

HEARTH Act Overview Transcript
Division of Real Estate Services
Bureau of Indian Affairs

June 10, 2026

00:00:00:09 - 00:00:27:03

Speaker 2

Good morning everybody. Welcome to the Division of Real Estate Services. Her act overview tribal outreach. We're very excited to host this with you today with our hurt that coordinator Sharon Kidman, and our her solicitor advisors, attorney advisors, Mary Brooks and Donna L Owens. My name is Simon Jones. I'm a supervisor here at the Division Real Estate Services. Carla Clark is our division chief.

00:00:27:05 - 00:00:50:02

Speaker 2

She normally gives our opening remarks, but she's unavailable at this moment. But I'm pleased to welcome you to our training today. We typically have this recorded after the session and available for participants. So we're really excited to host this for you today. So I'll go ahead and turn this over to Sharon Kidman or hurt that coordinator. Thank you so much for joining today.

00:00:50:03 - 00:01:00:10

Speaker 2

If you have questions please put them in the chat. We'll address them at the end of the presentation. Thank you so much.

00:01:00:11 - 00:01:32:04

Speaker 1

Good morning everyone. I am Sharon Kidman. I'm the bureau's national heart. That coordinator. This is session number three for the fiscal year, the last one being on September the 16th. So you do have another chance to attend one of these sessions. If you want to revisit some of the things that we have spoken about today. First, first off, I'm going to go to the web page where I have placed the link into the chat.

00:01:32:05 - 00:01:59:12

Speaker 1

If you click on that link, you can follow along with any of the stuff that we are presenting today. Scroll all the way down to the additional information. We will be going over the 52 IAM 13 policy. We will also be looking at the Legal Sufficiency checklist and we will also have the slides. There's only a few slides on here.

00:01:59:13 - 00:02:27:04

Speaker 1

Hearth act overview training slides. We will be presenting those at the end of today's session. The first one we're going to click on today will be the 52 IAM 13 policy. And I hope this is

large enough for folks to see. I will not be reading the policy verbatim to you guys. You can read this at your own convenience as it is 19 pages long.

00:02:27:06 - 00:02:53:10

Speaker 1

We have a session, a section in here going over, which was newly added in March, which talks about the wind and solar elevated review process. So please take a few moments either today or at your convenience to read more about it. We are going to go ahead and jump down to page five, which starts the beginning of the process for tribes.

00:02:53:10 - 00:03:21:15

Speaker 1

And when we talk about submission, this is going to there's going to be a couple submissions during the process for tribes. The beginning of the submission begins with the tribe when they begin to draft or create their leasing ordinance. Once they have completed that, they will authorize it, meaning sign it. It is accompanied normally by a cover letter which is under the submission section right here.

00:03:21:15 - 00:03:49:14

Speaker 1

One A and B it talks about what is needed with the submission. There is a cover letter. It even tells you what to what you can put in the cover letter that we need one original signed tribal resolution. We recommend the tribe make two of them so that you keep one and we will keep the other. So once you send us the original tribal resolution, it will not be returned to the tribe.

00:03:49:15 - 00:04:25:13

Speaker 1

Secondly, under that submission, it talks about that we will need one original of the leasing ordinance itself, and it will be mailed to the division chief. And the address is listed here. The address is also located on other parts of the Division of Real Estate Services website and on the Hearth act page, but you can find it within the policy and on several places on the website so that we don't confuse people.

00:04:25:15 - 00:04:57:09

Speaker 1

We want to be clear about where it is you're sending it to, and the steps under the process. Talk about what happens verbatim when we send when when I receive it on this side and we are notified that it's here. The next steps talk about what happens in the process. So first of all, I reach out to the folks in the cover letter that the tribe has submitted.

00:04:57:11 - 00:05:21:15

Speaker 1

Please bear in mind, and this is for all tribal participants on here, including anyone from the council. The tribal leader itself, herself, himself, the vice. When you do a cover letter, in that cover letter, you are directing the department who will be speaking on behalf of the tribe.

