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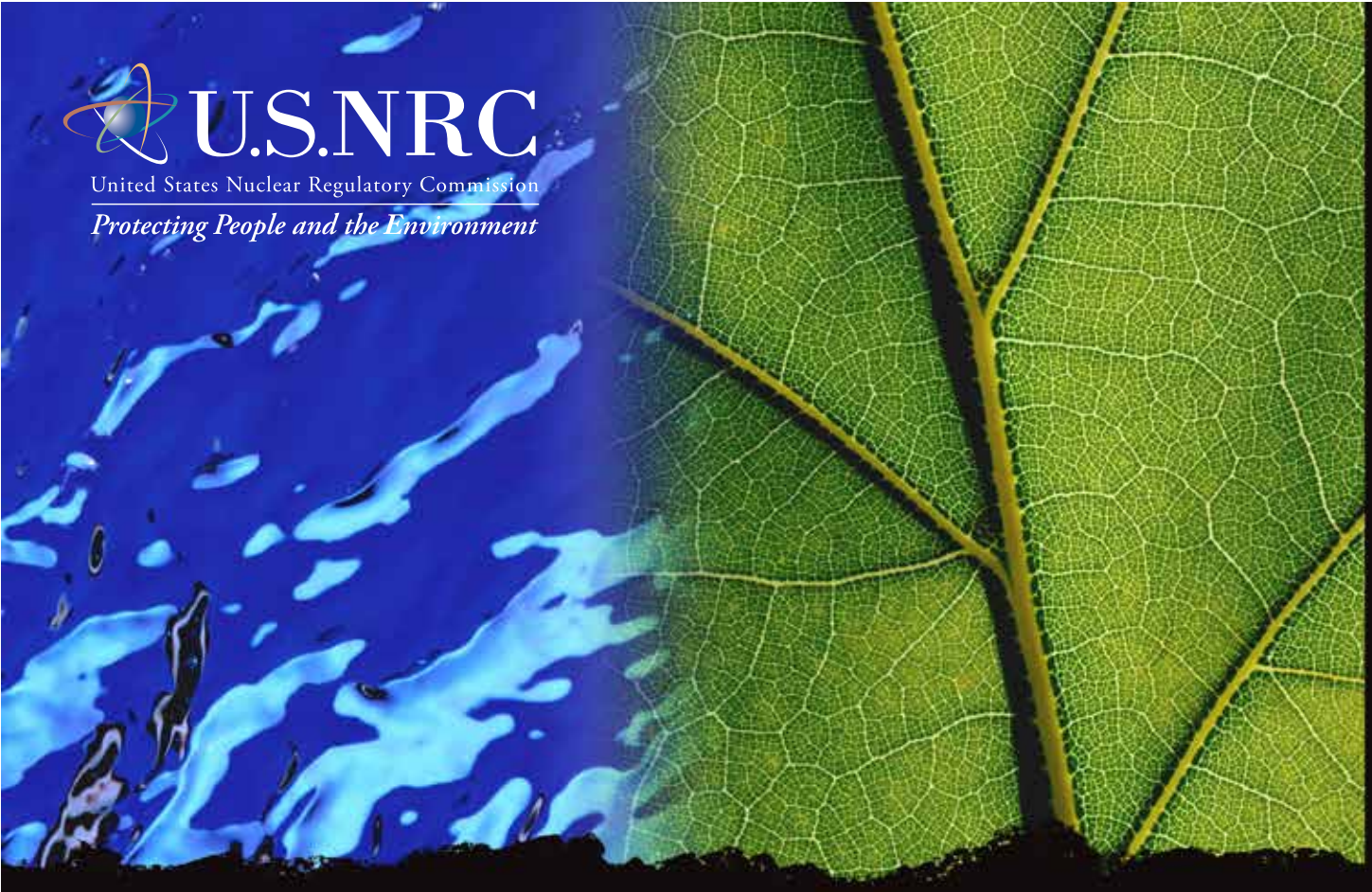

TRIBAL PROTOCOL MANUAL

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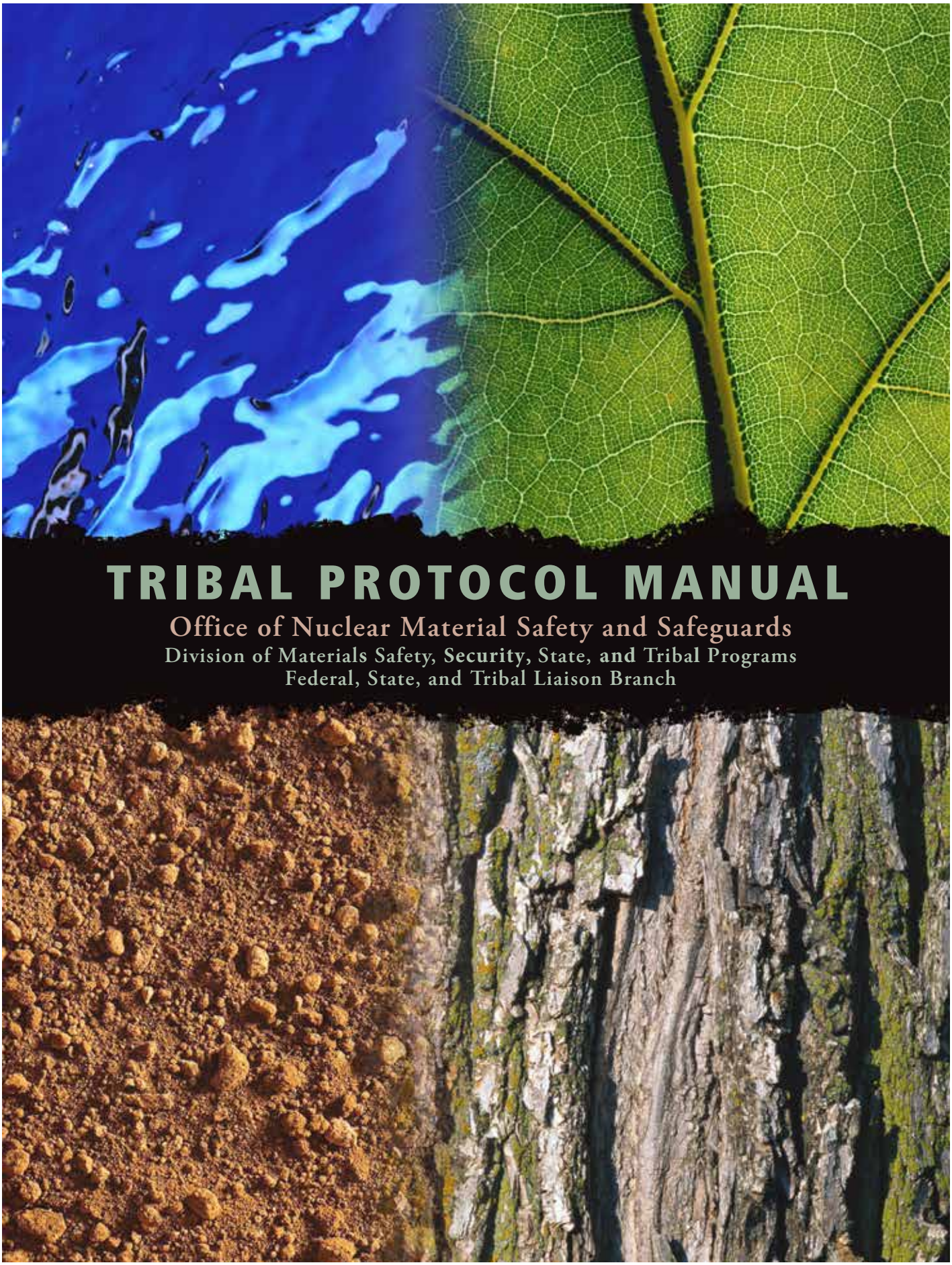

TRIBAL PROTOCOL MANUAL

Office of Nuclear Material Safety and Safeguards

Division of Materials Safety, Security, State, and Tribal Programs

Federal, State, and Tribal Liaison Branch

The NRC's Tribal Policy Statement

1. **The U.S. Nuclear Regulatory Commission (NRC) Recognizes the Federal Trust Relationship With and Will Uphold Its Trust Responsibility to Indian Tribes.**

2. **The NRC Recognizes and Is Committed to a Government to Government Relationship with Indian Tribes.**

3. **The NRC Will Conduct Outreach to Indian Tribes.**

4. **The NRC Will Engage in Timely Consultation.**

5. **The NRC Will Coordinate with Other Federal Agencies.**

6. **The NRC Will Encourage Participation by State-Recognized Tribes.**

TABLE OF CONTENTS

The NRC's Tribal Policy Statement iii

Preface vii

Introduction ix

Chapter 1: Historical Perspective on Federal Government and Tribal Relations 1

Section 1.A: Shaping the Relationship between Tribes and the Federal Government 1

Section 1.B: Executive Orders and Memoranda 2

Section 1.C: Historic Overview of the Federal and Tribal Relationship 4

Section 1.D: Federal Government's Trust Responsibility to Tribes 10

Section 1.E: Government-to-Government—What Does It Mean? 10

Section 1.F: The NRC's Case-by-Case Approach to Interactions with Native American Tribes 11

Chapter 2: Guidance on Tribal Protocols and Interactions 15

Section 2.A: Potential Cultural Differences 15

Section 2.B: Tribal Consultation 16

Section 2.C: Applicable Federal Laws. 17

Section 2.D: Initiating Dialogue with Native American Tribes 20

Section 2.E: Generic Guide to Arranging Meetings with Tribal Representatives. 22

Section 2.F: Meeting Etiquette 25

Section 2.G: Reservation Etiquette 26

Section 2.H: Recommended Behaviors and Other Communication Considerations 26

Chapter 3: The NRC's Tribal Contacts—Reference Tools 29

Section 3.A: The NRC's Tribal Liaison Point of Contact 29

Section 3.B: The NRC's Individual Program Office Descriptions 29

Section 3.C: The NRC's Technical and Financial Assistance to Tribes 31

Section 3.D: Federal Agency Tribal Web Site Links 31

Section 3.E: Native American Reservations and Trust Lands within a 50 Mile Radius of an Operating Nuclear Power Plant 32

Section 3.F: Native American Media Resources 33

Section 3.G: Tribal Contact Links 34

Section 3.H: Miscellaneous Tribal Information 35

PREFACE

The U.S. Nuclear Regulatory Commission (NRC) recognizes the Federal Trust Relationship and will uphold its Trust Responsibility to Indian Tribes.

The NRC shares the Federal Government's unique Trust Relationship with, and Trust Responsibility to, Indian Tribes. Under the Federal Trust Doctrine, the United States and the individual agencies of the Federal Government owe a fiduciary duty to Indian Tribes. The nature of that duty depends on the underlying substantive laws (i.e., treaties, statutes, agreements) creating the duty.

As an independent regulatory agency that does not hold in trust Tribal lands or assets or provide services to Federally recognized Tribes, the NRC fulfills its Trust Responsibility by implementing the principles of the Tribal Policy Statement, providing protections under its implementing regulations, and recognizing additional obligations consistent with other applicable treaties and statutory authorities.

INTRODUCTION

The U.S. Nuclear Regulatory Commission (NRC) recognizes the unique relationship that the Federal Government has with Federally recognized Tribes. The NRC is committed to government to government relationships with Indian Tribes. The Tribal Protocol Manual facilitates effective consultations and interactions between the NRC and Native American Tribes related to activities within the scope of the NRC's jurisdiction.

This manual explains that Tribes are unique governmental entities and are not extensions of State or local governments. Each Federally recognized Tribe is a domestic, dependent sovereign nation with its own customs, culture, concerns, interests and needs. The Tribal Protocol Manual assists NRC management and staff in recognizing these distinctions and creates a more open and productive working relationship with Native American Tribal governments.

The Tribal Protocol Manual is a reference tool produced from multiple sources, including interviews with the NRC staff and management, other Federal agencies' personnel, and Tribal representatives who are experienced in working with Tribes. NRC management and staff can use this guide to develop and maintain government to government relationships with Tribal governments. This manual supplements the NRC staff's working knowledge by providing Tribal outreach experience and practical guidance to NRC personnel who have had limited interactions with Native American Tribes.

Some Native American Tribes have a regulatory relationship with the NRC as licensees. This manual does not imply that the NRC's regulatory relationship with license holding Native American Tribes is different from the agency's regulatory relationship with other NRC licensees.

This manual uses various names when describing Native American peoples because there is no specifically established name that describes Native American people. As a point of reference, in a speech given on

November 5, 2009, before the representatives of roughly 400 Federally recognized Tribes, President Obama addressed his audience using terms such as "Native Americans," "First Americans," "Tribal Nations," and "Alaska Natives."[1] President Clinton used the terminology "Indian Tribe" in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," dated November 6, 2000.[2] The U.S. Department of the Interior (DOI), Bureau of Indian Affairs, uses the term "American Indian," whereas the National Congress of American Indians prefers "Native American." Accordingly, this manual uses these terms interchangeably.

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1 *President Obama provided remarks at the 2009 White House Tribal Nations Conference, which hosted leaders from the 566 Federally recognized Native Nations. These leaders engaged with the President, Cabinet Officials and the White House Council on Native American Affairs on key issues facing Tribes, including respecting Tribal sovereignty, upholding treaty and trust Responsibilities, addressing lack of access to capital and credit, and protecting Native women and youth. The full transcript of President Obama's speech is available at https://obamawhitehouse.archives.gov/the-press-office/remarks-president-during-opening-Tribal-nations-conference-interactive- discussion-w*

2 *Executive Order 13175 requires Federal departments and agencies to consult with Indian Tribal governments when considering policies that would impact Tribal communities. Executive Order 13175 reiterated the Federal Government's commitment to Tribal self-government (Volume 65 of the Federal Register, page 67249 (65 FR 67249); November 9, 2000), available at https://www.gpo.gov/fdsys/pkg/FR-2000-11-09/pdf/00-29003.pdf*

CHAPTER 1

Historical Perspective on Federal Government and Tribal Relations

SECTION 1.A

Shaping the Relationship between Tribes and the Federal Government

As described by the U.S. Supreme Court over 100 years ago, *"the relationship between the United States and Indian Tribes is so unique, that nothing like it exists anywhere else in the world."* [3]

The relationship that exists today between the Federal Government and Native American Tribes developed over hundreds of years. It is based on the sovereignty possessed by Tribes that predates the formation of the United States; interactions between Tribes and the Europeans from the 15th and 16th centuries to and during the American Revolution; and the adoption of the Commerce Clause," U.S. Constitution, Article I, Section 8, Clause 3. The Commerce Clause authorizes Congress to regulate commerce among foreign nations, the States, and Indian Tribes, and Article II, Section 2, Clause 2, authorizes the President, with the advice and consent of the Senate, to make treaties. These two provisions provided the constitutional basis for the Federal Tribal relationship that has been shaped by subsequent treaties, laws, regulations, Executive Orders, administrative decisions, and Federal court decisions—all of which comprise Federal Indian law.

