



U.S. Department of the Interior
Bureau of Land Management

August 2021

Tribal Consultation - Update of the Communications Uses Program, Cost Recovery Fee Schedules, and Section 512 FLPMA for Rights-of-Way





Agenda:

- Welcome and Introductions
- Rulemaking Process Overview
- Purpose of Proposed Rule
- Need for Proposed Rule
- Timeline and Feedback



Government-to-Government Consultation:

- The BLM takes its consultation responsibilities seriously and we believe it is vital that Native American governments be afforded opportunities for ongoing, meaningful dialogue on the proposed rule changes as required by law.
- We recognize that rule changes may have potential impacts and opportunities to sovereign tribes, and as such, your input on this proposed rule is valuable.
- BLM welcomes Tribal input and comment on the proposed rule throughout the process.



BLM Rulemaking Process

1. Initiate process
2. Stakeholder engagement
3. Draft a Proposed Rule
4. Office of Management and Budget (OMB) review
5. Publication of Proposed Rule
6. Receive, analyze, and respond to stakeholder comments
7. Draft Final Rule – *explains the provisions and reasoning, discuss and respond to public comments, update analyses, and set effective date*
8. OMB review
9. Final Rule Federal Register publication



Purpose of “Update of the Communications Uses Program, Cost Recovery Fee Schedules, and Section 512 FLPMA for Rights-of-Way” Rule:

- Communications Uses a/k/a Broadband: To conform to the new MOBILE NOW Act and expedite processing of communications uses rights-of-way, and to give certainty to industry on processing timelines for communications uses.
- Cost Recovery: Helps the BLM meet the belated review schedule for cost recovery fees. It would allow the BLM to collect fees commensurate with the work being performed in the BLM to process applications.
- Section 512 a/k/a Vegetation Management: Meets new Section 512 of FLPMA to require the BLM and FS to address operations and maintenance (O&M) plans for powerline rights-of-way in a timely manner, and to give certainty to industry on reviewing timelines for these powerline O&M plans.



Need for “Update of the Communications Uses Program, Cost Recovery Fee Schedules, and Section 512 FLPMA for Rights-of-Way” Rule:

- Communications Uses: The Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141, 132 Stat. 1011), section 606(a), division P, amended section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C 1455) is titled, “Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act” or “MOBILE NOW Act.”
- Cost Recovery: Update the regulations to address 43 CFR 2804.15 to address the cost recovery fees within 5 years after they go into effect and every ten years thereafter. The cost recovery fee rule went into effect in 2005.
- Section 512: Section 512 (43 U.S.C. 1772) was added to FLPMA on March 23, 2018 under Pub. L. 115-141. The changes to the regulations would update to conform to the law and are required to have been finalized by March 23, 2020.



Timeline and Feedback:

- The BLM is targeting publication of the proposed rule in the Federal Register during the summer of 2022; however, the exact date is dependent upon final review and approval from the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA)
- Opportunities for Feedback:
 - Ongoing Government-to-Government consultation will be coordinated upon request



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