00:05:22:00 - 00:05:56:05

Speaker 1

Most recently, tribes have been making sure that they put their tribal leader on there as one of the people to be notified. But they do, and they must have a tribal attorney. They must be. Their information must be put on the cover letter. We have received several that did not give us that information. So we always have to reach back out to ensure that we are speaking to the correct people and that we have a tribal attorney identified.

00:05:56:06 - 00:06:32:13

Speaker 1

That said, we do anticipate the letter come from the tribal leader. We understand that the legal attorneys do business for the tribes, but it is the tribe tribal leader themselves or the tribe that we that we take direction from as this is a government to government relationship. So if the tribal attorney is sending me a letter, I must confirm with the tribal leader that this letter is in fact the person who will be doing their Path act, leasing ordinance and conducting the review process with us.

00:06:32:13 - 00:07:23:06

Speaker 1

So right off the bat, if we could just have the letter come from the tribal leader, that would be great. Please make sure all contact information is on there regarding each PLC involved with the meeting. Scrolling down the initial review process. So once the department has received all pieces of the submission, which includes what was just covered under the submission process, the the resolution, the cover letter, the leasing ordinance, we also need the word document form of the leasing ordinance that cannot be password protected, and it should not have any password protections that would limit us from opening it and editing it.

00:07:23:06 - 00:07:49:05

Speaker 1

So we need we need to make sure that we mention that no password protections on that word document. Once I receive that, I will reach out to the POCs in those letters, and I will let them know that there will be an acknowledgment letter coming, that they can anticipate A, B, and C, and we will reach out to them once the initial 30 day process has concluded.

00:07:49:05 - 00:08:15:13

Speaker 1

And I follow up to the tribal leader with a copy of the acknowledgment letter. So under initial review, as you can see here, again, I will not read this out verbatim. It talks about each step that I go through to notify the tribal PLC and the tribal leader. Right off the beginning, the department gets 30 days in accordance with the policy to review the tribe's leasing ordinance.

00:08:15:13 - 00:08:42:15

Speaker 1

In addition to the 30 days, we we have an additional 15 days to schedule and conduct an internal call to discuss our own comments. The parties involved in the department's review is the regional Real Real estate Office, the Department of of the solicitor and those ladies are on

with us today. You will be hearing from them later. And the Division of Real Estate Services, Central Office.

00:08:42:15 - 00:09:17:14

Speaker 1

So those three parties will be reviewing the tribe's leasing ordinance. Once we have combined our comments together, then we conduct an internal call to discuss our comments. When we are completed, I will send our comments over to the tribal POC requesting an external call with them, and we do give proposed dates and times of the call. The tribe has several dates to choose from, not just one, so we give the tribe some leeway as to which date is more suitable for them.

00:09:17:15 - 00:09:51:02

Speaker 1

Moving down. Modified submission of leasing regulations. Once we receive the the leasing ordinance and we start reviewing it, the leasing ordinance will go through some revisions, whether that be one, two, 3 or 4. At the end of it, we will reach what is called the agreed upon final leasing ordinance. But this section talks about how those modifications are handled and how we are tracking them.

00:09:51:03 - 00:10:23:08

Speaker 1

There is also a section under D for failure to resubmit modified leasing regulations. This section was created so that the tribe, the tribe has some guidance as to how. What if we don't want to do this? What if we want to stop? Or it did start and now something else has taken over that is more priority. And it's kind of left in a, in a just floating out there.

00:10:23:08 - 00:10:45:08

Speaker 1

Well, we won't let things float. We have a section in here that covers what happens if those modifications are not resubmitted. We do contact the tribe. We ask them what's going on. You know, could you please let us know if you do not want to finish the process? We just need a letter from you indicating that. And we will return the regulations to you.

00:10:45:08 - 00:11:01:03

Speaker 1

And you may resubmit at a later time. So section D is explicitly explaining that entire process. And we've had tribes do that. Later on they have come back and resubmitted. So.