Native American Tribes are regarded as sovereign nations. However, because some powers are reserved exclusively to the Federal Government, Tribal sovereignty is limited. As a result, Federally recognized Indian Tribes are considered as sovereign "nations within a nation," or "domestic, dependent nations or governments." The Federal Government recognizes the right of Indian Tribes to self-government and to exercise inherent sovereign powers over their members and territories. Tribal officials expect to be treated as sovereign nation representatives when interacting with the Federal Government. A more detailed exploration and in-depth analysis of the "Duty of Protection" and the "Federal Indian Trust Relationship" appears in the "Legal Curriculum and Training Program of the Institute for the Development of Indian Law," available in the 1979 book titled, "The Federal-Indian Trust Relationship: Duty of Protection: Legal Curriculum."

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3 *Cherokee Nation v. Georgia, 30 U.S. 1, 16 (1831), and Morton v. Mancari, 417 U.S. 535 (1974).*

SECTION 1.B
Executive Orders and Memoranda

Executive orders and Presidential memoranda dating back to Richard Nixon's "Special Message on Indian Affairs" in 1970 have addressed legislation and policies concerning the American Indian community.[4] President Nixon's 1970 speech condemned forced termination, endorsed Tribal self-determination, and changed the direction of Federal Tribal policy. President Nixon's speech set the stage for the executive orders and Presidential memoranda that would follow.

Executive Order 13175 In Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments," issued November 6, 2000, President Clinton sought "to establish regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications, to strengthen the United States government to government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian Tribes." Executive Order 13175 defines "policies that have tribal implications" as "regulations, legislative comments or proposed legislation and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." The U.S. Nuclear Regulatory Commission (NRC) uses this definition in deciding when to establish regular and meaningful consultation and collaboration with Tribal officials. Executive Order 13175 established policymaking criteria and consultation provisions for Federal departments and agencies. Executive Order 13175 also established the following three fundamental principles to guide agencies when developing and implementing policies with Tribal implications:

- **"The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes."**
- **"Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government to government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights."**
- **"The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self determination."**

Because the NRC is an independent regulatory agency, the agency is not required to implement the policies and procedures required in Executive Order 13175. However, in a January 2001 letter to the acting General Counsel of the Office of Management and Budget (OMB), the NRC General Counsel stated that "in exercising its regulatory authority, this agency acts in a manner consistent with the fundamental precepts expressed in the Order."[5] The General Counsel further stated, "To that end, the Commission has adopted agency practices that ensure consultation and cooperation with Indian Tribal governments, fully consistent with both President Clinton's 1994 guidance and with Executive Order 13175."[6]

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4 *President Richard Nixon established a new direction for Indian policy aimed at Indian self determination, available at https://www.epa.gov/sites/production/files/2013-08/documents/president-nixon70.pdf Subsequently, in 1983, President Ronald Reagan issued a statement on Indian policy, available at https://www.reaganlibrary.gov/research/speeches/12483b In 1991, George H.W. Bush issued a statement reaffirming the Government to Government relationship between the Federal Government and Tribal governments, available at http://www.tribalconsultation.arizona.edu/docs/Executive%20Branch/idc-002003.pdf and "Training Program of the Institute for the Development of Indian Law by Gilbert Hall." Library copies are available through WorldCat and can be requested at http://www.worldcat.org/title/federal-indian-trust-relationship-duty-of-protection-legalcurriculum-and-training-program-of-the-institute-for-thedevelopment-of-indian-law/oclc/005100430.*

5 *Letter from Karen D. Cyr, General Counsel, U.S. Nuclear Regulatory Commission, to Rosalyn Rettman, Esq., Acting General Counsel, Office of Management and Budget (January 26, 2001).*

6 *Id.*

In a memorandum dated November 5, 2009, President Obama renewed the Federal Government's commitment to fulfilling the consultation requirements of Executive Order 13175. In that memorandum, the President directed the heads of executive departments and agencies to submit to the Director of OMB a detailed plan of actions to implement the policies and directives stated in Executive Order 13175.

President Obama also directed each agency to annually submit a progress report on the status of each action to the Director of OMB. However, on March 20, 2010, the NRC sent correspondence to OMB (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093620067) opting out of the annual reporting requirement stating that, as an independent regulatory agency, the NRC is not subject to Executive Order 13175 but acts in a manner consistent with the principles of Executive Order 13175.

In addition, the Obama Administration held annual Tribal summits at the White House and created a White House Executive Tribal Council.[7]

On January 9, 2017, the NRC adopted a Tribal Policy Statement (https://www.nrc.gov/about-nrc/state-tribal/tps.html). The Tribal Policy Statement establishes principles that the NRC should follow to promote effective government to government interactions with Federally recognized American Indian and Alaska Native Tribes[8] and to encourage and facilitate Tribal involvement in the areas over which the NRC has jurisdiction. It seeks to provide agencywide principles to achieve consistency and encourage custom tailored approaches to consultation and coordination that reflect the circumstances of each situation and the preference of each Tribal government.

Additional information on the NRC Tribal Protocol Manual appears in the January 9, 2017, *Federal Register* (82 FR 2402), available at https://www.gpo.gov/fdsys/pkg/FR-2017-01-09/pdf/2017-00091.pdf.

7 *On June 16, 2013, President Obama signed Executive Order 13647, "Establishing the White House Council on Native American Affairs." Executive Order 13647 (Volume 78 of the Federal Register, page 39539 (78 FR 39539)) is available at https://www.archives.gov/federal-register/executive-orders/2013.html.*

8 *The Bureau of Indian Affairs' Tribal Leaders Directory is available at https://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/index.htm. The Tribal Leaders Directory includes contact information for each Federally recognized Tribe.*

SECTION 1.C
Historic Overview of the Federal and Tribal Relationship

The following chronology traces distinct eras—as viewed by some historians—of the relations between the United States and Native American Tribes. This section of the Tribal Protocol Manual provides the NRC staff and management with a historic overview and understanding of interactions and relationships between the Federal Government and Native Americans and to detail the Federal Government's policies regarding the Native American populace.[9] The eras provide a conceptual framework for understanding the relationship between the Federal Government and the Tribes. These policies were often shaped and defined by the times in which they occurred. However, the NRC staff should be aware that each Federally recognized Tribe has its own unique history and experience with the Federal Government. In general, these eras include the following:

- **Treaties (1608–1870)**
- **Removal (1830–1850)**
- **Reservations (1850–1871)**
- **Assimilation (1871–1928)**
- **Reorganization (1928–1953)**
- **Termination (1953–1968)**
- **Self-Determination (1968–present)**

Treaties (1608-1870) A treaty is a formal, written contract that defines the terms of an agreement between two sovereign nations. Treaties were the legal instruments by which the British and colonial governments defined U.S./Indian relations. Between 1607 and 1776, Indian Tribes entered into 175 treaties with the British and colonial governments. Article II, Section 2, Clause 2, of the U.S. Constitution authorizes the President, with the advice and consent of the Senate, to enter into treaties with Indian Tribes and thus govern the conduct of the Government in Indian relations. From 1787 to 1868, the U.S. Government ratified 371 such treaties with Native American Tribes; no treaties have been ratified since 1868.

The staff should be aware that many of the treaties with Tribes entered into or ratified by the U.S. Government have been abrogated or limited by Acts of Congress and Federal case law. Tribal treaties, relevant statutes, and case law are considered collectively when determining what Indian rights are today.

Because of the complexity and changing nature of Native American law, the NRC staff should contact the Office of the General Counsel to obtain specific information on treaties or legal analyses of treaties. The staff should also recognize that Federal Indian law generally preempts State laws that govern persons and property situated in a State.

When beginning any outreach with Tribes, the NRC staff should determine whether any treaties exist and then familiarize themselves with the treaty history. The National Forest Service's (NFS's) Web site hosts a treaty information link that shows how lands managed by the NFS connect or overlap with Tribal trust lands and lands that Tribes exchanged with the Federal Government before 1900 (http://www.fs.fed.us/news/releases/forest-service-releases-interactive-tribal-connections-map).

By understanding important components of a Tribe's history and perceived rights, the NRC staff will be better equipped to engage in initial Tribal dialogues with a greater appreciation of Tribal positions. Federal statutes may also provide rights to Tribes, modify the rights in the treaties, or define the Federal Trust Responsibility in specific situations.

9 *Digest of American Indian Law: Cases and Chronology, H. Barry Holt, Gary Forrester, ISBN 0 08377 0684 x (1990).*

Although provisions in the treaties between the U.S. Government and Indian Tribes varied widely, the treaties commonly included (1) a guarantee of peace, (2) a clarification of boundaries and an understanding of any specific lands ceded to the Federal Government, (3) a guarantee of Indian hunting and fishing rights (sometimes on ceded lands), (4) a statement that the Tribe recognized the authority or protection of the U.S. Government, and (5) an agreement about trade regulation and travel of non Indians in Indian territory. The terms in the treaties often mandated that Tribal populations had to move from their ancestral lands.

Tribal nations, the U.S. Congress, and Federal and State courts continue to grapple with questions relating to the nature of Indian property rights; the rights of individual Indians; and the power and jurisdiction of Federal, Tribal, and State governments in Indian country. This manual highlights some of the treaties; however, the breadth and complexity of treaties with Native American Tribes is too great to present in this manual. Therefore, the staff is encouraged to consult other resources to obtain additional information. One source that provides primary documents of laws and treaties affecting Indian Tribes is the University of Oklahoma's Web site on Indian Affairs: Laws and Treaties, compiled and edited by Charles J. Kappler, at http://digital.library.okstate.edu/kappler/ and Indian Affairs: Laws and Treaties, Volume II (Treaties), at https://dc.library.okstate.edu/digital/collection/kapplers/id/25853.

See also the University of Nebraska's Web site entitled Early Recognized Treaties with American Indian Nations at http://earlytreaties.unl.edu/index.html. Additional sources of information on treaties include the Bureau of Indian Affairs and Tribal Web sites; these are identified in Sections 3.D and 3.F. However, the NRC staff should contact the Office of the General Counsel to obtain specific information on treaties or legal analysis of treaties related to the NRC's regulatory activities.

The following treaties illustrate the agreements between the U.S. Government and Tribes during the Country's expansion from 1778 to 1868:

1778—The Treaty with the Delaware Indians The first historically significant treaty discussed predates the U.S. Constitution and is generally considered the first official treaty between the United States and an Indian Tribe. This treaty memorialized the parties' agreement to grant forgiveness, perpetuate friendship, acknowledge allegiance by the Delaware Nation during time of war, and provide free passage for United States troops through Delaware lands. The Federal Government promised to provide "articles of clothing, utensils and implements of war" and to build a fort in Delaware Nation country "for the better security of the old men, women and children, whilst their warriors are engaged against the common enemy." The treaty recognized the Delaware Nation as a sovereign nation and guaranteed their territorial rights.

1795—The Treaty of Greenville This treaty marked the end of an undeclared and multiple-Tribal war that began in the late 1770s and was led by the Shawnees who fought to resist American expansion into Ohio. In 1795, over 1,000 Indian delegates ceded two thirds of present day Ohio; parts of Indiana; Illinois; and the areas where the modern cities of Detroit, Toledo, and Chicago are located. The Tribes, in return, were promised a permanent boundary between their lands and American territory. The United States would relinquish their claims to all other Indian lands northward of the Ohio River, eastward of the Mississippi River, and westward and southward of the Great Lakes.

1810—The Treaty of Fort Wayne This treaty contained the Delaware, Potawatomi, Miami, and Eel River Miami Nations' agreement to cede 3 million acres of their land along the Wabash River to the United States. The Wabash River lands ran from the Indiana border in northwest Ohio, across northern and central Indiana, to southern Illinois where it formed the Illinois Indian border.

1814—The Treaty of Fort Jackson This treaty followed the Creek War (1813–1814), also known as "The Red Stick War." The war took place mostly in Alabama and along the Gulf coast. The Creeks agreed to cede 23 million acres (or two thirds of their Tribal lands), which represents half of present day Alabama and part of southern Georgia. This was the single largest cession of territory ever made in the southeast.

1835—The Treaty of New Echota (Georgia) This treaty established terms under which the entire Cherokee Nation was expected to move to westward Indian Territories. Although the Cherokee National Council did not approve the treaty, it was ratified by the U.S. Senate and became the legal basis for the forcible removal, known as the "Trail of Tears." Under the command of General Winfield Scott, some 7,000 U.S. soldiers marched the Indians more than 1,200 miles to Indian territory in Oklahoma.

1851 and 1868—The Treaty of Fort Laramie This treaty sought to obtain peace among the Plains Tribes to enable settlers to move west. It attempted to assign specific, defined territories to specific Tribal groups (e.g., Lakota, Dakota) among the Sioux nation and establish safe passage for travelers, railroad workers, and settlers through the Plains and the Black Hills area. This treaty designated over 60 million acres as the Sioux reservation. The designated area covered almost half of South Dakota and Nebraska; portions of North Dakota, Wyoming, and Montana; and Colorado. Through a series of wars, treaties, the discovery of gold, and the construction of the first continental railroad, the Sioux lands dwindled down to less than 10 percent of that amount. This was the last treaty signed between the Federal Government and a Native American Tribe and is still invoked by Tribes when territorial land issues arise.

