



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

#### **23 CFR Chapter I**

**[Docket No. FHWA-2016-0002]**

**RIN 2125-AF70**

### **Tribal Transportation Self-Governance Program; Negotiated Rulemaking Committee Meeting**

**AGENCY:** Federal Highway Administration, DOT.

**ACTION:** Notice of negotiated rulemaking committee meeting.

**SUMMARY:** As required by the Negotiated Rulemaking Act, the Secretary of Transportation announces a meeting of the Tribal Transportation Self-Governance (TTSGP) Negotiated Rulemaking Committee. The meeting is open to the public.

**DATES:** The meeting will be held January 8 - 12, 2018, from 8 a.m. to 5 p.m., CDT.

**ADDRESSES:** The meeting will be held at the Eastern Federal Lands Highway Division, Loudoun Tech Center, 21400 Ridgetop Circle, Sterling, VA 20166-6511. Attendance is open to the public up to the room's capacity. Copies of the TTSGP Committee materials and an agenda will be made available in advance of the meeting at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/>.

Send comments to Erin Kenley, Designated Federal Official, Federal Highway Administration, 1200 New Jersey Ave, SE, Washington, DC 20590; or Vivian Philbin, Assistant Chief Counsel, 12300 West Dakota Avenue, Lakewood, CO 80228. Or email to: [FHWA-TTSGP@dot.gov](mailto:FHWA-TTSGP@dot.gov).

Comments received by FHWA will be available for inspection at the address listed above from 9:00 a.m. to 4:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Erin Kenley, Designated Federal Official, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–1567 or at [erin.kenley@dot.gov](mailto:erin.kenley@dot.gov). Vivian Philbin, Assistant Chief Counsel, 12300 West Dakota Avenue, Lakewood, CO 80228. Telephone: (720) 963-3445 or at [vivian.philbin@dot.gov](mailto:vivian.philbin@dot.gov). Additional information may be posted on the FHWA Tribal Transportation Self-Governance Program Web site at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/> as it comes available.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 1121 of the Fixing America’s Surface Transportation (FAST) Act, Pub. L. No. 114-94 (Dec. 4, 2015), directs the Secretary to develop a Notice of Proposed Rulemaking (NPRM) that contains the regulations required to carry out the TTSGP at the United States Department of Transportation (Department). Section 1121 also requires the Secretary to establish a committee to carry out this work and apply the procedures of negotiated rulemaking under subchapter III of chapter 5 of title 5 (the Negotiated Rulemaking Act) in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States. On July 27, 2016, the Secretary published a document in the *Federal Register* (81 FR 49193) “Negotiated Rulemaking Proposed Committee Membership and First Meeting,” and the TTSGP Committee held its first meeting from August 16 to 18, 2016, in Sterling, Virginia. The TTSGP Committee organized itself into work groups to assist in the negotiation and development of proposed regulatory text. Between September 2016 and December 2016, the full

Committee met three additional times at the following locations: Sterling, Virginia; Shawnee, Oklahoma; and Bloomington, Minnesota. An additional meeting of the full committee was scheduled for Atmore, Alabama in December 2016. However, due to severe inclement weather and subsequent air travel flight cancellations, a quorum of representatives needed to conduct an official Committee meeting (in accordance with the Committee's protocols) was not obtained. Notwithstanding, the committee representatives that were present used the scheduled time to carry out business in work groups. A significant amount of the proposed language for the NPRM was developed during the meetings that were held. Due to a change in Administration, the committee's work was put on hold in January 2017 to allow the new Administration to be briefed on the rulemaking and determine its future direction.

Section 1121 of the FAST Act allows a 180-day extension to the deadlines identified within it for completing this work. After receiving a consensus approval from the tribal committee members, the Secretary sent letters to the required members of Congress on September 1, 2017, informing them of the implementation of this provision.

In an effort to publish the NPRM within the time frames identified by statute, this will be the last meeting of the Committee until after the comment period is complete. At that time, the Committee may reconvene to address the comments received and work together to develop the proposed language for the Final Rule.

The Secretary acknowledges and appreciates the Committee's work and effort to date and looks forward to working together to complete this task. Several of the Committee members who were designated as Alternates have now been placed on the Committee as Primary members due to numerous circumstances. These include:

- Connie Thompson, Transportation Director, Assiniboine and Sioux Tribes of the Fort Peck Reservation, Montana [*replacing John Smith, Transportation Director, Eastern Shoshone and Northern Arapaho Tribes' Joint Business Council on the Wind River Indian Reservation, Arapahoe, WY*]
- Dean Branchaud, Red Lake Band of Chippewa, Red Lake, MN [*replacing David Conner, Self-Governance Coordinator, Red Lake Band of Chippewa Indians, Red Lake, MN*]
- Mary Beth Frank-Clark, Transportation Planner, Nez Pierce Tribe, Lewiston, ID [*replacing Timothy Ballew II, Tribal Chairman, Lummi Nation, Bellingham, WA*];  
and
- Clyde M. Romero, Jr., Executive Director of Self-Governance, Taos Pueblo, Taos, NM [*replacing Mickey Percy, Executive Director of Self-Governance, Choctaw Nation of Oklahoma, Tishomingo, OK*].

Requests for additional nominees to backfill the alternate positions made available through these moves will not be accepted at this time.

The Secretary also designates the following individuals to replace Federal representatives of the Committee as Primary members:

- Anthony Bedell, Deputy Assistant Secretary for Intergovernmental Affairs, Office of the Secretary, USDOT, Washington, DC [*replacing Kenneth Martin, Deputy Assistant Secretary for Tribal Government Affairs, Office of the Secretary, USDOT, Washington, DC*]
- Colleen Vaughn, Environmental Policy Analyst/Historic Preservation Officer, Office of Policy Development, USDOT, Washington, DC [*replacing Katherine Andrus,*

*Environmental Protection Specialist and Federal Preservation Officer, FAA,  
Washington, DC]*

- Erin Kenley, Director, Office of Tribal Transportation, FHWA, USDOT, Washington, DC as the Designated Federal Official [*replacing Robert W. Sparrow, Supervisory Program Manager, Office of Tribal Transportation, FHWA, Washington, DC*].

## **II. Meeting Participation**

The meeting will be open to the public. Time has been set aside during each day of the meeting for members of the public to contribute to the discussion and provide oral comments.

The committee will dedicate a substantial amount of time at this meeting to reviewing and finalizing the proposed regulatory language and preamble to the NPRM.

## **III. Potential Future Committee Meetings and Rulemaking Calendar**

Potential future meetings and the committee's responsibilities, as well as locations of consultation sessions/outreach during the NPRM comment period, will be discussed during this meeting. Notifications of any future meetings will be shown on the TTSGP Web site at <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/> at least 15 calendar days prior to a meeting. Dates and locations of consultation sessions/outreach during the comment period will be shown on the site as well as be included in a *Federal Register* document and in the preamble to the proposed NPRM. The Department intends to complete the negotiated rulemaking process for the proposed rule and publish a Final Rule in 2018.

Issued on: December 13, 2017.

**Brandye L. Hendrickson,**

*Acting Administrator,*

*Federal Highway Administration.*

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