



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

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February 11, 2013

RE: Comments and Recommendations for 25 CFR Part 170 Re-write

Dear Sirs:

On behalf of the Ho-Chunk Nation, please accept the following comments and recommendations for the draft of the new 25 CFR Part 170 regulations pertaining to the Tribal Transportation Program. Thank you for this opportunity to comment.

Subpart C – Tribal Transportation Program Funding

Sec. 170.226 – What Facilities are included in the National Tribal Transportation Facility Inventory (NTTFI)?

The Nation recommends inserting the phrase, “*at a minimum,*” between the words “*includes*” and “*facilities*” at the end of the first paragraph in this section. Adding this phrase will make this section consistent with the definition in Sec. 170.5 of the proposed regulation as well as the language in 23 USC. The Nation feels it is important to maintain this consistency in order to highlight the fact that the Secretary has the authority to include additional facilities in the inventory. Including additional facilities may allow more tribes to benefit from this program.

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Subpart D – Planning, Design, and Construction of Tribal Transportation Program Facilities

Sec. 170.411 – What must a long-range transportation plan address?

The Nation recommends deleting the word “*must*” in the title and replacing it with the word “*may*”. The current section of 25 CFR Part 170 uses the term “*may*” for essentially the same requirements. By making this section permissive, tribes will be afforded some flexibility in complying with this section.

Sec. 170.442 – What is the National Tribal Transportation Facility Inventory (NTTFI)?

Once again, the Nation recommends inserting the phrase “*at a minimum*” to this section for the same reasons outlined above regarding Sec. 170.226. Specifically, in this section the Nation suggests deleting the word “*all*” in 170.442 (a), and replacing with “*at a minimum,*” and adding the appropriate comma after the word “*of*” .

Sec. 170.443 – How can a tribe list a proposed transportation facility in the NTTFI?

The Nation recommends either deleting the phrase “*and begin generating funding*” that appears in the opening paragraph of the new language proposed for this section or adding additional language to clarify what type of route would begin generating funding. It is the Nation’s understanding that MAP-21 does not allow new routes added to the NTTFI to generate funding except in very limited circumstances. The section as it is currently drafted is therefore somewhat deceptive.

Subpart G – BIA Facility and Tribal Transportation Facility Maintenance

Sec. 170.800 – Who has authority to finance, build, operate, or maintain toll or toll free tribal transportation facilities?

The Nation recommends combining the old language of Sec. 170.800 with the new proposed language. The old Sec.170.800 language under the Indian Reservation Roads Program used the terminology of ownership of a transportation facility and the Nation believes there is some value in maintaining it. There has been much confusion over the years over eligibility of routes owned by those other than a tribe or the BIA. At one time the IRRPCC even discussed recommending limiting eligibility to the program to those routes owned only by tribes and the BIA. The Nation therefore believes it would be beneficial to continue to clarify that others such as States, counties, and local governments can and do own facilities receiving funding from the program.

The Nation recommends adding the words, “*owns and*” between the words, “*Who*” and “*has*” in the question portion of Sec. 170.800. The Nation also recommends simply adding the words, “*own, and*” between the words, “*Government*” and “*have*” in the answer portion of Sec. 170.800.

This concludes the Nation's recommended changes to the proposed draft language for the new 25 CFR Part 170. If you have any questions or comments, please feel free to contact me directly in order to discuss. Thank you again for this opportunity to comment on the proposed regulation regarding this important program.

Sincerely,



Greg Littlejohn
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Ho-Chunk Nation
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