Removal (1830–1850) Congress passed the Indian Removal Act of 1830,[10] which allowed and funded the removal of members of the Chickasaw, Choctaw, Creek, Seminole, and Cherokee Nations from their lands. This legislation "was to provide for an exchange of lands with the Indians residing in any of the States or territories, and for their removal west of the river Mississippi."[11] President Andrew Jackson, an advocate of Indian Removal policy, oversaw this significant change in U.S. policy and law concerning the rights of Native Americans to practice their traditional ways of life in their homelands. The Act states that "it shall and may be lawful for the President to exchange any or all of such districts [west of the river Mississippi], so to be laid off and described, with any tribe or nation of Indians now residing within the limits of any of the states or territories, and with which the United States have existing treaties, for the whole or any part or portion of the territory claimed and occupied by such tribe or nation, within the bounds of any one or more of the states or territories, where the land claimed and occupied by the Indians, is owned by the United States, or the United States are bound to the state within which it lies to extinguish the Indian claim thereto."[12]

However, the Indian Removal Act did not grant Indian Tribes such rights; instead, it recognized that Indian Tribes, as sovereign nations, possess such rights by virtue of their inherent sovereign authority.

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10 Indian Removal Act of 1830, Ch. 148, 4 Stat.411 (1830) (http://memory.loc.gov/ll/llsl/004/0400/04600412.gif).

11 Id. (Emphasis added).

12 Id. (Emphasis added).

The legislation in effect permitted U.S. removal of Indian Tribes to western territories. The removal allowed non Native American populations to move into the southeastern United States formerly occupied by those Tribes. The Choctaw Nation was the first to be removed in 1831 followed by the removal of the Seminole Nation in 1832, the Creek Nation in 1834, the Chickasaw Nation in 1837, and finally the Cherokee Nation in 1838. The Cherokee call their forced removal to Oklahoma the "Trail of Tears." It has been estimated that approximately 4,000–5,000 of the 15,000 relocated Cherokee died enroute to Oklahoma. Historians have recognized that many Native Americans suffered from exposure; diseases, including whooping cough, typhus, dysentery, and cholera; and starvation while enroute to their western destinations.

Reservations (1850–1871) Reservations are parcels of land allocated by the Federal Government to the Indian Tribes for their use and management as sovereign entities. Not every Federally recognized Tribe has a reservation. Federal Indian reservations are generally exempt from State jurisdiction, including taxation, except when Congress specifically authorizes such jurisdiction.

The Indian Appropriations Act of 1851[13] (formally referred to as the Appropriation Bill for Indian Affairs) allocated monies to move Tribes onto newly created reservations. Contemporary legislators and policymakers described reservations as a means to protect the Indian Tribes from encroachment by white settlers moving westward. The very Tribes under protection were often those who had earlier been removed to the western territories in the 1830s. Indian Tribes were strongly opposed to this Federal policy as it sought to impose an agrarian, geographically restricted way of life on Indian populations.

Assimilation (1871–1928) With the passage of the Dawes Act of 1887,[14] the Federal Government's policy dramatically shifted from the allocation of communal (Tribal owned) reservation lands to the assimilation of Native Americans into "mainstream" American society.

The Dawes Act granted privately held landholdings to individual Indians, thus replacing the extensive communal Tribal holdings. Reservations were subdivided into smaller parcels to encourage Indians to engage in an agricultural economy (160 acres were allotted to families, and 80 acres were allotted to individual persons). The Bureau of Indian Affairs mandated the tracking of Tribal memberships and numbers from census records, referred to as the "Dawes Rolls." Other assimilation policies included educating Native American children in Government boarding schools, which involved taking children from their families. The Government run schools restricted the use of Native American languages and the practice of traditions, customs, and religious ceremonies, and they discouraged family visits. Tribes consider the Dawes Act to be one of the most destructive laws enacted by the United States.

The Indian Citizenship Act of 1924[15] granted U.S. citizenship to Native Americans. Although the 1924 Act granted Federal citizenship rights to Native Americans, many did not achieve full citizenship and suffrage rights until 1948.

On June 12, 1926, at the request of the Secretary of the Interior, the Meriam Commission was charged with investigating the affairs of Indians living on reservations in the United States. The Meriam Commission was financed

13 Indian Appropriations Act of 1851, Ch. 14, 9 Stat. 574 (1851).

14 General Allotment (Dawes) Act of 1887, Ch. 119, 24 Stat. 388 (1887).

15 The Indian Citizenship Act of 1924, Ch. 233, 43 Stat. 253 (1924) (codified at 8 U.S.C. § 1401 (2000)); 8 U.S.C. Ch. 12, Subch. III, § 1401b.

by the Rockefeller Foundation, not by any Government agency or agent, in an effort to maintain unbiased standards for the survey.[16] The investigation evaluated nearly all reservations and specifically examined the educational, industrial, social,and medical activities of the Bureau of Indian Affairs and Indian property rights and economic conditions.[17]

The Meriam Commission identified significant deficiencies in the educational, industrial, social, and medical systems on Indian reservations in 26 States. The Meriam Report: The Problem of Indian Administration (1928) took aim at Indian boarding schools and recommended a shift in focus away from boarding facilities because of the substandard diet, education, and clothing that they provided. "The survey staff finds itself obligated to say frankly and unequivocally that the provisions for the care of the Indian children in boarding schools are grossly inadequate.[18] Although the general abandonment of boarding schools did not take place until the 1970s, the Meriam Report of 1928 led to the implementation of new Federal policies affecting Native Americans. The policies of the Assimilation era came under increasing attack with publication of the Meriam Report of 1928. The extensive Meriam Report of 1928 details reservation conditions in the 1920s.

Reorganization (1928–1953) Congress passed The Indian Reorganization Act of 1934,[19] also known as the Wheeler-Howard Act, in order to implement reforms recommended following the Meriam Report of 1928. The Reorganization Act was enacted to decrease the Federal control of Indian affairs and to increase Indian self-government and responsibility. Significant parts of the law included the curtailment of the allotment of Tribal lands to individual Indians and restrictions on the alienation of allotted and Tribal lands. The Indian Reorganization Act supported the economic development of Tribal lands and resources by granting Tribal rights to allow establishment of Tribal businesses and other organizations, a Tribal credit system, and vocational education and training to Tribal members. In addition, the Indian Reorganization Act recognized that Indian Tribes, as sovereign nations, possessed home rule rights by virtue of their inherent sovereign authority. Section 16 of the Indian Reorganization Act states that the powers vested in any Indian Tribe or Tribal council by existing law are those powers of local self-government that have never been terminated by law or waived by treaty. The Indian Reorganization Act is considered by many Tribes and historians to be a cornerstone for independence of and self determination by Native American Tribes.

Termination (1953–1968) The Termination era marks another major shift in Federal policy concerning Native Americans. House Concurrent Resolution 108[20] states, "It is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship."[21] Resolution 108 further states that certain Indian Tribes and individual Indians "should be freed from Federal supervision and control and from

16 Parman, Donald L., and Lewis Meriam, "Lewis Meriam's Letters during the Survey of Indian Affairs 1926–1927 (Part 1)," Arizona and the West 24(3):253-280, Autumn 1992.

17 Id.

18 Institute for Government Research, Meriam Report: The Problem of Indian Administration (1928) at 11 (hereinafter referred to as the Meriam Report of 1928) notes the failures of assimilationist policies (http://www.narf.org/nill/resources/meriam.html).

19 The Indian Reorganization Act of 1934, 25 U.S.C.A. § 461 et seq. The full text of the Indian Reorganization Act is available at http://aghca.org/wp-content/uploads/2012/07/indianreorganizationact.pdf.

20 U.S. House of Representatives Resolution 108, Indians, 83rd Congress, 1953 (U.S. Statutes at Large, 67:B122), August 1, 1953 (H. Con. Res. 108).

21 Id. at 614.

all disabilities and limitations specially applicable to Indians: the Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatomie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota."[22] This resolution served to "effectively terminate Federal trust protection of American Indian reservation lands."[23] This resulted in the immediate withdrawal of all Federal aid, services, and protection, as well as the end of reservations for affected Indian Tribes. Terminated Tribes became subject to State laws; their reservation lands could be sold to non-Indians; and the Act, in effect, reversed many of the economic and educational reforms that had been implemented during the Reorganization era.

The relocation of Tribal people from Alaska Native villages into larger, commercial U.S. cities became a general trend after World War II. Because Alaskan Tribes were not subject to the 1953 Termination Policy, Alaskan Tribes were able to file land claims with DOI before Alaska became a State in 1959.

The discovery of oil in the Kenai Peninsula and Cook Inlet regions in 1957 and along the North Slope in 1968 brought the subject of native land ownership to the forefront as a crucial issue.

In 1966, the Secretary of the Interior, Stewart Udall, issued a moratorium on State land selections. In 1969, Udall then declared 90 percent of Alaska off limits to any form of Federal land transfer. During this timeframe, Alaskan Tribes were represented by the Alaska Federation of Natives, who lobbied tirelessly for a fair land claims settlement act. This effort resulted in the Alaska Native Claims Settlement Act (ANCSA).[24] The ANCSA provided the State with the land promised for attaining statehood and the Alaska Natives with a 40 million acre land base. The listing of Alaska Native villages in ANCSA also helped establish a village's status as a Federally recognized Indian Tribe. The ANCSA revoked previous land claims by many Alaska Natives. Initially, the legislation divided the land into 12 regional corporations (a 13th regional corporation would be added later for natives living outside the State) and 220 local village corporations.

Under the terms of the ANCSA, the Tribal Village corporations owned only the surface of the selected land. Minerals located below the surface belonged to the Alaska Native regional corporation that laid out a process of certain land buys.

Self-Determination (1968–present) President Richard Nixon emphasized the importance of Tribal self-determination after pointing out the failure of the Termination policy in his "Special Message on Indian Affairs" speech.[25] President Nixon condemned forced termination and recommended that U.S. policies concerning Indians should serve "to strengthen the Indian sense of autonomy without threatening his communities." During this era, the Trust Relationship between Native Americans and the U.S. Government was reaffirmed and financial support for Tribes guaranteed.[26] The passage of The Indian Self Determination and Education Assistance Act of 1975[27] was a milestone in U.S.-Indian relations. The Act acknowledged the right of Tribal governments to contract with the U.S. Government and to determine how to spend appropriated Federal funds for the benefit of their Tribal members.

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22 Id.

23 Daly, Heather Ponchetti, Fractured Relations at Home: The 1953 Termination Act's Effect on Tribal Relations throughout Southern California Indian Country, The American Indian Quarterly 33(4):427–439, Fall 2009. See also Termination Policy 1953–1968, Council of Indian Nations https://faculty.utep.edu/LinkClick.aspx? and Menominee Termination and Restoration, Milwaukee Public Museum (http://www. mpm.edu/wirp/ICW-97.html). These articles discuss the various impacts on and views of the many Tribes subject to termination.

24 See https://www.law.cornell.edu/uscode/text/43/chapter-33.

25 President Nixon, "Special Message on Indian Affairs," July 8, 1970, is available at http://www.epa.gov/tp/pdf/president-nixon70.pdf. See also Newcomb, Steven, "Don't Treat Indian Nations as a Minority Group," Indian Country, October 14, 2013, at http://www.indianz.com/News/2013/011446.asp.

26 Id.

27 The Indian Self-Determination and Education Assistance Act and its implementing regulations are available at https://www.bia.gov/cs/groups/mywcsp/documents/collection/idc017334.pdf.

Presently, Tribes actively assert their sovereign rights and have achieved greater political and economic independence through Tribal self-determination. Despite heightened Tribal and cultural awareness, Tribal assertiveness, Federal Executive Orders, and judicial rulings supporting these changes, many Tribes are discouraged by particular Federal policies or positions, a lack of adequate appropriations for Indian programs, and the perception of cultural insensitivity on the part of the Federal Government.

SECTION 1.D

Federal Government's Trust Responsibility to Tribes

The unique status of Tribes was explored in *Seminole Nation v. United States* (1942) in which the Supreme Court explained that the Federal Government is "charged with moral obligations of the highest responsibility and trust."[28] The Federal Government has a Trust Responsibility to Federally recognized Tribes, which applies to all executive departments and Federal agencies that deal with Native Americans, including the NRC. For Federal agencies that hold Tribal assets, the Trust Responsibility establishes fiduciary obligations to the Tribes, including duties to protect Tribal lands, and cultural and natural resources for the benefit of Tribes and individual Tribal members/landowners.[29]

The NRC shares the Federal Government's unique Trust Relationship with, and Trust Responsibility to, Indian Tribes. Under the Federal Trust Doctrine, the United States—and the individual agencies of the Federal Government—owe a fiduciary duty to Indian Tribes. The nature of that duty depends on the underlying substantive laws (i.e., treaties, statutes, agreements) creating the duty. The NRC exercises its Trust Responsibility in the context of its authorizing statutes, including the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, the Nuclear Waste Policy Act of 1982 (NWPA), the Low Level Radioactive Waste Policy Act of 1985, and the Uranium Mill Tailings Radiation Control Act of 1978, as amended.[30] As an independent regulatory agency that does not hold in trust Tribal lands or assets or provide services to Federally recognized Tribes, the NRC fulfills its Trust Responsibility through implementation of the principles of the Tribal Policy Statement by providing protections under its implementing regulations and through recognition of additional obligations consistent with other applicable treaties and statutory authorities.[31]

SECTION 1.E

Government-to-Government—What Does It Mean?

The Federal Government has a unique legal and political relationship with Native American Tribes that arises from the authority of Congress to regulate interstate commerce under Article I of the Constitution and the power of the President to make treaties with the advice and consent of Senate under Article II. The U.S. Government recognizes Tribes as domestic sovereign nations. Therefore, the United States has acknowledged the inherent authority of Native American Tribes to govern themselves. In the absence of congressional action, Tribes possess the right to self-government. As defined in the NRC Tribal Policy Statement, regulatory actions with Tribal implications refers to "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes."

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28 See Seminole Nations v. United States (1942) at http://caselaw.findlaw.com/us-supreme-court/316/310.html.

