Tribe's reservation.

The NRC makes collected information available to licensees to enable compliance 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 irradiated reactor fuel and nuclear waste to participating Tribes. The NRC will also make the emergency response contact information available to licensees.

3. Reduction of Burden Through Information Technology

The NRC 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 process, which is available from the NRC's "Electronic Submittals" Web page, or by e-mail. It is estimated that approximately 50 percent 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 Tribes that have expressed interest in participating in the advance notification program.
- Although other agencies may have information on emergency management contacts within Tribes, these contacts may not be the 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(s) 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 will be collected, there are no sources of similar information that are available.

5. Effort to Reduce Small Business Burden

Approximately 95 percent of responding Tribes are estimated to be small entities. In order to minimize burden on the responding Tribes, the NRC provides the Tribes with reservation maps from the United States Census Bureau and requests confirmation of reservation boundaries. This allows the Tribes to affirm that the map is correct or to provide changes. In addition, the NRC assists the Tribes by providing training on how to protect SGI in a way that will reduce the burden on the Tribes. Additionally, 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 designee(s), and Tribal law enforcement personnel.

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

The NRC requests the aforementioned information from Tribes interested in participating in the advance notification program. In order to meet its commitment, the NRC will provide Tribes with information about their opportunity to participate in the program every five years, after a Tribe achieves Federal recognition, and when a transportation route is approved that is within or crosses a reservation boundary. This allows Tribes that may be affected by certain shipments of irradiated reactor fuel and 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, Tribes would not have the opportunity to opt into the program. Notifying Tribes less frequently than five years does not support the mission's organizational values and principles of good regulation.

SGL awareness training is required for Tribal officials, or the Tribal official designee(s) interested in participating in the program to ensure the understanding of their responsibilities for the handling, storage, and disposal of SGL. This one-time training is considered the minimum necessary.

Participating Tribes will provide updated contact information when there is a change in Tribal leadership or designation. This is the minimum frequency necessary to ensure that notifications are provided to the appropriate individual to prevent the risk of unauthorized disclosure of SGL. If the information is not collected, NRC and Agreement State licensees would not be able to comply with the NRC's regulations 10 CFR Sections 73.37 and 71.97 and the NRC would not be able to inform participating Tribes of a new approved transportation route that is within or crosses their reservation boundary. Also, collecting updated information less frequently could affect the timeliness of the emergency response activities related to a transportation incident.

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 has been 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

There are currently seven Tribes participating in the advance notification program. The NRC anticipates that six additional Tribes will request to participate in the program during the next clearance period (2 annually).

The NRC staff estimates that it takes 5.5 hours for the initial request to participate in the advance notification program, which includes the following:

Reporting

- Preparing the Tribal official's designation (0.5 hours)
- Providing contact information for the Tribal official or Tribal official's designee and the 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 Tribe will protect the SGI (2.75 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.

Tables 1 and 2 summarize the annual anticipated reporting and recordkeeping hours of burden.

Table 1. Annual Reporting Burden					
	Respondents	Responses per Respondent	Total Responses	Burden per Response (hrs)	Total Burden (hrs)
Initial requests	2*	1	2	5.5	11
Subsequent requests	5	1	5	2	10
Total	7		7		21

* Assuming two Tribes per year opt into the advance notification program

The estimated number of responses and reporting is seven with a total of 21 burden hours.

Recordkeeping

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

Information protection procedures employed by Tribal law enforcement agencies are presumed to meet the general performance requirements for protecting SGI. The 13 participating Tribes will need to or demonstrate a process or maintain procedures that are not used by Tribal law enforcement agencies. The staff estimates that Tribes not using the procedures of a Tribal law enforcement agency will spend 0.5 hours annually for maintaining SGI procedures. In addition, all participating tribes will spend 1 hour annually for recordkeeping associated with the storage of SGI before it is decontrolled or destructed.

Table 2. Annual Recordkeeping Burden			
	Recordkeeper (A)	Burden per recordkeeper (hrs) (B)	Total burden (hrs) [C]= (A) x (B)
Maintaining SGI process/procedures	13	0.5	3.5
SGI storage	13	1	13
Total	13		16.5

As reflected in Table 2, the total number of recordkeepers is 13 with a total of 16.5 burden hours, based on the current number of participating Tribes.

The total burden for the proposed information collection is show in Table 3.

Table 3. Burden Totals and Cost			
	Responses	Hours	Cost at \$300/hr
Reporting	7	21	\$6,300
Recordkeeping	13	16.5	\$4,950
Total	20	37.5	\$11,250

The total burden is estimated to be 37.5 hours annually at a cost of \$11,250 for current and future participation in the program. The \$300 hourly rate used in the burden estimates is based on the NRC's fee for hourly rates as noted in 10 CFR 170.20 "Average cost per professional staff-hour." For more information on the hourly rate, see the "Revision of Fee Schedules, Fee Recovery for Fiscal Year 2023" final rule (88 FR 39120, June 15, 2023).

13. Estimate of Other Additional Costs

Tribes receiving SGI will need a way of destroying the information. Tribes choosing to store SGI will need 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, and a one-time purchase of a secure filing cabinet would cost \$500. The staff estimates that 100 percent of participating Tribes may purchase a shredder and/or a secure filing cabinet. Therefore, the estimated cost for destroying and storing SGI using approved methods is \$1,500 for two additional Tribes annually over the three-year clearance period (\$750 x 2).

14. Estimated Annualized Cost to the Federal Government

The NRC 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 \$7,500 (25 hours x \$300/hour).

15. Reasons for Change in Burden or Cost

The overall burden for this collection has increased from 34.5 hours to 37.5 hours. While recordkeeping burden increased by 6.5 hours, reporting estimates decreased

by 3.5 hours, an overall increase of 3 hours. Recordkeeping burden increased due to a change in assumptions. Previous estimates assumed that not all participants would need to maintain procedures and keep SGI records; however, staff experience suggests that all participants will engage in these activities. Reporting estimates have decreased slightly because fewer Tribes opted into the program than initially anticipated. As a result, the number of estimated respondents has been updated. The fee rate from \$279/hr to \$300/hr.

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 Tribes.

18. Exceptions to the Certification Statement

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.