00:11:01:04 - 00:11:36:08

Speaker 1

Once we get through the back and forth with modifications, we have what's called the final submission. Just as we talked about in the initial submission, there will be a final submission. The final submission is pretty much the same. You will receive the final leasing ordinance. The tribal POC with a copy to the tribal leader will receive it, and they were given instructions on how to submit the final to Central Office, much the same way they submitted the initial submission once we received the final submission.

00:11:36:09 - 00:12:10:00

Speaker 1

As you can tell in item number one under E, it says that the Hearth coordinator at the short term hack will request that the tribe submit the original and so on and so forth for processing. I won't read it out loud, but you can at your your convenience. But when we do receive that, it will go through a slightly less review because we have already done that, but it will be reviewed with the word document form that we read.

00:12:10:01 - 00:12:31:10

Speaker 1

We returned so that I'm at a word for word, line for line, so that we know that nothing else was added in between the time that we said, here's the final submit it to. When they do submit it, we have something to match against it so that nothing else was added without our knowledge.

00:12:31:11 - 00:13:04:09

Speaker 1

Under approval. The approval part right here is explained in this section under F. It talks about what happens during that process and what we create to submit to Asia's hallway. And that part does take time. There are several departments under Asia that will review this document and anything attached with it like the resolution, the leasing ordinance and the cover letter.

00:13:04:10 - 00:13:35:14

Speaker 1

So I also create documents and they are listed under F1 and I submit those in what's called the data tracking system, short DTS. I submit those for the Asia hallway to review. And it will go down a process of review and surname. Each office must take a look at it and surname, and it moves on until we come to secretarial approval.

00:13:35:15 - 00:13:55:11

Speaker 1

Once the approval is done and the regular regulatory committee has done their work, it will then go to Raqqa Office of Regulatory and Collaborative Action, where Raqqa will do the Federal Register posting and publishing for the leasing Ordinance.

00:13:55:13 - 00:14:23:01

Speaker 1

Under section 1.8 guidance for determining consistency of tribal regulations with BIA regulations. This section right here to the end, which is on page 19. I recommend tribes read this at their convenience because it is very important information. It's also very helpful information when you are creating drafting your tribal leasing regulations. So we encourage you to read through this.

00:14:23:03 - 00:14:31:01

Speaker 1

Some of the questions you may ask today might already be answered in this section.

00:14:31:03 - 00:14:48:10

Speaker 1

That said, I'm going to go ahead and now turn this part of the webinar to our ladies who do the review from the office of the solicitor. We have Mary Brooks and Miss Donna Owens.

00:14:48:11 - 00:15:20:04

Speaker 3

Good morning everybody. I'm going to share my screen with you now to show you the Legal Sufficiency checklist. Donna and I are responsible for forming a Legal Sufficiency review when we receive a Tribes draft Hearth Act regulations, the standard we apply is that the regulations have to be consistent with the 25 CFR part 162 leasing regulations, but the language doesn't need to be verbatim to the part 162 regulations.

00:15:20:07 - 00:15:54:01

Speaker 3

And so we have created this legal sufficiency checklist that outlines exactly what a Tribes Hearth Act regulations need to contain to be consistent with the part 162 regulations. As Sharon said, this checklist is available on the BIA Hearth Leasing website. You can download the checklist and use it to assist in drafting your Hearth Act regulations. We know that each tribal community is different, and their Heart Act regulations will need to be tailored to that tribe's particular needs.

00:15:54:03 - 00:16:20:13

Speaker 3

For that reason, there are no model Hearth Act regulations, and so tribes have flexibility in crafting their leasing regulations as long as those leasing regulations are consistent with the part 162 regs. What do we look for when we go through our Legal Sufficiency checklist? This checklist shows the mandatory provisions that need to be in a Tribes Hearth Act leasing regulations.