29 White House Press Release, June 26, 2013, establishing the White House Council on Native American Affairs, at https://obamawhitehouse.archives.gov/the-press-office/2013/06/26/executive-order-establishing-white-house-council-native-american-affairs. The executive order states that the policy of the Federal Government was to protect Tribal lands, environments, and natural resources and promote respect for Tribal cultures as a means of promoting and sustaining prosperous and resilient Tribal communities.

30 NUREG 0980, "Nuclear Regulatory Legislation, 113th Congress [2nd Session]," Volume 1, No. 11, issued December 2015, includes the NRC exercised statutes mentioned.

31 https://www.nrc.gov/docs/ML1701/ML17011A243.pdf.

In establishing a government-to-government relationship with Federally recognized Tribal governments, the NRC acknowledges the status of Tribes as domestic dependent sovereign nations,[32] as being distinct from the status of special interest groups, stakeholders, nongovernmental organizations, or members of the general public. NRC Management Directive 5.1, "Intergovernmental Consultation," approved April 5, 1993 (ADAMS Accession No. ML041770442), provides additional guidance on consultation. Individual NRC offices also provide guidance[33] on Tribal consultation conducted under Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended.

Chapter 2, Section 2.E, of this manual explains how the NRC plans and conducts government-to-government meetings and describes Federal restrictions and requirements for funding these meetings.

SECTION 1.F

The NRC's Case by Case Approach to Interactions with Native American Tribes

The NRC's interactions with Tribes can take many forms. Interaction may include, but is not limited to, outreach, consultation, coordination, training, and information exchanges. Interactions may be oral or written and can take place remotely (through electronic media or in face-to-face meetings).

The NRC's regulatory actions that have the potential to affect Tribal interests offer both the NRC and the Tribes an opportunity to initiate outreach and communication with one another. Outreach means the NRC staff's efforts to inform Indian Tribes about the agency's actions and plans. Outreach includes sharing information and encouraging Tribal governments to communicate their concerns and interests to the NRC staff. The NRC will conduct outreach to keep Indian Tribes informed about the agency's actions and plans, as appropriate, related to its regulatory actions that have substantial direct effects on one or more Indian Tribes. Outreach includes sharing information and encouraging Tribal governments to communicate their concerns and interests to the NRC staff.[34] During outreach, the staff can provide Tribes with information about the Commission's mission and regulatory authority, and identify opportunities for Tribal involvement. The NRC staff maintains regular communications with Tribes and Tribal organizations that are interested in NRC activities. Tribal officials are encouraged to initiate communications with the staff on any NRC regulated activities. The NRC invites Tribal input throughout its decision making processes.

The sections below describe a few examples of the NRC's interactions with Tribal governments.

Power Reactor Inspections and License Renewal, Prairie Island Indian Community, Welch, MN The Prairie Island Indian Community (PIIC) reservation is located adjacent to the Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, in Welch, MN. In 1997, after the PIIC expressed interest in accompanying NRC inspectors on inspections, the Commission determined that Tribal representatives could observe NRC inspections at the plant. The PIIC representatives observed NRC radiation protection inspections at the PINGP later that year and were the first such Tribal representatives authorized to observe NRC inspections. In 2009, the President of the PIIC Tribal Council also participated, as an observer, in the Prairie Island Regional Lead License Renewal Program Inspection.

In 2008, the NRC and the PIIC signed a Memorandum of Understanding (MOU),[35] granting the PIIC status as a Cooperating Agency for the purposes of preparing portions of the supplemental environmental impact statement for the proposed license renewal of the PINGP, Units 1 and 2. The PIIC provided special expertise and assistance to

32 The phrase "domestic dependent sovereign nations" used to characterize Tribes comes from Cherokee Nation v. Georgia (30 U.S. 1, 16 (1831)).

33 See Office Instruction No. LIC-203, "Procedural Guidance for Preparing Categorical Exclusions, Environmental Assessments, and Considering Environmental Issues," Revision 3, dated July 1, 2013 (ADAMS Accession No. ML12234A708).

34 Principle 3 of the NRC Tribal Policy Statement states, "The NRC will conduct outreach to Indian Tribes." Section 3.H of this manual defines "outreach."

35 PIIC MOU (ADAMS Accession No. ML081610273).

This MOU dealt with the environmental review for a reactor license renewal.

On October 3, 2012, the NRC signed another MOU[36] with the PIIC establishing a cooperating agency relationship tween the NRC and the PIIC in preparing an environmental assessment for the license renewal of PINGP's independent spent fuel storage installation. The MOU also recognized the PIIC's special expertise and access to information regarding historic and archaeological resources, socioeconomics, land use, and environmental justice. In addition, PIIC continues to observe cask loading, participate in inspections, tours, meetings, and other regulatory activities at the site. The above MOUs reflect effective outreach, cooperation, and consultation between the NRC and the PIIC.

Proposed Waste Repository, Timbisha Shoshone Nation, Nevada

The NRC conducted Tribal outreach on the proposed Yucca Mountain high-level waste repository site in Nevada with the Timbisha Shoshone Nation from 2001 through 2008. The NRC hosted workshops for Native American Tribes with historical and cultural ties to the Yucca Mountain area in 2001 and 2003. During these outreach activities, the NRC staff learned that the Timbisha Shoshone Nation had requested "affected status," as permitted by the NWPA. DOI has the authority to grant "affected status" to affected Tribes. "Affected status" specifically affords Tribes the rights to notification, participation, consultation, and financial assistance in proceedings on the proposed waste repository. The NRC provided information on NRC regulations and hearing procedures to DOI representatives and supported a timely decision on the Tribe's request. The NRC staff visited the Timbisha Shoshone reservation in Death Valley, CA, in 2006. The NRC staff discussed the Tribe's affected status petition with DOI representatives at DOI headquarters in 2007. The Tribe first applied for the petition in 2001 but did not receive an official determination on its request; therefore, the Tribe reapplied for the petition in 2006. In 2008, after DOI granted the Timbisha Shoshone Tribe's petition, the NRC staff consulted with the Timbisha Shoshone Tribe on participating in the NRC licensing and hearing process. The Timbisha Shoshone Tribe was admitted as a party to the Yucca Mountain hearings with eight admitted contentions in 2009.

Uranium Recovery and Legacy Waste Associated with Uranium Mining and Milling, Located in New Mexico, Wyoming, Nebraska, and South Dakota

The NRC met with representatives from Navajo Nation, the Hopi Tribe, the Pueblo of Acoma, and the Pueblo of Laguna governments in New Mexico and Arizona in 2007 and 2008 to discuss regulatory issues related to uranium milling operations and environmental restoration.

Beginning in late 2007, the NRC staff, the U.S. Environmental Protection Agency, the U.S. Department of Energy, the Bureau of Indian Affairs, and the Indian Health Service participated in multiple briefings and roundtable discussions with the Navajo Nation, which resulted in the development of a 5 year plan to address legacy uranium mine and mill waste in Navajo Country. The plan addressed uranium contamination on Navajo lands and proposed solutions that were the subject of a congressional committee hearing held by Congressman Henry A. Waxman on October 23, 2007. The NRC staff also met face to face with senior Navajo government officials to discuss legacy concerns. The NRC staff briefed the Navajo Nation Resources Committee, the Navajo Nation Environmental Protection Agency, and the Navajo Nation Department of Justice on the agency's responsibilities under the 5-year plan in April 2008.

In February and April 2009, the NRC staff coordinated separate meetings with representatives of the Navajo Nation, Pueblo of Zuni, All Indian Pueblo Council, Pueblo of Laguna, and Pueblo of Acoma to discuss the licensing of uranium recovery facilities. At these meetings, the NRC staff explained the licensing process, addressed related Native American concerns, and identified opportunities for Native American Tribal governments to participate in the licensing process.

36 PIIC MOU (ADAMS Accession No. ML12284A456).

The NRC continues to participate in 5 year plan activities. A second 5 year plan was developed in 2013. The new 5 year plan has a crosscutting strategy on community education and outreach that focuses on collaborative, coordinated efforts among member agencies.

The NRC initiated NHPA Section 106 consultation with Tribes on the proposed Crow Butte License Renewal, Crow Butte North Trend, and Powertech Dewey Burdock in situ uranium recovery projects in 2010. During the following 3 years, the NRC also initiated consultation with Tribes on the Strata Ross, Crow Butte Marsland, and Crow Butte Three Crow projects. The NRC consults with more than 30 Tribes on these six uranium recovery licensing actions.

For each of these six projects, the NRC staff held face to face meetings to describe the proposed project, listened to Tribal comments and concerns, and facilitated identification of properties of cultural and religious significance to Tribes. Discussions were not limited to historic and cultural issues, but they included other topics related to the proposed projects. The NRC staff also communicated with Tribal Historic Preservation Officers through phone calls, letters, and periodic status teleconferences. During 2012 and 2013, interested consulting Tribes participated in field surveys to identify properties of cultural and religious significance at the six in situ uranium recovery projects mentioned above.

Potential Small Nuclear Power Reactor Proposed for Galena, AK, Alaskan Tribes Represented by the Yukon River Intertribal Watershed Council

The City of Galena, AK, initiated discussions with Toshiba Corporation in 2003 concerning the possibility of building a nuclear power reactor. In February 2005, NRC staff met with representatives of the Yukon River Intertribal Watershed Council (YRITWC). This organization represents 53 Federally recognized Tribes in Alaska and 17 First Nations in Canada with Tribal territories located in the Yukon River Watershed. The NRC staff explained how Tribal governments could communicate concerns on the proposed siting of a nuclear reactor in Galena, AK. After its first meeting, the NRC established the Tribal Consultative Team to address concerns related to the siting of the facility and maintained regular communications with the YRITWC, as appropriate. The YRITWC held its 2009 biannual summit in August 2009, and the NRC staff spoke with the Executive Director of the YRITWC and with individual Tribal leaders about the status of the proposed Galena nuclear power reactor.

Reactor Licensing Diablo Canyon Power Plant, Avila Beach, CA

As part of Diablo Canyon Power Plant's original operating license issued in 1984, the NRC included a license condition (specified in the environmental protection plan) requiring the applicant to develop a management plan specifically for an archaeological site (ADAMS Accession No. ML053140349). The license condition also stipulated that the licensee would allow the Chumash Indian Tribe reasonable controlled access to the site for religious activities, taking into account plant related security and public health and safety constraints. The licensee developed the management plan and continues to comply with this license condition.

Columbia Generating Station, Benton County, WA

The NRC held a meeting with several tribes in April 2010 to consult on the license renewal process for the Columbia Generating Station (CGS). Representatives from two Federally recognized Tribes (the Yakama Nation and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and one nonFederally recognized tribe (the Wanapum Tribe) attended this meeting. Several tribal members from the Wanapum Tribe, the Nez Perce Tribe, and the CTUIR later participated in a tour of the culturally sensitive area along the Columbia River and reviewed the applicant's cultural resources protection procedure. After the tour and review, the licensee agreed to work with Tribal representatives to develop cultural resources sensitivity and awareness training for CGS employees and contractors.

CHAPTER 2

Guidance on Tribal Protocols and Interactions

SECTION 2.A

Potential Cultural Differences

There are cultural differences between how the NRC and Tribal representatives view issues of regulatory concern to the NRC. These differences reflect the ways different cultures prioritize and interact. The NRC staff should not consider interactions with Tribal government officials only from their own cultural perspective. The NRC staff should be sensitive to the cultural perspectives of all persons with whom it interrelates.

Cultural differences may exist in the following areas:

- **Tribal representatives may seem to place less priority than Federal employees do on timelines, schedules, and agendas established by U.S. Government agencies. The NRC staff's approach to task management, which tends to be schedule driven because of imminent deadlines, may conflict with the expectations of Tribal representatives. Tribal governments have their own set of priorities, and the NRC staff needs to recognize important Tribal priorities.**
- **Tribes often seek consensus in their decisionmaking and, therefore, place importance on face to face interactions. Tribal officials may request meetings in their offices so that Tribal members may be part of consensus decision making. When planning where to hold meetings with Tribal representatives, the NRC staff should recognize that Tribal governments face the same budgetary constraints as the Federal Government and, when possible, should plan to hold meetings in locations that do not impose significant financial burden on Tribal budgets.**
- **Native Americans treat Tribal elders with great respect regardless of whether they hold elected office or an official position. Often, the opinions of Tribal elders who are not part of the elected government will be sought during Tribal consultation with the NRC staff.**
- **Because Indian Tribes value consensus, group harmony, and cohesiveness, the NRC staff should seek out group views and the opinions of individuals. However, Tribal governments must also present official viewpoints to the NRC.**
- **As is true of the overall U.S. population, religious and spiritual beliefs vary widely among Native Americans. The NRC staff should understand that the beliefs of all persons and groups should be discussed respectfully. Where appropriate, the NRC staff can explain that it will protect the confidentiality of information concerning beliefs or the location of religious or cultural properties from public disclosure to the extent allowed under relevant laws.**
- **Certain Native religious and belief systems incorporate spiritual aspects that focus on the relationship of humans to the natural environment. Many Native American religious beliefs involve respect for and protection of the Earth and its resources.**

Some Native American Tribes believe all living things are interconnected—the spiritual world and the natural world are one. Threats to the environment are often viewed as direct threats to Tribal health, culture, and spiritual well-being. In addition to being a food source, plants and animals also have spiritual importance for many Tribes. Accordingly, sites known for their abundance for gathering food or medicinal plants may often be historically and culturally significant.

Spirituality is also woven into Tribal lifestyles through ancestral teachings and beliefs that are handed down from generation to generation. In some Tribal cultures, celebrations, stories, songs, and dances teach skills and entertain. Additionally, some Tribes use subsistence activities, such as hunting, fishing, and foraging, to help teach the children respect for these activities and for the past. Because of cultural differences, the NRC staff may misunderstand, or may

be misunderstood by, Tribal members. By practicing open communication, adaptability, and open mindedness in its interactions, the NRC staff can develop positive working relationships with Tribal members.

