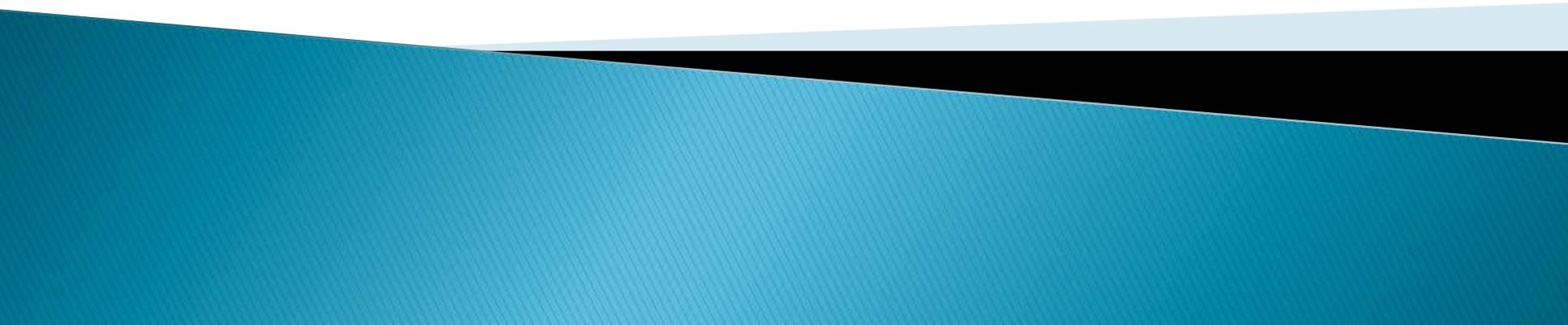


Consultation on NPRM to Update 25 CFR Part 170

Opening Remarks and Preamble



Housekeeping

- ▶ Welcome
 - ▶ Consultation recognition
 - ▶ Formal meeting notes/reporter
 - Comment process/identification procedure
 - ▶ How and when questions will be taken
 - ▶ Handouts
 - ▶ Meeting Expectations
 - ▶ Introductions
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Agenda

- ▶ 9:00 am – 9:15 am Welcome and Introductions
 - ▶ 9:15 am – 10:30 am NPRM Review
 - Preamble, Subparts A–C
 - ▶ 10:30 a.m.–10:45 a.m. Break
 - ▶ 10:45 a.m.–12:00 p.m. NPRM Review
 - Subparts D–F
 - ▶ 12:00 p.m.–1:15 p.m. Lunch
 - ▶ 1:15 p.m.–2:15 p.m. NPRM Review
 - Subparts G–H
 - ▶ 2:15 p.m.–2:30 p.m. Break
 - ▶ 2:30 p.m.–3:45 p.m. Questions and Answers
 - ▶ 3:45 p.m.–4:00 p.m. Closing Comments
 - ▶ 4:00 p.m. Adjourn of Formal Consultation
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- ▶ 4:15 p.m.–5:00 p.m. TTP National Update

Why are we here?

- ▶ *“Transportation Equity Act for the 21st Century” (TEA-21)* was passed in 1998
 - Directed the Secretary of the Interior to enter into negotiated rulemaking to develop program regulations and establish a funding formula for the Indian Reservation Roads (IRR) Program.
 - 25 CFR 170 was developed through Negotiated Rulemaking and published in July 2004.
 - Established the IRR Bridge Program as a set aside of the main program
- ▶ *“Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (SAFETEA-LU)* was passed in 2005
 - Made the following changes to the IRR Program:
 - Provided an opportunity for eligible tribes to enter into Funding Agreements directly with FHWA;
 - Allowed 25% of each Tribe’s share to be used for maintenance;
 - Identified PM&O amounts;
 - Allowed tribes to approve their PS&Es after certain conditions were met;
 - Identified the National Tribal Transportation Facility Inventory; and
 - Made the IRR Bridge Program a stand-alone program.
 - Authorized Transportation through 2009
 - Was extended 9 times through 2012

Why are we here?

- ▶ BIA and FHWA moved ahead at that time to update 25 CFR 170 to reflect the changes that came about from SAFETEA-LU.
 - However, the effort was stopped due to the upcoming change in Administrations.
 - Once the new administration was in place, then the action was delayed by the upcoming expiration of SAFETEA-LU
 - We did not know that SAFETEA-LU would be extended nine times out through 2012.

Why are we here?

- ▶ “Moving Ahead for Progress in the 21st Century Act” (MAP-21) was passed in 2012
 - Made additional changes to the IRR Program including:
 - Changing the program name to the Tribal Transportation Program (TTP);
 - Replacing the existing funding formula (developed through negotiated rulemaking) with a statutory funding formula;
 - Increasing the amount of funding that a Tribe can use for maintenance activities;
 - Further clarifying the National Tribal Transportation Facility Inventory (NTTFI);
 - Removing the High Priority Projects Program from the IRR/TTP and re-establishing it as a stand alone program funded through General Funds;
 - Establishing a new set-aside for tribal safety projects and activities; and
 - Establishing authority for tribes to receive federal-aid funds from a state to carry out work.

Why are we here?

- ▶ So BIA/FHWA again began the updating of 25CFR170 to reflect current laws and operational processes.
 - Although all parts of the existing 25CFR170 were reviewed, only the sections requiring an update due to the changes in the law, updated operations, or approved policy clarifications developed by the Coordinating Committee were modified.
 - Further coordination with the Coordinating Committee took place.
- ▶ A Draft NPRM update was published in the Federal Register in April 2013 and three consultation sessions were carried out in:
 - Anchorage, AK
 - Phoenix, AZ and
 - Minneapolis, MN
- ▶ Comments were received, changes to the draft were made, and the NPRM we will be discussing today was published in the Federal Register on December 19
 - Comments are posted on BIA website

Why are we here?