00:16:20:14 - 00:16:53:12

Speaker 3

It also shows provisions that are not mandatory, but that we strongly recommend be included in the regulations. When we do our legal sufficiency review. We don't read Line Tribe's regulations because the regulations are the tribe's work product. We will only add comment bubbles off to the side. Our comments will usually be in three different categories. First, there's the required category, which are mandatory to include for the secretary to be able to approve the regulations.

00:16:53:13 - 00:17:22:04

Speaker 3

The second category is strongly recommended. Over our years of doing legal sufficiency reviews, we have found that there are certain items we strongly recommend, typically one, to ensure that the tribe's regulations are transparent, which makes it less likely that they will be challenged, and two, to provide the tribe flexibility and tribal decision making. The third category are comments that are just recommended.

00:17:22:06 - 00:17:51:13

Speaker 3

There's one additional category that is discussion. Those are items that we want to discuss with the tribe or the tribe's attorney on the external call to understand the tribe's intent and to clarify the meaning. So the first thing that we generally look for when we review the Tribes Health Act submission, as we look for specific definitions in this required definition section, I want to highlight a couple of these definitions.

00:17:51:15 - 00:18:22:10

Speaker 3

The first here is best interest of the tribe. It's not a mandatory definition, but we strongly recommend it because it allows tribes the flexibility to waive particular provisions that are otherwise mandatory. Sometimes use this best interest of the tribe definition for rental compensation. So if a tribe is doing a residential leasing project, for example, a housing project, the tribe can determine what that rental compensation will be.

00:18:22:10 - 00:18:47:01

Speaker 3

That is in the tribe's best interest. If the tribe wants to make the rental compensation nominal. The tribe can do that. It doesn't have to be fair market value, and the tribe can also a rental payment entirely. Other decisions that a lot of tribes use this definition for are whether or not to require a performance bond, and whether or not to require insurance.

00:18:47:03 - 00:19:16:09

Speaker 3

So we strongly recommend this definition, but it's not mandatory. I will also say that throughout this legal sufficiency checklist here, and there are notes that say a definition or provision is not required. You'll see a note like this under the best interest of the tribe definition. If you don't see a note that says it's not required, then the definition or provision is required and is mandatory.

00:19:16:10 - 00:19:38:15

Speaker 3

A definition that we like to pay close attention to is this definition here public? For the purpose of environmental review, we like to keep the phrase for the purpose of environmental review as part of the defined term, because it narrows the realm of who the public is for purpose of the notice and comment requirement. That's part of the environmental review process.

00:19:38:15 - 00:20:09:11

Speaker 3

And we'll be discussing the environmental review process a bit later. Also public for the purpose of environmental review has to be anybody who can demonstrate that they will be directly, substantially affected by the lease or the lease activity. It can't be as narrow as just the members of the tribal community. Also, for that definition, we try to stay away from any limitation that is based on a physical distance from the lease activity.

00:20:09:12 - 00:20:34:03

Speaker 3

Here we have a significant effect on the environment definition, which also relates to the environmental review process. Congress was very clear when they enacted the Hearth act that if a tribe finds significant effects on the environment, they have to give public notice and allow the public to comment on the lease activity that is causing the effects on the environment.

00:20:34:04 - 00:21:05:08

Speaker 3

Generally speaking, some definitions may not apply depending on the types of leases that the regulations authorized. For example, there is an agricultural land definition, but that definition may not apply if the regulations don't authorize agricultural leases. So scrolling down, we have required these provisions. And these are the next thing that we will look for in the Tribes Hearth Act regulations.

00:21:05:10 - 00:21:22:02

Speaker 3

The first eight items here are required. Authority and scope provisions. These provisions cover the tribe's authority to enact the regulations and what the regulations do and do not apply to.

00:21:22:03 - 00:22:07:13

Speaker 3

Here. The Tribes Hearth Act regulations have to identify what land the regulations apply to. The regulations can only apply to 100% tribally owned land that is held in trust or restricted fee status. The hearth lease can't be used for individually owned, allotted land or for any kind of land where the tribe owns only a portion. Also, the Hearth Act doesn't apply to felons or to mineral interests, but if the tribe wants to lease land and doesn't own 100% of that land, the tribe is still free to use the 25 CFR part 162 secretarial leasing process.