SECTION 2.B
Tribal Consultation

As defined in the Tribal Policy Statement, "consultation" means efforts to conduct meaningful and timely discussions between the NRC and 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. Consultation between the NRC and Indian Tribes allows Tribes the opportunity to provide input on regulatory actions with Tribal implications and on those actions requiring Tribal consultation and is different from the outreach and public comment periods. The consultation process may include, but is not limited to, providing for mutually agreed protocols, timely communication, coordination, cooperation, and collaboration. The consultation process provides opportunities for appropriate Tribal officials or representatives to meet with the NRC staff or management to achieve a mutual understanding between the NRC and the Tribes of their respective interests and perspectives. Principle 4 of the NRC's Tribal Policy Statement describes in detail consultation guidance (82 FR 2402; January 9, 2017).[37]

The NRC will establish early communications and begin consultation as soon as practicable when the agency's regulatory actions or proposed projects have Tribal implications. The NRC will consult in good faith throughout the agency's decision making process and will develop and maintain effective communication, coordination, and cooperation with Indian Tribes.[38]

The NRC will coordinate with other Federal agencies (e.g., the U.S. Federal Emergency Management Agency, the U.S. Department of Transportation, and the Bureau of Land Management) and will perform its Tribal consultation jointly with those agencies, as appropriate and to the extent possible.[39]

Consultation may take many forms and often includes the following:

- **establishing mutually agreed protocols for open and timely communication describing proposed agency actions**
- **establishing agency points of contact**
- **identifying Tribal government leadership and staff level points of contact**
- **developing mutually agreeable schedules for meetings between Tribal officials and representatives and the NRC's management and staff**
- **providing opportunities for Tribes to raise concerns on the effects that NRC licensing or regulatory activities may have on Tribal interests**

Designated representatives of the NRC have the authority to speak for the agency in consultation with designated Tribal leaders, officials, and staff. Through consultation, the NRC staff should seek to fully understand the concerns of the Tribe. Consultation includes interactions between Tribal and NRC representatives. When representatives of the Federal Government and Tribal governments interact on issues within the scope of their authority, the interaction may be considered "government to government" consultation.

The NRC staff should be cognizant that Tribal governments may take a narrower interpretation of government to government consultation than the NRC staff does. Tribal representatives may use the term government to

37 See https://www.gpo.gov/fdsys/pkg/FR-2017-01-09/pdf/2017-00091.pdf.

38 Principle 4 of the NRC Tribal Policy Statement states, "The NRC will engage in timely consultation."

39 Principle 5 of the NRC Tribal Policy Statement states, "The NRC will coordinate with other Federal Agencies," and Principle 6 of the NRC Tribal Policy Statement states, "The NRC will encourage participation by State Recognized Tribes."

government consultation to only refer to interactions between Tribal leadership and NRC management or Commissioners, or both. Additionally, Tribes may have laws that address consultation that may differ from the NRC's definition of consultation.

When possible, face-to-face interactions may take place at a location identified by the Tribes. These face to face interactions may include information sharing meetings, presentations, preliminary discussions, introductory briefings, information-gathering sessions, teleconferences, written correspondence, and telephone conversations between staff-level employees. All of these interactions can be important to the NRC meeting its obligation to consult effectively and meaningfully with Tribal governments.

When planning consultation activities with Tribes, the NRC staff should ensure that Tribal representatives understand the objectives of the consultation and know whether participants will be at the leadership or staff level.

SECTION 2.C
Applicable Federal Laws

Although the NHPA (54 U.S.C. § 300101 et seq.)[40] is the principal Federal law addressing historic preservation, numerous other statutes relate to various aspects of the Federal historic preservation program. These range from the protection of archeological sites on Federal lands to the recognition of properties of traditional cultural or religious significance to Native Americans.

Many Federal laws require the Federal Government to consult with Tribal governments. For example, NRC licensing actions and other agency regulatory activities may require compliance with the NHPA, the National Environmental Policy Act of 1969 (NEPA), the NWPA, and the Native American Graves Protection and Repatriation Act (NAGPRA). The NRC staff should check with their program offices and the Office of the General Counsel for specific guidance on complying with these statutory provisions. The NRC typically coordinates NEPA and NHPA Section 106 processes. During licensing actions, the NRC usually develops comprehensive planning schedules and communication plans to provide opportunities for Tribal involvement.

National Environmental Policy Act of 1969, As Amended

NEPA (42 U.S.C. § 4321 et seq.) establishes a broad national framework for protecting our environment. NEPA requires all Federal agencies to (1) consider environmental impacts in their decision making, (2) inform the public of their decisions, and (3) document the process by which each agency made its informed decision. NEPA also established the Council on Environmental Quality, which publishes the Council on Environmental Quality Regulations for Implementing NEPA (Title 40 of the Code of Federal Regulations (40 CFR) Part 1500, "Purpose, Policy, and Mandate," through 40 CFR 1508, "Terminology and Index"). NEPA also requires each Federal agency to issue its own individual implementing regulations. The NRC meets its NEPA responsibilities by complying with the NRC's regulatory requirements in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

National Historic Preservation Act of 1966, As Amended

With the NHPA, Congress established a comprehensive program to preserve the historical and cultural foundation of the nation as a living part of community life. NHPA Section 106 (54 U.S.C. § 306108) requires Federal agencies to consider the effects on historic properties of certain projects that they may carry out, assist in, fund, permit, license, or approve and afford the ACHP a reasonable opportunity to comment on such undertakings. Although applicants may

40 See http://www.achp.gov/nhpa.html. The NHPA was last amended in 2014, and a PDF version is available at the Advisory Council for Historic Preservation (ACHP) Web site (http://www.achp.gov/regs-rev04.pdf).

be asked to carry out some of the tasks for completing a Section 106 review, the Federal agency remains responsible for all findings and determinations. Only when authorized by Federal statute may non-Federal entities be delegated legal responsibility for Section 106 compliance.

Federal agencies must complete the Section 106 process "prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license." Agencies comply with Section 106 through the process described in the implementing regulations in 36 CFR Part 800, "Protection of Historic Properties." The regulations implementing Section 106 can be found on the ACHP's Web site at http://www.achp.gov/regs-rev04.pdf

The NHPA Section 106 process requires Federal agencies to consult with "consulting parties" such as Tribal governments, Hawaiian Organizations, the State Historic Preservation officer, local governments, license applicants, and the public, as appropriate. The consulting parties can provide information to help the Federal agency to identify and evaluate historic properties, assess the effects of their undertakings on historic properties, and attempt to negotiate an outcome that will balance project needs and historic preservation values. The NRC frequently coordinates its Section 106 compliance with NEPA reviews, as appropriate, in accordance with 36 CFR Part 800.8(c).

The NHPA Section 106 review process encourages, but does not mandate, a preservation outcome and recognizes that sometimes there is no way for a project to proceed without affecting historic properties. Based on the information gathered through the Section 106 process, a Federal agency may make an informed decision to approve, change, or deny a project. Therefore, the outcome of Section 106 reviews can range from avoidance of historic properties to the acceptance of adverse effects on historic properties. The Section 106 process ensures that a Federal agency assumes responsibility for the consequences of its undertakings on historic properties.

Although the NHPA Section 106 regulations do not mandate a timeframe within which a Federal agency must complete its review, the Federal agency should plan for the time needed to consult to resolve adverse effects to historic properties at the beginning of the project planning process. Depending on the circumstances and the consultation process, a Federal agency may conclude its Section 106 review with a finding of "no historic properties affected" or "no adverse effects to historic properties." If the proposed undertaking poses a threat of adverse effects on historic properties, the agency must meet with consulting parties to attempt to reach an agreement on how to resolve those adverse effects. Consulting parties participate with the Federal agency in the preparation of an agreement document, typically a Memorandum of Agreement (MOA) or Programmatic Agreement (PA), which establishes the agreed upon measures to resolve the adverse effect and the roles and responsibilities of the agency and the consulting parties. If the signatories cannot come to an agreement, the agency must request and consider ACHP comments. If an agreement is reached, the agency must implement all the agreed upon measures established in the resulting MOA or PA.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA) (42 U.S.C. § 1996) was enacted on August 11, 1978. AIRFA protects and preserves the right of American Indians, Alaska Natives, and Native Hawaiians to exercise their traditional religions, including, but not limited to, access to their sacred sites on public (i.e., Federal) lands. If a place of religious importance to American Indians is affected by a proposed action/undertaking, the AIRFA promotes consultation with Indian religious practitioners.

All Federal agencies are subject to AIRFA. Because the NRC does not manage Federal or Tribal lands, the agency has not been involved with the AIRFA. However, if a Federal agency is also an NRC licensee (e.g., the Tennessee Valley Authority) or if an NRC licensed activity is taking place on Federal land, the Federal land management agency (e.g., the Bureau of Land Management) is subject to the AIRFA.

The NRC should take steps to ensure that properties of religious importance (e.g., traditional cultural properties) are considered during the NHPA Section 106 review process and that such consideration is coordinated with AIRFA responsibilities, where applicable. This consultation should be coordinated with NHPA Section 106 consultation and applies to Federally recognized Indian Tribes, Native Hawaiians, and Alaska Natives.

Nuclear Waste Policy Act of 1982, as Amended

The NWPA (42 U.S.C. § 10101 et seq.) provides a role for affected Indian Tribes in activities related to the geologic disposal of radioactive waste and addresses grants that may be made to affected Indian Tribes. The NWPA includes rights of participation and consultation for affected Indian Tribes pertaining to repositories for defense waste and the disposal of high-level radioactive waste and spent nuclear fuel. "Affected Indian Tribe" is defined as "any Indian tribe—(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located; and (B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: Provided, that the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe."[41]

The NRC is among the agencies required to provide "affected Indian Tribe" timely and complete information regarding determinations or plans made with respect to site characterization, siting, development, design, licensing, construction, operation, regulation, or decommissioning of the repository. The NRC regulations at 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories," and 10 CFR Part 63, "Disposal of High Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada," include Subpart C, "Participation by State Governments and Affected Indian Tribes," which addresses the participation of (including participation in license reviews) and consultation with affected Indian Tribes. The NWPA provides for grants to affected Indian Tribes for participating in consultations related to site characterization and siting decisions and for participating in review activities.

The Native American Graves Protection and Repatriation Act

The NAGPRA (Public Law 101-601; 25 U.S.C. § 3001 through 3013) is a Federal law enacted in 1990. NAGPRA provides a process for Federal agencies to return Native American cultural items, human remains, funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants and culturally affiliated Indian Tribes and Native Hawaiian organizations. The NAGPRA includes provisions for unclaimed and culturally unidentifiable Native American cultural items, intentional and inadvertent discovery of Native American cultural items on Federal and Tribal lands, and penalties for noncompliance and illegal trafficking. All Federal agencies are subject to the NAGPRA.

In a situation where there is an evaluation of an application from a Federal applicant or a voluntary private applicant, the NRC should examine the applicant's inadvertent discovery procedures to determine whether the procedures comply with the NAGPRA in case human remains or items of cultural patrimony are discovered. Private licensees and applicants can also voluntarily comply with the NAGPRA and provide inadvertent discovery procedures as part of their licensing application.

41 The "affected Indian Tribe" definition in the NWPA appears in 42 U.S.C. § 10101 (Section 2(2)).

SECTION 2.D
Initiating Dialogue with Native American Tribes

The NRC initiates dialogue through written correspondence announcing a regulatory action that may have Tribal implications. This correspondence should be between the leader of the Tribal government and an appropriate representative of NRC management. Copies of correspondence relating to NEPA or NHPA actions should be sent to the Tribal Historic Preservation Officer (THPO) or equivalent staff, as appropriate.

This initial correspondence should describe the proposed regulatory action and identify the location and methods by which the Tribe may provide comments or request additional information. For actions related to NEPA or the NHPA, the correspondence should also include information on the environmental review and NHPA Section 106 processes and an invitation to participate.

Based on expressions of interest from individual Tribes, the NRC staff may also conduct a follow-up meeting with Tribal officials or representatives.

The NRC staff may conduct subsequent interactions that contact and establish relationships with Tribal representatives who hold similar levels of authority. The NRC staff can communicate with such representatives through written correspondence, phone calls, or e-mails to the appropriate Tribal contact. The NRC staff may also initiate requests on behalf of NRC management or in preparation for meetings with members of Tribal governments. The NRC staff should track and record communications by maintaining an administrative contact log.

On an infrequent basis, a Tribal government or governments and NRC management will conduct a formal government to government meeting with a mutually approved agenda. Section 2.E includes guidance to help the NRC staff prepare for and document a government to government meeting between Tribal government officials and the NRC staff.

National Historic Preservation Act Consultation Responsibilities

As part of their NHPA Section 106 responsibilities, Federal agencies must consult with any Indian Tribe that attaches religious and cultural significance to historic properties that an agency's undertaking may affect. An agency is required to consult with Indian Tribes on undertakings that occur on and off Tribal lands.

The NRC staff should also check with its program office to determine whether specific guidance exists for conducting the NHPA Section 106 process or for evaluating historic and cultural resources in conjunction with NEPA environmental reviews.

The following are specific parties that need to be consulted during the NHPA Section 106 process along with the licensee or license applicant.

State Historic Preservation Officers

State Historic Preservation Officers (SHPOs) administer the National Historic Preservation program at the State level, review National Register of Historic Places nominations; maintain data on identified historic properties that have not been identified, evaluated, or nominated for placement on the National Register of Historic Places; and consult with Federal agencies during NHPA Section 106 reviews (ACHP 2013) found at http://www.achp.gov/docs/NEPA_NHPA_Section_106_Handbook_Mar2013.pdf . SHPOs are designated by the Governor of their respective State or territory.

Federal agencies seek the views of the appropriate SHPO when identifying historic properties, evaluating the eligibility of historic properties for the National Register of Historic Places, and assessing effects of an undertaking on historic properties. Agencies also consult with SHPOs when developing MOAs and PAs under NHPA Section 106. The Web site at http://www.ncshpo.org/shpodirectory.shtml lists SHPOs that are members of the National Association Conference of State Historic Preservation Officers.

Tribal Historic Preservation Officers

In 1992, the U.S. Congress adopted amendments to NHPA that authorized Indian Tribes to take over the functions of SHPOs on Tribal lands and appoint a THPO. With these amendments, the NHPA authorized Federally recognized Indian Tribes to take on more formal responsibility for the preservation of significant historic properties on Tribal lands. Specifically, NHPA Section 101(d)(2) allows Tribes to assume any or all of the functions of an SHPO with respect to Tribal lands as long as the Secretary of the Interior determines that the Tribal preservation program and the Tribe's plan describes how the Tribal historic preservation official will carry out the functions that he or she proposes to assume to satisfy the requirements of NHPA Section 102(d)(2) (54 U.S.C. § 302901 et seq.). The decision to participate or not participate in the program rests with the Tribe.

