



U.S. Nuclear Regulatory Commission: Tribal Policy Statement Commission Briefing

NRC Panel

September 19, 2016

Opening Remarks

**Glenn Tracy,
Deputy Executive Director for
Operations for Materials, Waste,
Research, State, Tribal,
Compliance, Administration, and
Human Capital Programs**

Formal Statement recognizes the interest Tribes have in the licensing and regulation of radioactive materials

- **Current NRC Tribal interactions are on a case-by-case basis.**
- **Statement establishes guidelines for staff and notifies the public of the NRC's policy principles.**
- **Identifies a designated official for Tribal consultations.**

NRC Panel will address the following topics

- **Commission Direction, NRC Priorities, and Budget Implications.**
- **Policy Statement Scope and Implementation.**
- **Policy Principles and Public Comments.**

NRC Tribal Interactions

**Marc Dapas, Director,
Office of Nuclear Material Safety
and Safeguards (NMSS)**

NRC recognizes its Federal Trust Relationship and Responsibility

- **NMSS plays an integral role in outreach to Tribes.**
- **NRC has fewer Tribal interactions when compared to other Federal agencies.**
- **The NRC is committed to a government-to-government relationship with Tribes.**
- **Longstanding and unique relationship with the Prairie Island Indian Community.**

NRC has maintained working relationships with Tribal governments and inter-Tribal organizations

- **Consistent with spirit and intent of Executive Order 13175.**
- **Complies with statutory provisions, such as those in the National Historic Preservation Act.**
- **Encourages custom-tailored approaches to Tribal consultations.**

Commission Direction, Priorities, and Budget Implications

**Dan Collins, Director,
Division of Material Safety, State,
Tribal and Rulemaking Programs,
NMSS**

Tribal interest in uranium recovery activities led to Commission direction to develop tools for effective Tribal interactions

- **Develop and implement an internal protocol.**
- **NUREG-2173 - NRC Tribal Protocol Manual.**

Tribal interest in uranium recovery activities led to Commission direction to develop tools for effective Tribal interactions (cont)

- **Develop policy statement as a high-level foundation for the protocol that echoes the language and spirit of relevant Presidential Executive Orders.**

Commission direction in the development of the Statement

- **Use the existing tools and practices as a starting point.**
- **Seek input from the Tribes and the public on Tribal Protocol Manual.**
- **Clearly articulate that the NRC's actions must be in accordance with governing statutes and regulations.**

Commission direction in the development of the Statement (cont)

- **Sensitivity to the distinction between Indian Tribes who are Federally recognized and those who are not.**
- **Indicate that the NRC will conduct outreach to, and identify opportunities for, State-recognized Tribes to participate in the NRC regulatory process.**

Commission direction in the development of the Statement (cont)

- **Make the Tribal Protocol Manual available on the NRC's public web site.**

NRC staff will shift resources from developmental efforts to implementation efforts

- **Limited resources needed to maintain completed developmental tasks.**
- **Current budget sufficient to cover anticipated Tribal outreach efforts.**
- **Statutory obligations to consult with Tribes are accounted for in budget formulation.**

NRC staff will shift resources from developmental efforts to implementation efforts (cont)

- **Resources for potential future consultations will be addressed through the add/shed process.**

NRC staff will monitor its Tribal activities and resource expenditures to identify any trends

- **Commission-approved Implementation Plan identifies commitments and actions in support of the Policy Principles.**
- **Budget needs will be addressed through future planning, budgeting, and performance management process.**

NRC Tribal Policy Statement: Policy Development, Scope, Policy Principles and Comments

**Paul Michalak, Chief,
Agreement State Program Branch,
Division of Material Safety, State,
Tribal and Rulemaking Programs,
NMSS**

Tribal Policy Statement development included feedback from Tribes, NRC offices, and other Federal agencies

- ***Federal Register* Notice to solicit suggestions for developing the Policy Statement and comments on Protocol Manual (October 12, 2012).**
- **Reviewed Tribal policy statements of executive departments, their related agencies, and other independent agencies.**