00:22:07:14 - 00:22:39:06

Speaker 3

Next. Here, the regulations also have to state what types of leases are covered by the regulations. But the Hearth act applies to the following types of leases. Agricultural. Business, religious, educational, recreational, cultural or other public purposes. Residential wind energy evaluation leases, wheel and wind and solar resource leases. So only these lease types listed here are permitted under the Hearth act.

00:22:39:07 - 00:22:58:15

Speaker 3

If a tribe desires leasing authority for multiple types of leases, there is no requirement for the tribe to include all those lease types in one set of regulations. Attributes of separate regulations for each different type of lease, or combine them in any way that they choose.

00:22:59:00 - 00:23:32:03

Speaker 3

Next, the regulations have to contain a provision that addresses what laws are applicable to these leases. State law doesn't apply to the Hearsh act, and so state law is generally not recommended. But there is tribal discretion to apply state law to agricultural leases. And applying state law in arbitration or mediation provisions may be allowable. But if state law is going to apply, the tribe must expressly agree to it, and there must be a statement that the tribe is not thereby wavering.

00:23:32:03 - 00:23:38:11

Speaker 3

They're waving their sovereign immunity.

00:23:38:12 - 00:24:09:15

Speaker 3

XT. Another item that needs to be in the tribe's regulations is a provision that addresses the tribe's authority to enact the regulations, such as a tribal constitution or bylaws. We understand there are pueblos and some tribes that don't have tribal constitutions. In those cases, the regulations will site to whatever the authority is that the tribe has to enact laws and be by them.

00:24:10:01 - 00:24:36:06

Speaker 3

Next, the regulations need to apply a provision that states any major substantive amendments to the tribe's heart, that regulations have to come back through the Secretary or review and approval. But any minor or administrative amendments can be approved by the Tribal Council. You should contact our office. The office. If you aren't sure whether an amendment is substantive or not.

00:24:36:08 - 00:25:12:06

Speaker 3

Finally, for this section, we strongly include a severability provision. This states that if a court later finds that one part of the regulation is invalid or unenforceable, the rest of the regulations will remain in effect. So the next type of provision we have here is the required assignment and leasehold mortgage provision. The regulations need to indicate whether the lease can be amended, or if the lessee may assign, sublease or mortgage their lease interest.

00:25:12:07 - 00:25:42:08

Speaker 3

There can be a mortgage of the leasehold interest, but there can't be mortgages of trust land. So if mortgages are permitted, mortgages need to be specific to the leasehold interest of the lessee and not the land itself. Regarding gaming, the Hearsh Act can't be used to approve gaming facility leases, but it can be used for existing spaces within existing gaming facility.

00:25:42:09 - 00:26:13:03

Speaker 3

Next, there is a required recording provision. Any lease, lease, amendment, assignment, renewal or leasehold mortgage must be recorded at the Land Titles and Records Office. The so that

provision needs to be in the tribe's heart that regulations. The next six items are required. Contractual provisions that need to be in the tribe's Heart act regulations, as well as each lease.

00:26:13:04 - 00:26:44:15

Speaker 3

These are standard contractual provisions that include the parties to the lease. The purpose of the lease. The authorized uses of the least premises, the effective date and the definite term for the lease, and for any renewal to allow flexibility for tribes here. The regulations don't need to contain specific information, but can instead include a list of the required provisions that need to be in the leases.

00:26:45:01 - 00:27:22:06

Speaker 3

And then each lease will contain the detail such as the particular parties, particular purpose, particular term, and so forth. I will also note generally that there are other required provisions in this legal sufficiency checklist, where the tribe may want to maintain flexibility by broadly stating the provision of the regulations and providing specific detail in each lease, such as for the rent payment provisions.