As a formal participant in the National Historic Preservation program, a Tribe may assume official responsibility for a number of functions aimed at the preservation of significant historic properties. Those functions include identifying historic properties, maintaining inventories of culturally significant properties, nominating properties to National and Tribal registers of historic places, conducting NHPA Section 106 reviews of Federal agency projects on Tribal lands, and conducting educational programs on the importance of preserving historic properties.

In cases in which a Tribe has not assumed the responsibilities of the SHPO for purposes of NHPA Section 106 compliance on its Tribal lands, the Federal agency will consult with a designated representative of the Tribe and the SHPO during a review of projects occurring or affecting historic properties on its Tribal lands. The Bureau of Indian Affairs and the National Park Service can provide initial contact information for these Tribes.[42]

As described above, the NHPA regulations at 36 CFR Part 800 also instruct Federal agencies to consult with Indian Tribes that attach religious and cultural significance to historic properties that an agency's undertaking may affect, regardless of the location of the historic property. These properties can be located on ancestral lands outside a Tribe's reservation. This consultation is discussed in more detail in 36 CFR 800.2(c)(2)(ii).

The Web site at http://www.nathpo.org/THPO/state_list.htm lists Tribal historic preservation officers who are members of the National Association of Tribal Historic Preservation Officers.

42 The National Park Service maintains a list of Tribes that have assumed the responsibility of the SHPO for purposes of NHPA Section 106 compliance on Tribal lands at https://www.nps.gov/nr/shpolist.htm.

SECTION 2.E
Generic Guide to Arranging Meetings with Tribal Representatives

Face-to-face meetings are an important part of government-to-government communications between Tribal governments and Federal agencies. Meetings may address issues of mutual concern, resolve issues in dispute, defuse conflict, and help avoid litigation. The NRC staff is encouraged to use the information described below when planning and developing specific meeting strategies.

Meeting Planning

The NRC staff should gather the following information to be discussed during an internal premeeting to prepare for the Tribal meeting:

A. Identify the Tribal contacts whom the staff has established relationships and other potential contacts and their roles and positions within the Tribal communities.

B. Discuss with the Tribal liaison whether the Tribal government considers the meeting privileged or confidential and thus nonpublic.

C. Identify the issues and topics for discussion and review, evaluate the agency information to be presented, and determine whether the Tribal meeting is a high level or staff level meeting.

D. Identify the desired outcomes for the meeting.

Without the Tribal government's written designation that an upcoming government-to-government meeting is considered privileged or confidential, the NRC staff should document the meeting as publicly available. The NRC staff is responsible for clarifying with the Tribal government whether the planned government to government meeting is public or nonpublic.

Coordination with Tribal Liaison and Other Meeting Issues

The NRC staff should do the following preparation for the meeting:

A. Identify meeting participants who could include NRC staff, Tribal technical representatives, the NRC senior staff, or the Tribal head or Tribal Council.

B. Identify the appropriate rank of the NRC representative given the activity involved, the level of interaction, and the established agenda.

C. Consider using various meeting formats, including presentations followed by discussions, listening sessions, small "breakout" groups, and question and answer sessions (or a combination of formats).

D. Provide an opportunity for the Tribe to present a proposed meeting agenda in advance when planning meetings with Tribal participants.

E. Share the NRC's proposed agenda with the Tribe.

F. Include suggestions from both the NRC and Tribal agendas in the final agenda.

Remember that NRC meetings are often attended by Tribal representatives and other parties with a vested interest in meeting topic(s), including the following:

- **State or local government representatives**
- **representatives of local public interest groups**
- **contractors or consultants of Federal agencies, or both**
- **other Federal agency employees**
- **license applicants and their consultants**
- **other consulting Tribes**

The NRC staff should also contact the Office of the General Counsel if a Tribal representative makes a statement pertaining to or asserting Tribal treaty rights for advice on how to respond to the statement.

Formal Government-to-Government Meetings

Tribes may request a formal government to government meeting between NRC management and Tribal leaders. Leaders from the NRC and the Tribal government will generally have key roles and will follow an agreed upon agenda. At times, leaders may decide to revise the meeting agenda; in this case, the staff should remain flexible.

The NRC staff should discuss with their Tribal liaison whether the Tribal government considers the meeting, including correspondence, the meeting summary, and presentation materials, to be privileged information between the meeting participants.

A formal government to government meeting between the NRC and a Tribal government is not a public meeting and should not be made public by the NRC staff.

Meeting Logistics

Selected meeting sites or locations should be accessible to all parties from both a logistic and economic perspective.

Visual Aids

Visual aids are very useful and greatly appreciated by many audiences. Maps, facility plans, and PowerPoint presentations can assist in illustrating the NRC's highly technical data to an audience. Remember that nontechnical audiences understand technical information that is properly explained in plain language. Avoid the use of jargon and abbreviations for technical terms, Government agencies, or NRC divisions. Take time to ensure that the presentation addresses information of relevance and interest to your audience and that the audience understands the material. Reserve time for questions from the audience.

Refreshments

The NRC recognizes that providing food during gatherings or meetings may be customary in Native cultures; however, under Federal law, food and refreshments are generally considered to be personal expenses that cannot be purchased using Federal funds. The Commission must comply with Federal law pertaining to the provision of food or refreshments, or both, at meetings. Before offering food or refreshment at an NRC hosted meeting, the NRC staff should seek guidance from the Office of the General Counsel.

Another point that should be considered is that the regulations for Standards of Ethical Conduct for Employees of the Executive Branch in 5 CFR Part 2635, "Standards for Ethical Conduct for Employees of the Executive Branch," allow NRC employees to accept modest items of food and refreshments that are not part of a meal. NRC employees may also accept food and drink offered as part of a meal as long as it does not exceed $20.00 in value for an occasion and $50.00 for the entire year from a party. The NRC staff should inform Tribal government representatives of these restrictions when arranging meetings to avoid potentially awkward situations.

Press or Media Involvement

When the NRC staff anticipates media presence at a meeting, the staff should work with the Office of Public Affairs to issue a press release in advance of the meeting or to bring copies of an official press statement to the meeting. Section 3.F identifies additional media outreach resources.

Meeting Outcomes or Conclusions

When engaged in conducting meetings with Tribal representatives, the staff should do the following:

A. Exchange information and ideas with the appropriate Tribal attendees.

B. Allow sufficient time for Tribal representatives to caucus among themselves. After the NRC staff or a license applicant, or both, make presentations, Tribal participants will often request the opportunity to caucus to discuss the presentation and seek consensus on issues involved and on the next steps in the consultation.

C. Solicit the views of Tribal attendees on the proposed NRC project or action.

D. Reach an agreement on processes or procedures for maintaining communication and resolving disputes.

The NRC staff should not assume that commitments or agreements reached during a meeting will be final. Even when the parties have reached consensus, Tribal representatives may need to brief Tribal leaders and obtain their concurrence before decisions are finalized.

When preparing notes or summaries of the meeting, the NRC staff should allow Tribal meeting participants the opportunity to review the NRC's "draft" summary to ensure an accurate record of the views of all parties. If a meeting is transcribed, participants should be given copies of the transcript and the opportunity to provide written corrections in the record.

When parties dispute or disagree on the substance of a meeting summary, the NRC staff should seek clarification of the issues and work to resolve the differences. Tribes generally prefer face to face meetings, but they understand that budgetary and time constraints affect all parties and recognize that telephone conversations, teleconferences, and webinars may also be necessary. Following telephone calls or webinars, the NRC staff should summarize the topics discussed and any commitments made and should identify outstanding issues.

The NRC staff should follow the general agency correspondence procedures for written correspondence sent to a Tribal representative. The staff should also follow up with a telephone call to the Tribal contact if a reply is not received within the expected time period.

SECTION 2.F
Meeting Etiquette

Clear and respectful communication is paramount in Tribal meetings. When people from different cultural backgrounds meet, misunderstandings can occur. Cultural differences may be, and often are, manifested in differences in body language, response or lack of response to specific issues, cultural interpretations, and unexpressed expectations.

Potential communication challenges can be avoided by participating in cross cultural awareness training, looking for possible personal bias and preconceived ideas, establishing professional relationships with Tribal representatives, and being open to learning about Tribal customs. Tribal members place great value on listening, and comments are held until all Tribal members have had an opportunity to speak. The NRC staff should be aware of this practice and provide time for people to speak without interruption. Tribal elders, in particular, are afforded great respect when speaking.

Generally, Tribal officials are comfortable participating in meetings conducted in English. At times, Tribal members, especially Tribal elders, may appreciate the option of having an interpreter present at the meetings. The staff should contact the Office of Nuclear Material Safety and Safeguards (NMSS) Federal, State, and Tribal Liaison Branch for assistance in arranging for translators.

The NRC staff should follow the same protocols in official meetings with Tribal leaders as they would with other Government leaders. The NRC staff should address Tribal leaders by their official titles and names. Tribal leaders should be introduced before other participants and invited to address the meeting first.

Often a Tribal representative, elder, or spiritual leader will open a meeting with a prayer, a song, or an invocation. The NRC staff members may choose but are not required to participate in this custom. The staff should display respect for the Tribe's customs and beliefs in this tradition.

Do not expect to convene a meeting immediately at the appointed time and recognize that the start may be delayed until all participants (or at least highly respected participants) are assembled. Understand that working through an agenda may not be important to all participants.

The NRC staff and management should limit any promises and commitments to those within their authority or the agency's statutory authority. Agency views, opinions, materials, and ideas must be presented honestly and openly and must be clearly distinguished from personal viewpoints to avoid misunderstandings. The staff should limit discussions to subjects that fall within the NRC's statutory authority.

SECTION 2.G
Reservation Etiquette

Tribes differ significantly in their willingness to allow visitors on parts of the reservation away from official buildings or tourist attractions. Inquire, in advance, about specific Tribal rules, attitudes, and customs before visiting parts of the reservation away from "public" areas. Above all, the reservation is the home of the Tribe and its people, and the privacy of the people should be respected.

Note the following protocol when visiting reservations:

- **Do not assume that you are free to wander the reservation or ask Tribal members direct questions about their lives. This may be considered particularly rude behavior.**
- **Pointing is considered offensive in many cultures. Some Tribes attach cultural, religious, and metaphysical significance to pointing that makes it inappropriate.**
- **The NRC staff may find it useful to develop personal working relationships with members of the Tribe who can help with communication and protocol information.**
- **Photography may be restricted. Ask permission to photograph individuals, ceremonies, or meetings. Do not assume that it is permissible or appropriate to take photographs.**
- **When you visit cultural or sacred sites, ask the Tribes how you should behave at the site. Be respectful of all artifacts. Refrain from handling or otherwise disturbing these artifacts.**

SECTION 2.H
Recommended Behaviors and Other Communication Considerations

- **Learn to pronounce the name of a Tribe correctly and always use the proper pronunciation. Be conscious of your conduct and behave conservatively and considerately because judgments about character are based on one's actions, conduct, and responses. Opinions about credibility and integrity are often made during the first 5 minutes of conversation or introduction. Remember that you are a representative of the Federal Government and the NRC. Your actions should demonstrate the importance the NRC places on government to government relationships with Tribal nations.**
- **Avoid judgmental attitudes. Be flexible in conducting meetings and accept different views on decision making.**
- **Keep your voice at a moderate or reasonable level. Speaking loudly may be interpreted as arrogant or disrespectful.**
- **Elders are highly respected in Tribal communities, whether or not they hold any official position. They are the repository for the continuity of Tribal culture and are often the source of considerable wisdom.**
- **Practice patience when speaking with and listening to Tribal elders and other Tribal representatives.**

Some Tribal members allow for greater pause time between speakers, even in their own language. A pause indicates that the other person is considering what you said. Some Indian elders may respond by telling a story or an analogy to illustrate a point. A hurried follow-up question may disrupt their response to your initial questions. Therefore, if you are in a hurry, you may get no answer at all.