- ▶ Two versions of the NPRM were made available:
 - BIA Website (posted December 12, 2014); and
 - Federal Register Publication (79 Federal Register 76192 (December 19, 2014))
 - Differences:
 - Primarily edit/format changes;
 - However two sections were modified:
 - Subpart C – 170.202(d) – The statutory reference to the date of MAP–21 enactment “in effect as of July 5, 2012” was removed.
 - This reference needs to stay as it further clarifies the timeframe that the MAP–21 funding formula must use when determining tribal shares.
 - Subpart C – 170.226(b) – The word “proposed” was deleted from language. In this case “proposed” means new and not previously approved.

Why are we here?

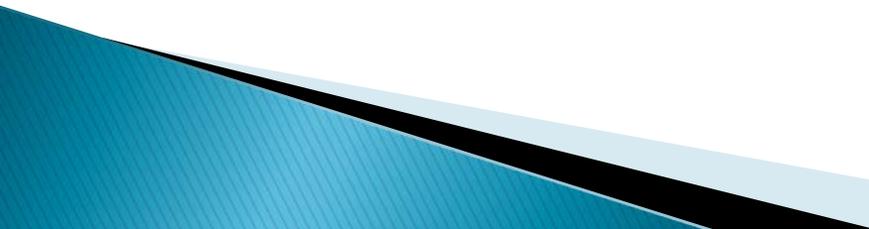
- ▶ So what is the purpose of today's session:
 - Present the NPRM and the proposed changes to 25CFR170; and
 - Listen to and record your comments and concerns.
- ▶ In respect to the work and effort that took place in the development of 25CFR170 more than 10 years ago, only the following are included in the NPRM:
 - Statutory changes;
 - Updated operational procedures; and
 - Policies that the IRR/TTP Coordinating Committee developed and passed “by consensus” that were ultimately approved by the Secretaries.
- ▶ OMB has changed some rules at the Federal Register regarding what is allowed in an NPRM/Rule.
 - No material may be included “for information only”.
 - The result is that all of the “for information only” material that was included in the original 25CFR170 is not in this NPRM. That material will also not be included in the updated 25CFR170.
 - Use of Appendices has been minimized.
 - Much of this information will now be available on the BIA and FHWA websites.

PREAMBLE

What is included?

- ▶ The Preamble provides:
 - The background and overview of the history of 25CFR170 since its publication in July 2004, including:
 - The laws that have been passed that have affected the Indian Reservation Roads (IRR) Program (IE: Tribal Transportation Program); and
 - Efforts that took place to clarify policies and procedures that were established.
 - The consultation session locations, schedules, and agenda
 - An explanation of the proposed revisions that are contained in each Subpart of the NPRM.
 - Other informational and procedural requirements of publishing an NPRM.

Preamble – What is this NPRM?

- ▶ In a broad overview, the NPRM revises/updates 25 CFR 170 to:
 - Comply with legislation governing the Tribal Transportation Program (TTP);
 - Reflect changes in the TTP delivery options that are available to tribal governments;
 - Make technical corrections to clarify program-related responsibilities and requirements for tribal governments, the Bureau of Indian Affairs (BIA), and the Federal Highway Administration (FHWA); and
 - Clarify the requirements for proposed roads and access roads that Tribes request to be added to or remain in the National Tribal Transportation Facility Inventory (formerly known as the Indian Reservation Roads Inventory); and
 - Remove certain sections of the current rule that were previously included for informational purposes only while directing the reader to BIA or FHWA Websites where the most current information is available.
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Preamble – Consultation Sessions

Meeting date	Location	Time
January 13, 2015	Sacramento, CA	9 am.–4:00 pm.
Holiday Inn Capital Plaza, 300 J Street, Sacramento, CA 95814 (916)–446–0100		
January 15, 2015	Phoenix, AZ	9 am.–4:00 pm.
BLM National Training Center, Room: Washington A/B/C (A–201), 9828 N. 31st Ave, Phoenix, AZ 85051 (602)–906–5500		
January 27, 2015	Minneapolis, MN	9 am.–4:00 pm.
Embassy Suites Minneapolis Airport, 7901 34 th Ave South, Bloomington, MN 55425 (952) 854–1000		
January 29, 2015	Oklahoma City, OK	9 am.–4:00 pm.
OSU – OKC University, Student Center South – 3rd Floor, 900 N. Portland, Oklahoma City, OK 73107 (405) 945–3238		
February 10, 2015	Anchorage, AK	9 am.–4:00 pm.
Frontier Building, 3601 C Street, Room 896, Anchorage, AK 99503		
February 12, 2015	Seattle, WA	9 am.–4:00 pm.
Crowne Plaza Seattle Airport, 17338 International Boulevard, Seattle, WA 98188 (206) 248–1000		

Preamble – Written Comments

- ▶ **Comments on the NPRM must be submitted by March 20th, 2015 and may be submitted via:**
 - 1) email at: consultation@bia.gov. Include the number 1076–AF19 in the submission;
 - 2) mail to: Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, Office of the Assistant Secretary–Indian Affairs, 1849 C Street, NW, MS 3623–MIB, Washington, DC 20240. Include the number 1076–AF19 in the submission;
 - 3) the internet at the Federal rulemaking portal: <http://www.regulations.gov>. The rule is listed under the agency name "Bureau of Indian Affairs" and assigned Docket ID: BIA–2014–0005; or
 - 4) hand delivery to: Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, Office of the Assistant Secretary–Indian Affairs, 1849 C Street, NW, MS 3623–MIB, Washington, DC 20240. Include the number 1076–AF19 in the submission.

QUESTIONS

