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## NUCLEAR REGULATORY COMMISSION

[NRC-2012-0235]

### Tribal Protocol Manual

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Revision to guidance; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment Revision 1 of the NRC's "Tribal Protocol Manual: Guidance for NRC Staff." The Tribal Protocol Manual provides internal guidance to the NRC staff on protocols to facilitate the NRC staff's engagement with Tribal governments.

**DATES:** Submit comments by [INSERT DATE 180 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0235. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Patricia McGrady-Finneran, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2326; e-mail: [Patricia.McGrady-Finneran@nrc.gov](mailto:Patricia.McGrady-Finneran@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Information and Submitting Comments.**

**A. Obtaining Information.**

Please refer to Docket ID NRC-2012-0235 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0235.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the

“Availability of Documents” section.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

## B. Submitting Comments.

Please include Docket ID NRC-2012-0235 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Background.

In January 2009, the Commission directed the NRC staff to develop an internal protocol for interactions with Native American Tribal governments that allows for custom approaches to address the interests of both the NRC and the Tribal governments on a case-by-case basis

(SRM-M081211). On November 5, 2009, President Obama issued a Presidential Memorandum, "Tribal Consultation" (74 FR 5881), that reaffirmed Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (November 6, 2000; 65 FR 67249), and emphasized the importance of strengthening government-to-government relationships with Native American Tribes. In SECY-09-0180, "U.S. Nuclear Regulatory Commission Interaction with Native American Tribes," dated December 11, 2009, the NRC staff reviewed its various interactions with Native American Tribes, and noted that these interactions were limited to a small number of activities under the NRC regulatory authority. At that time, the NRC staff concluded that a "case-by-case" approach had proved effective in interactions with Native American Tribes by allowing for custom-tailored approaches that met Commission and tribal needs, and that no formal policy was needed. The NRC staff also noted that internal guidance on protocol would further enhance the NRC staff's engagement with Native American Tribes. The internal NRC guidance, "Tribal Protocol Manual: Guidance for NRC Employees," was developed and issued in March 2010. It was revised in October 2012.

### **III. Discussion**

Section 161p. of the Atomic Energy Act of 1954, as Amended, permits the NRC to make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act. This can include the development of guidance documents for implementation of the NRC's policies or provisions.

On October 12, 2012, the NRC published the "Tribal Protocol Manual" for public comment and requested public comments providing suggestions for a proposed tribal consultation policy statement (77 FR 62269) for a 180-day comment period. After reviewing the public comments on the October 2012 version of the Tribal Protocol Manual, the NRC revised the staff guidance. The NRC received six comment letters on the Tribal Policy Statement and

protocol. Commenters included two Tribal governments, two mining associations, one inter-Tribal organization, and a Tribal college. The comments were grouped within the topics of: 1) NRC Tribal communication, 2) NRC Tribal consultation, 3) NRC Tribal resources, 4) terminology, 5) NRC map of Tribal reservations near nuclear reactors, 6) Federal-Tribal history, and 7) contemporary Tribal conditions. The NRC is making available “Tribal Protocol Manual: Guidance for NRC Staff — Comment Responses.”

The NRC revised the Tribal Protocol Manual to define consultation for the NRC as “meaningful and timely discussion with Tribal governments on NRC regulatory actions that have substantial direct effects on one or more Indian Tribes.” The NRC revised the Tribal Protocol Manual to better address the unique relationship between the United States and Tribes and how the NRC exercises its trust responsibility. The NRC also made changes to the historical account of the Federal-Tribal relationship. The Tribal Protocol Manual now includes a general discussion that addresses the contributions of Treaties, policy, law, court decisions, and Executive Orders to Federal Indian law.

On August 27, 2014, the Commission directed the NRC staff (“Staff Requirements – SECY-14-0006 – Tribal Consultation Policy Statement and Protocol”) to publish a draft “Tribal Policy Statement,” which also appears in today’s *Federal Register*, and “Tribal Protocol Manual: Guidance for NRC Staff, Revision 1” for comment. This notice requests public comment on the “Tribal Protocol Manual: Guidance for NRC Staff, Revision 1.” Public comments that were received on the October 2012 version of the Tribal Protocol Manual and the NRC responses to the public comments can be found in “Tribal Protocol Manual: Guidance for NRC Staff — Comment Responses;” the comments received on the October 2012 version of the Tribal Protocol Manual are available through any of the methods described in Section I, “Obtaining Information and Submitting Comments,” of this document (i.e., through the Federal rulemaking site, NRC’s ADAMS, or the NRC’s PDR). The next scheduled revision of the Tribal Protocol

Manual will include changes needed to conform to the final Tribal Policy Statement and will be informed by public comments on the revised Tribal Protocol Manual.

**IV. Availability of Documents.**

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

<b>DOCUMENT</b>	<b>ADAMS ACCESSION NO. / WEB LINK / FEDERAL REGISTER CITATION</b>
Tribal Protocol Manual: Guidance for NRC Staff, Revision 1.	ML14274A014
Tribal Protocol Manual: Guidance for NRC Staff — Comment Responses	ML14297A280
Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," November 9, 2000	65 FR 67249
Presidential Memorandum for the Heads Executive Departments and Agencies, "Tribal Consultation," November 5, 2009	74 FR 57881
SECY-09-0180, U.S. Nuclear Regulatory Commission Interaction with Native American Tribes	ML092800263
SRM-M081211, Staff Requirements – Briefing on Uranium Recovery, 9:30 a.m. and 1:30 p.m., Thursday, December 11, 2008, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance)	ML090080206

STAFF REQUIREMENTS – SECY-14-0006 – TRIBAL CONSULTATION POLICY STATEMENT AND PROTOCOL	ML14240A083
Tribal Protocol Manual: Guidance for NRC Staff (October 2012)	ML12261A423

Dated at Rockville, Maryland, this 3rd day of November 2014.

For the Nuclear Regulatory Commission.

Laura A. Dudes, Director,  
Division of Material Safety, States, Tribal,  
and Rulemaking,  
Office of Nuclear Material Safety  
and Safeguards.

**[7590-01-P]**

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