- **The NRC staff should give its undivided attention to the person who is speaking. If an issue is important enough to be discussed during consultation, allot all parties sufficient time to adequately discuss and ultimately resolve the issue. As is the case in all consultative and social situations, looking at your watch, yawning, walking out, raising your hand, or shaking your head while a Tribal elder is talking is considered rude behavior.**

- **Prolonged eye contact may be inappropriate; the Tribe may not consider making or holding eye contact respectful behavior. During meetings, many Tribal cultures consider maintaining direct eye contact for extended amounts of time with Tribal elders, leaders, and members inappropriate.**
- **When beginning an important discussion or when responding to questions by Tribal elders or officials, inappropriate laughter may be considered a lack of respect or seriousness or belittling the subject matter.**
- **The NRC staff should dress respectfully as for any business meeting with elected officials or distinguished representatives of a government. Tribal leaders may expect professional, business attire to be worn by Federal workers at meetings held in Washington, DC and at NRC Headquarters. Casual attire may be appropriate at meetings held at locations outside the metropolitan area, such as those held in western States. Casual attire may also be appropriate for attendees who meet regularly with Tribal officials in informal settings.**
- **Tribal representatives may not be familiar with the NRC's terminology, technical vocabulary, acronyms, vernacular, and standard operating procedures. The NRC staff should consider the prior experience, involvement, education, and training of the Tribe as related to the technical or licensing matter at hand. The NRC staff should determine the need to provide explanations for technical and licensing terms. The NRC staff should be respectful and not underestimate the knowledge of Tribal officials.**

In summary, strong relationships are built on honesty. As representatives of a Government agency, the NRC staff should do the following:

- **RESPECT Tribal interests, cultural diversity, customs, and agendas.**
- **RESPECT Tribal Council leaders as officials of another government.**
- **LISTEN carefully; ask questions for clarification.**
- **CONSIDER what you say; do not promise what you may be unable to deliver.**
- **COMMUNICATE with the Tribe because it is the key to successful relationships. Communication established early and often in the process results in more effective communication throughout the process.**
- **FAMILIARIZE YOURSELF with the Tribe's specific information and understand the history and current issues, concerns, and expertise of the Tribe or Tribes with whom you may work.**
- **HOLD FACE-TO-FACE MEETINGS to get to know the Tribe and its technical resource staff and council representatives. Meetings are the most effective method for achieving this important goal, followed by phone calls. Letters are essential, but they can be bureaucratic and inefficient methods of communication.**
- **ESTABLISH FAMILIARITY AND CONTINUITY because they are essential elements for establishing and maintaining effective relationships.**
- **KEEP THE FOCUS WHERE IT BELONGS because Tribes and their concerns should be highlighted during introductions and the meeting table.**
- **BE ADAPTABLE by exhibiting flexibility, sensitivity, and empathy in Tribal relations.**
- **BE PATIENT. Take time to understand, communicate with, and work with the Tribes who have an interest in NRC activities.**

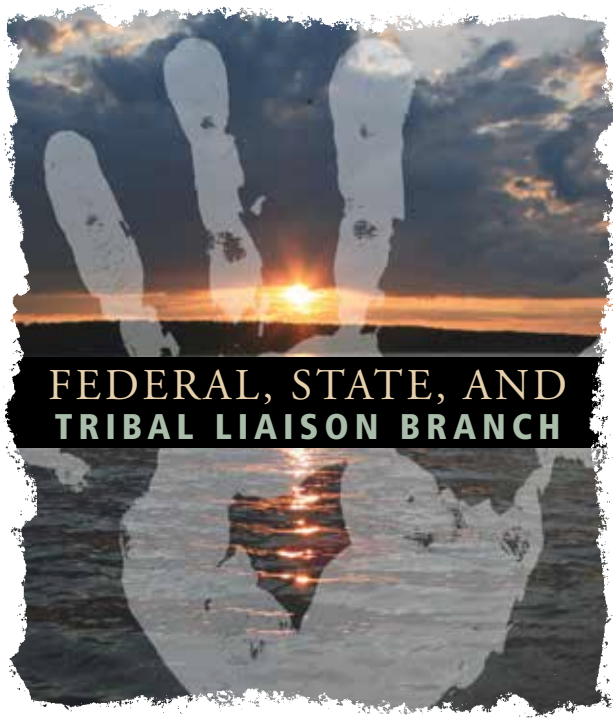
CHAPTER 3

The NRC's Tribal Contacts–Reference Tools

SECTION 3.A

The NRC's Tribal Liaison Point of Contact

The Deputy Executive Director for Materials, Waste, Research, State, Tribal and Compliance Programs serves as the Agency's designated official point of contact for Tribal governments and designated official for Tribal consultations. The Federal, State, and Tribal Liaison Branch (FSTB) of the Office of Nuclear Material Safety and Safeguards (NMSS), under the Division of Materials Safety, Security, State, and Tribal Programs (MSST) maintains the day-to-day experience and knowledge management necessary to perform Tribal liaison efforts. The NRC staff and the public are encouraged to contact FSTB with any questions regarding outreach and communication with Native American Tribal communities and Tribal representatives.



Tribal_outreach.resource@nrc.gov

(301) 415-3340

Division of Materials Safety, Security, State, and Tribal Programs
Office of Nuclear Material Safety and Safeguards

SECTION 3.B

The NRC's Individual Program Office Descriptions

Office of Nuclear Reactor Regulation

The Office of Nuclear Reactor Regulation conducts a broad range of regulatory activities in the four primary program areas of rulemaking, licensing, oversight, and incident response for commercial nuclear power reactors and research and test reactors to protect the public health, safety, and the environment.
https://www.nrc.gov/about-nrc/organization/nrrfuncdesc.html

Office of New Reactors

The Office of New Reactors (NRO) provides safety oversight of the design, siting, licensing and construction of new commercial power reactors. NRO serves the public interest by enabling the safe, secure and environmentally responsible use of nuclear power in meeting the Nation's future energy needs.
https://www.nrc.gov/about-nrc/organization/nrofuncdesc.html

Office of Nuclear Regulatory Research

The Office of Nuclear Regulatory Research provides independent expertise and information for making timely regulatory judgments, anticipating problems of potential safety significance, and resolving safety issues. It helps develop technical regulations and standards and collects, analyzes, and disseminates information about the operational safety of commercial nuclear power plants and certain nuclear materials activities. http://www.nrc.gov/about-nrc/organization/resfuncdesc.html.

Office of Nuclear Material Safety and Safeguards

The Office of Nuclear Material Safety and Safeguards (NMSS) regulates activities that provide for the safe and secure production of nuclear fuel used in commercial nuclear reactors; the safe storage, transportation, and disposal of high- and low-level radioactive waste and spent nuclear fuel; and the transportation of radioactive materials regulated under the Atomic Energy Act of 1954, as amended. NMSS develops and oversees the regulatory framework for the safe and secure use of nuclear materials; medical, industrial, academic, and commercial applications; nuclear facilities and power plants. It works with Federal agencies, States, and Tribal and local governments on regulatory matters. In addition, NMSS conducts extensive environmental assessments in support of these regulatory functions. Information is available at http://www.nrc.gov/about-nrc/organization/nmssfuncdesc.html.

Office of Nuclear Security and Incident Response

The Office of Nuclear Security and Incident Response oversees agency security policy for nuclear facilities and users of radioactive material. It provides a safeguards and security interface with other Federal agencies and maintains the agency's emergency preparedness and incident response program. Information is available at https://www.nrc.gov/about-nrc/organization/nsirfuncdesc.html.

Office of Small Business and Civil Rights

The Office of Small Business and Civil Rights supports the NRC mission in protecting people and the environment by enabling the agency to have a diverse and inclusive workforce, to advance equal employment opportunity for employees and applicants, to provide fair and impartial processing of discrimination complaints, to afford maximum practicable prime and subcontracting opportunities for small businesses, and to allow for meaningful and equal access to agency conducted and financially assisted programs and activities, including partnerships with Minority Serving Institutions. Information is available at http://www.nrc.gov/about-nrc/organization/sbcrfuncdesc.html.

Office of the Chief Human Capital Officer

The Office of the Chief Human Capital Officer provides human capital expertise and support to ensure that the NRC continues to attract, develop, and retain a high performing, diverse, and engaged workforce with the skills needed to carry out the NRC's mission now and in the future. Information is available at https://www.nrc.gov/about-nrc/organization/ocfofuncdesc.html.

Regional NRC Offices

The NRC's Regional offices (Regions I, II, III, and IV) conduct inspection, enforcement (in conjunction with the Office of Enforcement), investigation, licensing, and emergency response programs for nuclear reactors, fuel facilities, and materials licensees. Information is available at https://www.nrc.gov/about-nrc/locations.html.

SECTION 3.C
The NRC's Technical and Financial Assistance to Tribes

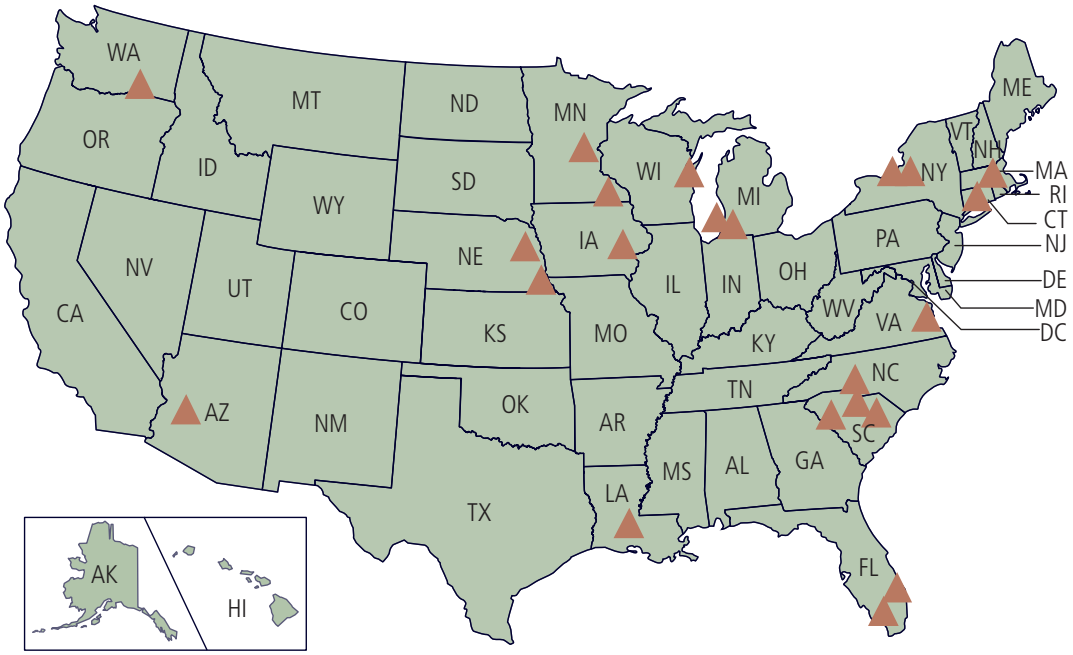
The NRC provides financial and technical assistance to Tribes and Tribal members through programs funded primarily by the Office of Small Business and Civil Rights (SBCR) and the Office of the Chief Human Capital Officer (OCHCO). The NRC has an educational grants program that is managed by OCHCO and supports mission related research and training at colleges and universities, including Tribal colleges. Through its Minority Serving Institutions Program, the SBCR provides technical assistance to Tribal colleges to increase participation in these grant programs. SBCR also houses the Small Business Program that conducts outreach and provides technical assistance to Tribal businesses to increase participation by these companies in contract opportunities at the NRC. The NRC's public Web site provides access to ADAMS and other document libraries that contain technical information. The NRC Web site also provides information on how to participate in NRC activities and licensing actions http://www.nrc.gov/about-nrc/state-tribal/tpm.html.

SECTION 3.D
Federal Agency Tribal Web Site Links

1. U.S. Department of the Interior, Bureau of Indian Affairs, http://www.bia.gov/
2. U.S. Department of Homeland Security, https://www.dhs.gov/tribal-resource-guide
3. U.S. Department of Transportation, https://www.faa.gov/documentLibrary/media/1210.pdf
4. U.S. Department of Energy, https://www.energy.gov/congressional/office-congressional-and-intergovernmental-affairs
5. U.S. Federal Emergency Management Agency, http://www.fema.gov/tribal-
6. U.S. Department of Health and Human Services, http://www.hhs.gov/iea/tribal/index.html
7. U.S. Federal Energy Regulatory Commission, https://www.ferc.gov/industries/hydropower/indus-act/order-2002/tribal-policy.pdf
8. U.S. Federal Communications Commission, http://www.fcc.gov/indians
9. U.S. Environmental Protection Agency, http://www.epa.gov/Tribal/

SECTION 3.E

Native American Reservations and Trust Lands within a 50-Mile Radius of an Operating Nuclear Power Plant



ARIZONA

Palo Verde
Ak-Chin Indian Community
Tohono O'odham Trust Land
Gila River Reservation

CONNECTICUT

Millstone
Mohegan Reservation
Mashantucket Pequot Reservation
Narragansett Reservation
Shinnecock Indian Nation

FLORIDA

St. Lucie
Brighton Reservation (Seminole Tribes of Florida)
Fort Pierce Reservation

Turkey Point
Hollywood Reservation (Seminole Tribes of Florida)
Miccosukee Reservation
Miccosukee Trust Land

IOWA

Duane Arnold
Sac & Fox Trust Land
Sac & Fox Reservation

KANSAS

Iowa Reservation
Iowa Trust Land

LOUISIANA

River Bend
Tunica-Biloxi Reservation

MASSACHUSETTS

Pilgrim
Wampanoag Tribe of Gay Head (Aquinnah) Trust Land

MICHIGAN

Palisades
Pottawatomi Reservation Matchebenashshewish Band
Pokagon Reservation
Pokagon Trust Land*

DC Cook
Pokagon Reservation
Pokagon Trust Land

MINNESOTA

Monticello
Shakopee Community
Shakopee Trust Land
Mille Lacs Reservation

Prairie Island
Prairie Island Community*
Prairie Island Trust Land*
Shakopee Community
Shakopee Trust Land

NEBRASKA

Cooper
Sac & Fox Trust Land
Sac & Fox Reservation
Iowa Reservation
Iowa Trust Land
Kickapoo

NEW YORK

FitzPatrick
Onondaga Reservation
Oneida Reservation

Nine Mile Point
Onondaga Reservation
Oneida Reservation

NORTH CAROLINA

McGuire
Catawba Reservation

SOUTH CAROLINA

Catawba
Catawba Reservation

Oconee
Eastern Cherokee Reservation

Summer
Catawba Reservation

VIRGINIA

Surry
Pamunkey Reservation

WASHINGTON

Columbia
Yakama Reservation
Yakama Trust Land

WISCONSIN

Point Beach
Oneida Trust Land
Oneida Reservation

* Tribe is located within the 10-mile emergency preparedness zone of operating reactors.
Notes: This table uses NRC-abbreviated reactor names and Native American Reservation and Trust land names. There are no reservations or Trust lands within 50 miles of a reactor in Alaska or Hawaii. For more information on other Tribal concerns, go to the NRC Web site at *https://www.nrc.gov*. NRC-abbreviated reactor names listed. Data are current as of August 2017, and the next printed update will be be August 2019.

