

The FCC's Wireless Infrastructure Notice of Proposed Rulemaking

Process and Procedure Tribal Participation and Consultation

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What is an NPRM?

- Opportunity to collect the views of all interested parties and the public before the Commission takes action.
- Required by law before making a rule change.
- May seek comment on detailed proposals or on a range of options.
 - In this instance, the FCC is broadly examining opportunities to remove or reduce unnecessary regulatory impediments to wireless infrastructure deployment.
- An NPRM does not mean the Commission has decided on a course of action; it is the beginning of the rulemaking process.

Milestones

- NPRM released April 21, 2017
- Published in Federal Register May 10, 2017
- Formal comments due June 15, 2017
- Reply comments due July 17, 2017
- Record remains open for *ex parte* submissions and summaries of meetings

Ex Parte Rules

- Ordinarily, all oral presentations on the merits of a pending rulemaking must be summarized in the written record.
- For this proceeding, to facilitate consultation, the FCC made an exception for Tribal leaders and their representatives.
- Consultation off the record helps facilitate a candid exchange between FCC decisionmakers and Tribal representatives who may not be authorized to speak on the record for their governments.
- However, in order for the FCC to formally consider information or perspectives developed in consultation, they must be submitted in the written record.

Tribal Consultation/Engagement on NPRM

The FCC is making available a variety of vehicles for Tribal representatives to engage with the Chairman and staff involved in the decision making process. While not all of these are in themselves consultation, we consider them part of the consultation process.

- Conference calls and staff dialogue
- Group meetings including Chairman and/or his personal staff
- Individual meetings, in conjunction with group meetings and on request

Examples of Past and Upcoming Opportunities

- Conference call, May 25, 2017
- Group and/or individual meetings in Mission, SD; Uncasville, CT (NCAI conference); Eugene, OR; Tulsa, OK; Pala, CA (NATHPO conference)
- Upcoming consultation meeting with Chairman Pai at Twin Arrows Navajo Casino Resort, Flagstaff, AZ (August 22)
- Upcoming consultation meeting in Washington, DC (to be scheduled)
- Other outreach and opportunities for engagement to be scheduled as we refine our thinking on the details of potential resolutions to the various issues.

Possible Outcomes of Rulemaking

Outcomes may include:

- Rule changes (Report and Order)
- Statutory/rule interpretations (Declaratory Ruling)
- Process changes (Declaratory Ruling or Public Notice)
- ACHP Program Alternative (additional process to satisfy ACHP rules)
- Further NPRM

Different vehicles may be appropriate to address different issues raised in the rulemaking

Next Steps

- Staff is reviewing the record to make recommendations to the Chairman on path forward and timing
- Continue to develop the record through *ex parte* submissions
- Continue Tribal consultation
- As directed by the Chairman, staff will draft orders and take other steps necessary to prepare for final actions
- Any action by the Commission requires a majority vote of the Commissioners

Timing

- No fixed timeframes or statutory deadlines.
- Different issues may proceed on different schedules. Unlikely that all issues raised in the NPRM will be resolved in a single action.
- Balance two governing imperatives:
 - Proceed thoughtfully and with full consideration of record
 - Avoid unnecessary delay so that changes can be implemented in public interest
- While there is no deadline to supplement the record, earlier submissions are likely to be more influential in development of resolutions.

Upcoming Tribal Opportunities

- Twin Arrows (Flagstaff) Consultation meeting, August 22
 - Register at ArizonaConsultation@fcc.gov
- Washington, DC Consultation meeting, date TBD
- Request one-on-one consultation
 - Tribalinfrastructure@fcc.gov
- Written *ex parte* submissions
 - For assistance in using Electronic Comment Filing System, contact Carolyn Conyers, Carolyn.Conyers@fcc.gov, 202-418-2002
- Other questions, contact Dan Margolis, Daniel.Margolis@fcc.gov, 202-418-1377 or Jill Springer, Jill.Springer@fcc.gov, 202-418-1345