00:27:22:08 - 00:27:44:06

Speaker 3

The regulations have to require leases to identify the tract or the lease premises in a manner that is sufficient for the latter to identify them. That is very important because, as I mentioned, the lease itself and other lease documents have to be recorded by the LTO.

00:27:44:08 - 00:28:13:09

Speaker 3

Regarding the lease term here. I won't go into detail on every type of lease for agricultural and business leases. The initial term can be up to 25 years, with up to two options to renew. And each of those options to renew can be up to 25 years. So you can't have more than two renewals, and no term can exceed 25 years.

00:28:13:10 - 00:28:53:01

Speaker 3

For residential, public, religious, educational or recreational leases, the lease is 75 years with no option to renew. However, there can be an initial term of less than 75 years, with options to renew as long as the initial term and the renewals combined don't exceed 75 years. If there is going to be an option to renew or a lease, it needs to specify the time and manner the option is exercised or if the option is automatically effective.

00:28:53:03 - 00:29:02:15

Speaker 3

It's also got to identify any additional consideration that will be due on the option is exercised.

00:29:03:00 - 00:29:10:05

Speaker 3

Up next, we have required payment provisions here.

00:29:10:06 - 00:29:31:08

Speaker 3

I'm not going to walk through each of these items. I'll just highlight some of them. The regulations have to address the payment of rent, which can be in whatever amount the tribe determines. However, the tribe may wave rental payment if it's in the best interest of the tribe, as long as the tribe's regulation includes that best interest of the tribe.

00:29:31:08 - 00:30:01:06

Speaker 3

Definition. The regulations also have to address the dates, the payments that do, whom the payments are made to, and the acceptable form of payment. If the lease allows for payments to be made directly to the tribe, the tribe is required to maintain documentation of those payments that is sufficient to enable the Secretary to discharge the trust responsibility. So, in other words, the Secretary isn't responsible for keeping track of those lease payments.

00:30:01:07 - 00:30:23:15

Speaker 3

The tribe is. And finally, the leases and the tribe's regulations have to state whether there is going to be a rental review or adjustment period, how those are made. Who makes them when they're effective, and how any dispute about the adjustments are resolved.

00:30:24:01 - 00:30:51:05

Speaker 3

Scrolling down there are required lease enforcement provisions. I'm not going to cover all of these items, but I will say that the regulations must state that there must not be any unlawful conduct or illegal activity on the least premises, and that the lessee must comply with all applicable laws, ordinances and other legal requirements.

00:30:51:06 - 00:31:22:11

Speaker 3

Here. The regulations need to identify and process for enforcing these violations, and they need to provide for cancellation or termination of the lease. Also, we strongly recommend a process for lessee bulldozer. And finally, there needs to be a provision that addresses whether or not Alesi can appeal a determination that they did or breach the lease.

00:31:22:12 - 00:31:57:15

Speaker 3

Next we have here required indemnity provision. The Hearsh act regulations have to state that the lessee indemnify and holds both the tribe and the United States harmless from certain liabilities associated with the lease. There is a required insurance provision. This is a provision that states the lessee is required to provide insurance in an amount that is sufficient to protect all insurable, permanent improvements on the least premises and to protect the interests of the tribe.

00:31:58:01 - 00:32:46:04

Speaker 3

That insurance needs to identify the tribe and the United States as insured parties. This provision may be waived in the best interest of the tribe, and insurance is not required for residential leases. Next, we have required performance bond provisions. This provision requires the lessee to provide a performance bond or other form of security that must be in an amount equal to either one year's rental or the construction of any required permanent improvements for the operation and maintenance charges for any land within an irrigation project, or the restoration and reclamation of the lease premises.

00:32:46:05 - 00:32:56:00

Speaker 3

This may be waived in the best interest of the tribe, and it is not required for certain types of leases.

00:32:56:01 - 00:33:23:09

Speaker 3

Next, there are required permanent improvement provisions. There are a lot of items in this section, but I will just highlight that the heart that graduations need to indicate whether permanent improvements may be constructed. They need to identify the ownership of any permanent improvements, and they need to identify the responsibility for constructing, operating, maintaining, and managing any permanent improvements.