SECTION 3.F
Native American Media Resources

Native American media outlets that receive the NRC's press releases from the Office of Public Affairs include the following:

1. Native Voice One, http://www.nv1.org/
2. Native American Times, https://nativetimes.com/
3. Navajo Times, http://www.navajotimes.com/
4. Indian Country Today, https://newsmaven.io/indiancountrytoday
5. Native American Calling, http://www.nativeamericacalling.com/
6. National Native News, http://www.nativenews.net/
7. Indianz.com, http://www.indianz.com/boardx/
8. Indian Country News, http://www.indiancountrynews.com/

Media outlets that cover Native American news include the following:

1. The Albuquerque Journal, http://www.abqjournal.com/
2. Anchorage Daily News, http://www.adn.com/
3. Arizona Capitol Times Tucson, http://azcapitoltimes.com
4. The Journal Record (Oklahoma City), http://journalrecord.com/
5. Los Angeles Times, http://www.latimes.com/
6. The New York Times, http://www.nytimes.com/
7. Phoenix New Times, http://www.phoenixnewtimes.com
8. San Antonio Express News, http://www.mysanantonio.com/
9. San Diego Union Tribune, http://www.utsandiego.com/
10. The Tulsa World, http://www.tulsaworld.com/news/

In addition to the above, Native American radio stations, public telecommunication broadcasts, and Web sites can be accessed at http://nativepublicmedia.org/

SECTION 3.G
Tribal Contact Links

To access the names and contact information of the Federally recognized Tribes, use the following links:

- **National Congress of American Indians Tribal Directory can be accessed at http://www.ncai.org/tribal-directory.**
- **U.S. Department of the Interior, Bureau of Indian Affairs, Tribal Leaders Directory, can be accessed at https://www.bia.gov/tribalmap/DataDotGovSamples/tld_map.html**
- **In addition, the NRC recommends that interested parties visit the Bureau of Indian Affairs Web site at https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf or the U.S. Census Bureau Web site at https://www.census.gov/geo/maps-data/maps/2010tribaltract.html to locate the most current maps of Tribal reservations and trust lands.**
- **The Library of Congress "American Indian" link (https://loc.gov/search/?in=&q=American+Indians&new=true&st=) is another helpful resource tool.**

State and Tribal Phonebook—Internal NRC Tool

The State and Tribal Phonebook is intended for Internal use only and contains personal information that is prohibited from being disseminated to the public.

The NMSS State and Tribal Phonebook is an excellent source of up-to-date intergovernmental information. The State and Tribal Phonebook lists current contact information for State and Tribal government officials, including Governors; Governor appointed State Liaison Officers; Radiation Control Program Directors; State transportation contacts under 10 CFR Part 71, "Packaging and Transportation of Radioactive Material," and 10 CFR Part 73, "Physical Protection of Plants and Materials;" Federally recognized Native American Tribal contacts; and State Emergency Management Directors. The NRC staff can access the State and Tribal Phonebook through the NMSS internal Web homepage. On the left side of the homepage, under the "Agreement States" option, right click to open the drop down menu link, click on "State & Tribal Phonebook," which is identified by a U.S. yellow map icon. A "Custom Reports" screen application will appear for selection of custom report parameters, such as position title (i.e., "Governor"), State or region (i.e., "State" or "Region"), and other such parameters.

NMSS manages the Web site, which is regularly updated, and assistance from the Help Desk is available for the application. The State and Tribal Phonebook is accessible agencywide and allows users to customize information requests. The phonebook customization allows (1) distribution of NRC advisories,43 (2) maintenance of distribution contacts for NRC mailings, (3) automatic printing of mailing labels (including First Class and Federal Express addresses) to specific individuals, (4) export of e-mail addresses through Microsoft Outlook, and (5) various sorting capabilities (i.e., geographical regions, facility types, and positions).

Contact

For questions regarding the use of the State and Tribal Phonebook, generally or specifically as it pertains to Tribal contacts, or for assistance accessing the State and Tribal Phonebook, send e-mail to tribal_outreach.resource@nrc.gov or contact the NRC by telephone at (301) 415-3340.

Cultural Sensitivity Training: Engaging Native Americans in the NRC's Mission—Internal NRC Tool

In 2016, the OCHCO Human Resources and Training, in partnership with the NMSS Division of Materials Safety, Security, State, Tribal Programs, implemented a new online course titled, "Cultural Sensitivity Training: Engaging Native Americans in the NRC's Mission." This 1-hour online course explores the relationship between

Tribal Nations, the Federal Government, and the NRC's mission. It defines the Tribal/NRC consultation process and provides guidelines for working with Tribal governments. The course also contains a video titled, "Tribal Sovereignty," that defines and explores Tribal trust responsibilities and includes video interviews that discuss lessons learned by the NRC staff through firsthand field experience. This content applies to any employee who is interested in examining how the history, culture, and spiritual beliefs of Native Americans affects the NRC's interactions with designated Tribal members. The course is for NRC managers and their staff who have a functional role in Tribal communication or interactions. Cultural Sensitivity Training: Engaging Native Americans in the NRC's Mission is accessible in iLearn (iLearn ID: 232144). Contact the iLearn team at TrainingSupport.Resource@nrc.gov if you have a problem accessing or completing the course. The online training course is intended for internal use only and contains personal information that is prohibited from being disseminated to the public.

Tribal Liaison Team Mapping Tool

The NRC Tribal Liaison Team maintains a series of maps that can aid NRC staff members identify areas of interest that will help them work with Native American Tribes. Currently, these NRC mapping tools can provide locations of Federally recognized Tribal reservation lands, State Recognized Tribal reservation lands, operating nuclear power facilities, uranium site boundaries, Title I and Title II sites, approved spent nuclear fuel transportation routes, and applicable treaties by region. For access, assistance, and additional information of these resources, send e-mail to tribal_outreach.resource@nrc.gov or contact the team by telephone at (301) 415-3340.

SECTION 3.H
Miscellaneous Tribal Information

The NRC maintains communication directly with Federally recognized Tribes (as appropriate) of its regulatory and licensing processes. DOI's Bureau of Indian Affairs Web site (http://www.bia.gov/FAQs/index.htm) provides useful information on how Federally recognized Tribes are defined under Federal law and provides lists of Tribes meeting these criteria.

How Is Federal Recognition Status Conferred?

The majority of Federally recognized Tribes received Federal recognition status through treaties, Acts of Congress, presidential executive orders or other Federal administrative actions, or Federal court decisions.

In 1978, DOI issued 25 CFR Part 83, "Procedures for Federal Acknowledgment of Indian Tribes." The Federal Acknowledgment Process is DOI's administrative process by which petitioning Indian groups that meet certain criteria are "acknowledged" as Indian Tribes and their members become eligible to receive services provided to members of Federally recognized Indian Tribes.

In 1994, Congress enacted Public Law 103 454; this Federally recognized Indian Tribe List Act (108 Stat. 4791) established three ways by which Indian groups may become Federally recognized:

- **by an Act of Congress**
- **by the administrative procedures under 25 CFR Part 83**
- **by a U.S. Court decision**

A Tribe whose relationship with the United States was expressly terminated by Congress may not use the Federal Acknowledgment Process to gain Federal recognition as an Indian Tribe because Federal recognition of a "terminated" Tribe can only be restored by Congress. "The Federally recognized Indian Tribe List Act" requires DOI's Bureau of Indian Affairs to publish a list of the Federally recognized Tribes in the Federal Register on an annual basis. The most current list was published May 4, 2016 (81 FR 5019) at https://www.bia.gov/tribal-leaders-directory .

Requirements for a Tribe To Receive Federally recognized Tribe Status

A Tribe must comply with the following requirements to receive Federally recognized Tribe status:

- **The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.**
- **A predominant portion of the petitioning group comprises a distinct community.**
- **The petitioner has maintained political influence or authority over its membership.**
- **The group has governing documents that include its membership criteria.**
- **The petitioner's membership consists of individuals who descend from a historical Indian Tribe or from historical Indian Tribes that combined and functioned as a single autonomous political entity.**
- **The membership of the petitioning group primarily comprises persons who are not members of any acknowledged North American Indian Tribe.**
- **Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.**

How To Contact Tribes That Are Not Federally recognized

The NRC staff may contact Tribes that are not Federally recognized but that are interested in a particular NRC regulatory activity. These Tribes can be contacted in the same manner as any member of the public. These Tribes are not Federally recognized but may be acknowledged by State law, and they sometimes reside on State Recognized reservations. The NRC staff can use the following Web sites to assist in identifying Tribes that are not Federally recognized but that have an interest in NRC regulatory activities:

- **http://500nations.com/tribes/Tribes_State-by-State.asp**
- **www.accessgenealogy.com/native**
- **www.manataka.org**

Additionally, SHPOs (or other State government resources) may have contact information for State Recognized Tribes and information on the historical range of Tribes in the State.

Governors Interstate Indian Council

The Governors Interstate Indian Council (GIIC) comprises State Indian Affairs Offices and Commissions from across the country and has been in existence since 1949. The mission of GIIC is to promote and enhance government to government relations between the Tribes and States; respect and recognize the individual sovereignty of the Tribes and the States; support the preservation of traditional Indian culture, language, and values; and encourage socioeconomic development aimed at Tribal self sufficiency.

State Indian Affairs Offices may be found on the Web site under "Office Directory." In addition, information on accessing State government Web sites can be found on the GIIC web site at https://interstateindiancouncil.wordpress.com/about/.

Definitions in the Tribal Protocol Manual

Within the context of this document, the following definitions from the Tribal Policy Statement apply, unless otherwise indicated. These definitions are taken directly from the *Federal Register* notice of the NRC Tribal Policy Statement (82 FR 2404–2405; January 8, 2017) (https://www.gpo.gov/fdsys/pkg/FR-2017-01-09/pdf/2017-00091.pdf):

Consultation means efforts to conduct meaningful and timely discussions between the NRC and 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 NRC's Tribal consultation allows Indian Tribes the opportunity to provide input on regulatory actions with Tribal implications and those where Tribal consultation is required, and is different from the outreach and public comment periods. The consultation process may include, but is not limited to, providing for mutually-agreed protocols, timely communication, coordination, cooperation, and collaboration. 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 Tribes of their respective interests and perspectives.

Indian Tribe means any American Indian or Alaska Native Tribe, Band, Nation, pueblo, or other organized group or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

Interaction means reciprocal actions involving the NRC and Indian Tribes, and may include, but is not limited to, outreach, consultation, coordination, training, and information exchanges. Interactions may be oral or written and can take place remotely (through electronic media) or in face to face meetings.

Outreach means NRC staff efforts to inform Indian Tribes about the agency's actions and plans. Outreach includes sharing information and encouraging Tribal governments to communicate their concerns and interests to NRC staff.

Regulatory Actions with Tribal Implications refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Tribal Official means an elected, appointed, or designated official or employee of an Indian Tribe or authorized inter Tribal organization.

Trust Responsibility means a fiduciary duty, on the part of the United States, to protect Tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of Federal law with respect to Indian Tribes. The NRC exercises its Trust Responsibility in the context of its authorizing statutes, which include the AEA, the Energy Reorganization Act of 1974, the Nuclear Waste Policy Act of 1982, the Low-Level Radioactive Waste Policy Act of 1985, and the Uranium Mill Tailings Radiation Control Act of 1978, as amended. As an independent regulatory agency that does not hold in trust Tribal lands or assets, or provide services to Federally recognized Tribes, the

NRC fulfills its Trust Responsibility through implementation of the principles of the NRC Tribal Policy Statement, by providing protections under its implementing regulations, and through recognition of additional obligations consistent with other applicable treaties and statutory authorities.

Major Tribal Culture Areas

A culture area is a region loosely defined by geography and climate that comprises Tribes that share cultural elements and environmental adaptations, such as social and family organization; economic and political organization; religion and ceremonial practices; subsistence practices (e.g., hunter gatherers and horticultural, pastoral, and agricultural practices); language; settlement patterns and house types; material culture; and clothing and ornamentation. Eight major North American Tribal culture areas are recognized, although shared elements and adaptations are fluid:

1. **Arctic and Subarctic**
2. **Eastern Woodlands**
3. **Southeast**
4. **Plains**
5. **Southwest**
6. **Plateau and Great Basin**
7. **Pacific Northwest**
8. **California**

Types of Indian Lands

The U.S. Environmental Protection Agency identifies seven categories of Indian lands in the United States:

1. **Reservations:** Lands set apart for the use of designated Tribes.
2. **Trust Lands:** Lands held in trust by the U.S. Government for Indians, usually a Tribe.
3. **Checkerboard Lands:** Lands that are a combination of nonmember owned parcels and Tribal parcels. This combination of land parcels results in a checkerboard pattern.
4. **Fee Lands:** Lands owned by non-Indians within the boundaries of a reservation.
5. **Dependent Indian Community:** Lands set apart for Indian use under the superintendence of the U.S. Government.
6. **Allotments:** Lands held in trust by the U.S. Government for individual members of a Tribe.
7. **Ceded Territory:** Lands within a reservation or aboriginal area to which Tribal members retain specific rights, often the right to hunt, fish, and gather plants, despite ownership having been transferred from the Tribe by a land sale or having been taken by the U.S. Government.

To access specific information on Tribal reservations or Federal trust lands, the NRC staff recommends visiting the Bureau of Indian Affairs at http://www.bia.gov/SiteMap/index.htm or the U.S. Census Bureau websites at https://www.census.gov/geo/maps-data/maps/2010tribaltract.html

The Most Populous Tribes

The table below lists the largest Native American populations. Native Americans make up 0.9 percent of the total U.S. population.

Tribe	Population
1. Cherokee	308,013
2. Navajo	285,476
3. Sioux	131,048
4. Chippewa	115,859
5. Choctaw	88,913
6. Apache	64,869
7. Pueblo	59,337
8. Iroquois	48,365
9. Creek	44,085
10. Blackfeet	23,583

Source: U.S. Census Bureau, Census 2010

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The U.S. Nuclear Regulatory Commission (NRC) recognizes the unique relationship that the Federal government has with Federally recognized tribes. The NRC is committed to the development and implementation of agency policies and regulatory activities with Tribal implications. The “Tribal Protocol Manual” is intended to facilitate effective consultations and interactions between the NRC and Native American Tribes concerning activities within the scope of the NRC’s jurisdiction.

The Tribal Protocol Manual is a reference tool, produced from multiple sources, including interviews with NRC staff and management and other Federal agencies’ personnel and Tribal representatives experienced in working with Tribes. NRC management and staff can use this guide to develop and maintain government-to-government relationships with Tribal governments. This manual supplements working knowledge for NRC staff with Tribal outreach experience and provides practical guidance to NRC personnel who have had limited interactions with Native American Tribes.

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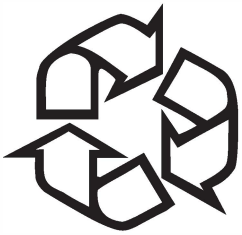

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