

February 1, 2000

MEMORANDUM FOR: Chairman Meserve  
Commissioner Dicus  
Commissioner Diaz  
Commissioner McGaffigan

FROM: Commissioner Merrifield /RA/

SUBJECT: COMMISSION INTERACTION WITH TRIBAL GOVERNMENTS

I recommend that the name of the NRC "Office of State Programs" be changed to the "Office of State and Tribal Programs." I believe that changing the name of the State Programs Office would be an important, albeit small, step toward improving our interactions with Native American Tribes. It will send a clear signal to those communities that the NRC, in carrying out its mission to protect public health and safety and the environment, recognizes the sovereign rights of Tribal nations and the unique perspective these communities have on matters that we regulate. There has been increased Tribal interest in multiple areas including high level waste repository, transportation of high level waste, uranium recovery, and dry cask storage. This name change will provide interested persons communicating with the Commission on Tribal matters with a recognizable entity to contact.

As the Commission recently stated:

In many respects, Federally-recognized Indian tribes exercise inherent sovereign powers over their members and territory, similar to the powers exercised by States and other units of the local government. In many areas of the law, these sovereign rights are recognized either by court decision, statute, or treaty.

"Formal and Informal Adjudicatory Hearing Procedures," Direct Final Rule, 64 Fed. Reg. 29,212 (June 1,1999). For these reasons the Commission determined that Indian Tribes should be recognized in our adjudicatory proceedings in the same manner as State and local governmental bodies. Most recently, the Commission has published an advance notice of proposed rulemaking to provide notification to Native American Tribes of transportation of certain types of nuclear waste. 64 Fed. Reg. 71,331 (December 21, 1999). These recent efforts make it clear that early effective interaction with Tribal governments is important to good regulation and is consistent with the goals of Executive Order No. 13084 of May 14, 1998.

I do not anticipate that the physical name change will have resource implications beyond the routine administrative costs associated with changing the name of an office. The Office of State Programs already handles some matters concerning Tribes. On matters that it does not handle, it is well equipped to direct inquiries to the appropriate offices within the NRC. However, because this name change will designate this office as the first contact on Tribal matters, the staff should examine whether it would be more efficient for this office be more involved with coordinating other issues associated with the Tribes. If the staff believes there would be significant resource implications associated with such a change it should notify the Commission.

SECY please track.

cc: EDO  
SECY  
OGC  
OSP