00:33:23:10 - 00:33:36:06

Speaker 3

And there are also additional provisions here in the section that are required if permanent improvements are authorized.

00:33:36:07 - 00:34:03:10

Speaker 3

Finally, we have the required environmental provisions. This gets back to what we were discussing earlier. Congress, in enacting the Hearth act, was adamant about the environmental review process because it didn't require a need for review, and a review is extremely stringent. But the Hearth act environmental review process is not as stringent as a need for review, and it's a process that is left entirely up to the tribe.

00:34:03:11 - 00:34:31:01

Speaker 3

Because of that, Congress determined that there are guardrails that need to be included in each tribe's regulations. If we see that a tribe's draft regulations include a deeper review, we will comment that a need for level review is not necessary. But of course, the tribe is free to have that type of view if they choose. So there are three basic requirements for the environmental review.

00:34:31:03 - 00:35:12:04

Speaker 3

Number one is that the regulations need to include a process to identify and evaluate significant effects of the proposed action on the environment. There needs to be a process for notifying the public and allowing them to comment on any significant environmental impacts. And there also needs to be a process for providing responses to relevant and substantive comments. And it is a tribe that decides which comments are relevant and substantive as to public notice of significant environmental impacts.

00:35:12:07 - 00:35:46:07

Speaker 3

We strongly suggest the tribe posts the notice on the tribe's publicly accessible website. I will also point out that the tribe is not required to provide notice, and an opportunity to comment. For a finding of no significant impact of Fonzi. And finally, you will see here it says that if historic properties, archeological resources, human remains or other cultural items are encountered during lease activity, that the lessee will contact the tribe and the BIA.

00:35:46:08 - 00:36:20:14

Speaker 3

The lessee needs to contact the tribe, but does not need to contact the BIA. So this is the last category of required provisions. There are a few additional points that I would like to make. Tribes regulations typically include a definition of lessor. The lesser can only be the tribe. That's because when the Secretary approves hard that regulations, the Secretary is delegating his authority to approve fourth act leases to the tribe, which then steps into the shoes of the Secretary.

00:36:20:15 - 00:36:49:11

Speaker 3

The tribe may delegate execution and full of a lease to an arm of the tribe, but the lessee always needs to be the tribe. Another point is that regulation provisions can't incorporate other tribal laws like regulations, ordinances, or codes. But cross reference in example would be if a tribe has a provision in their draft regulations that states lease enforcement will be pursuant to the tribe's housing ordinance.

00:36:49:15 - 00:37:21:11

Speaker 3

In that case, the issue is that the tribe would then have to submit the housing ordinance to us to review and approve, to make sure that it complies with the part 162 regulations and the Hearth act itself. And that is just contrary to the intent of the Hearth act. So what we would recommend, if the tribe wants to include other tribal law in their Hearth Act regulations, is to just cut and paste those regulations, those provisions into your heart, that regulations.

00:37:21:12 - 00:37:50:11

Speaker 3

The final thing I'd like to point out is that the tribes that code should not refer to the part 162 Leasing Regulations. Once the tribes are code is approved by the Secretary, that that code becomes the controlling law of the hearth that leases, not part 162. I'm going to put our

solicitor's address email address into the chat so that you can email us if you have any questions later.

00:37:50:11 - 00:37:56:11

Speaker 3

Thank you everybody.

00:37:56:13 - 00:38:31:06

Speaker 1

Thank you. Mary we appreciate that. I'm going to go ahead and share my screen. Going back to the website and everyone you can follow along on the website using any of the information under under this section on the website. We are now going to go to the last part of this presentation, which is the overview presentation slides.

00:38:31:08 - 00:38:48:01

Speaker 1

On page one. Here it talks about the Elevated Hearth Act review. And for this I will turn it back over to the office of this listener.

00:38:48:03 - 00:38:53:01

Speaker 3

Would you like to address this question.