**Tribal Policy Statement
development included feedback
from Tribes, NRC offices, and
other Federal agencies (cont)**

- ***Federal Register* Notice to solicit public comment on the proposed NRC Tribal Policy Statement (December 1, 2014).**

NRC Tribal Policy Statement is a high level, broad reaching document that will be implemented agency-wide

- **Consistent with related Executive Orders and Presidential Memoranda.**
- **Not limited to a specific statute.**
- **Applies to Federally recognized Tribes.**

NRC Tribal Policy Statement is a high level, broad reaching document that will be implemented agency-wide (cont)

- **Encourages participation of State-recognized tribes to engage in the regulatory process, as appropriate.**
- **Provides agency-wide principles to achieve consistency.**
- **Encourages custom-tailored approaches to consultation and coordination.**

NRC Tribal Policy Principles

- **The NRC Recognizes the Federal Trust Relationship and Will Uphold its Trust Responsibility with Indian Tribes.**
- **The NRC Recognizes and Is Committed to a Government-to-Government Relationship with Indian Tribes.**
- **The NRC Will Conduct Outreach to Indian Tribes.**

NRC Tribal Policy Principles (cont)

- **The NRC Will Engage in Timely Consultation.**
- **The NRC Will Coordinate with Other Federal Agencies.**
- **The NRC Will Encourage Participation by State-Recognized Tribes.**

NRC staff received comments on the proposed Tribal Policy Statement

- **NRC's Trust Responsibility as a Federal agency.**
- **Suggested changes to the language of the Policy Statement.**
- **NRC's Tribal outreach and consultation.**
- **NRC's Government-to-Government relationship with Tribes.**

Consultation revised to provide clarification and distinction from other NRC interactions with Tribes

- **Meaningful and timely discussions on the NRC's regulatory actions that have substantial direct effects on one or more Indian Tribes.**
- **Mutually-agreed protocols, timely communication, coordination, cooperation, and collaboration.**

Consultation revised to provide clarification and distinction from other NRC interactions with Tribes (cont)

- **Opportunities for appropriate Tribal officials/representatives to meet with NRC staff to discuss respective interests and perspectives.**

Interaction is defined to provide clarification

- **Reciprocal actions involving the NRC and Indian Tribes.**
- **May include outreach, consultation, coordination, training, and information exchanges with Indian Tribes.**

Outreach is defined to provide clarification and distinction from Tribal consultation

- **Efforts to inform Indian Tribes about the agency's actions and plans.**
- **Includes sharing information and encouraging Tribal governments to communicate their concerns and interests to NRC staff.**

Trust Responsibility is revised to provide additional clarification on how the NRC meets its responsibility to Tribes

- **NRC exercises its Trust Responsibly in the context of its authorizing statutes.**
- **NRC implements its Trust Responsibility by ensuring that Tribal members receive the same protections under its implementing regulations that are available to other persons.**

**NRC National Historic
Preservation Act Section 106
Process - Tribal Consultations,
Developments, and
Enhancements**

**Diana Diaz-Toro, Project Manager,
Environmental Review Branch, Division
of Fuel Cycle Safety, Safeguards, and
Environmental Reviews, NMSS**

National Historic Preservation Act requires federal agencies consider the effects of their actions on historic properties

Results in consultations with:

- **State Historic and Tribal Historic Preservation Officers**
- **Other federal, state, and local government agencies**

National Historic Preservation Act requires federal agencies consider the effects of their actions on historic properties (cont)

- **Tribal governments**
- **Applicant/Licensee**
- **Other interested parties and the public**

Complexity of National Historic Preservation Act Section 106 consultations can vary

Factors include:

- **Number of consulting parties**
- **Scope of the licensing action**
- **Location of the proposed facility**

NRC is continuously improving its process to comply with Section 106 requirements

- **Finalizing staff guidance on conducting the Section 106 process for uranium recovery facilities.**
- **Partnership with the Advisory Council on Historic Preservation.**

Questions?