00:38:53:02 - 00:38:56:02

Speaker 4

This is a question. Or you're wanting.

00:38:56:03 - 00:38:59:08

Speaker 5

To go over the additional requirements.

00:38:59:08 - 00:39:01:03

Speaker 1

Yes. Yes.

00:39:01:05 - 00:39:01:11

Speaker 4

Okay.

00:39:01:13 - 00:39:39:14

Speaker 5

So there were a series of applicable executive orders and secretary's orders that were issued in 2025 that have to do with tribal leasing regulations that authorize wind energy evaluation leases or wheels, and when and solar resource leases or says. And so if your regulations incorporate leases or the ability to approve leases for either wheels or are those will require an elevated review.

00:39:39:14 - 00:40:38:03

Speaker 5

And so there would be the initial review by BIA and the office of the solicitor. And then that would end up going for an elevated review to the office of the Executive Secretary, Secretariat and Regulatory Affairs, to the office of the Deputy Secretary. And then ultimately to the office of the Secretary. So what that means is that if you want to include that at the time that you submit your draft Hearth Act regulations, you would need to submit a series of questions and answers that say why the tribe is wanting to submit, what the purpose is for seeking the wheel or the authority, the existence of a power purchase agreement, the technical capability to construct,

00:40:38:03 - 00:41:22:04

Speaker 5

operate, maintain and terminate the project. The experience designing, constructing and financing similar projects, and then availability and feasibility of alternate energy resources. So for non wheel and non W.S. or leasing regulations those are not subject to the elevated review. And so what we are advising tribes is that if you intend to seek approval for other types of leasing authority, such as business or agricultural leases, you may consider whether or not it would be beneficial for the tribe to submit those regulations for review and approval.

00:41:22:04 - 00:42:04:15

Speaker 5

Separately from we'll and WSW are regulations because those don't take they don't go through that elevated review process. It's possible to get those approved. And then you could submit we'll and our regulations separately. So what we are advising is it is totally up to the tribes. If you want to submit one whole comprehensive list of regulations for review, you are able to do that, but it will take considerably longer to get through that review process.

00:42:05:01 - 00:42:37:12

Speaker 5

And so it would be advantageous to submit those separately. But that is completely up to the tribe. If you do submit the regulations entirely and it includes our or we'll, you will get an email back that does say, you know, just keep in mind that this will take an elevated review process, and the tribe may want to reconsider splitting those off for submission.

00:42:37:13 - 00:42:48:01

Speaker 5

Do you want to go to the next page, Sharon, just to see if I missed anything there?

00:42:48:02 - 00:42:52:04

Speaker 5

I think that should cover it.

00:42:52:05 - 00:43:02:03

Speaker 5

And then if you have any questions about we'll or our leasing at the end, we can answer those as well.

00:43:02:04 - 00:43:46:11

Speaker 1

Thank you Donna. Moving on to the next slide. Here are the list of intended benefits to tribes implementing leasing rates. I won't read these out verbatim, but the top one is under economic development, and I believe tribes are looking for the more streamlined leasing process. This will significantly reduce the time to execute and improve leases. Compared to what are the current existing processes at BIA, and also the time the execution of those leases, which may encourage potential lessees to invest and develop in tribal communities, tribal land management.

00:43:46:11 - 00:44:24:03

Speaker 1

And then, of course, you just heard both of our solicitors talk about the access to 25 CFR part 162, which the tribe still has, even if they have Hearth act approval for a certain or all of the leasing scopes. Next slide. Adoption and implementation of tribal leasing regulations. Funding. There is no funding. I need to mention this. I should have mentioned it at the beginning, but once a tribe secures their Hearth Act approval authority, there is no funding that comes with it.

00:44:24:03 - 00:44:57:01

Speaker 1

But the funding that the tribe should take into consideration is the funding of whether or not they will have enough staff to take over the entire leasing process for that particular scope, whether it be residential, agricultural, business and so on and so forth. So that is what this funding section is talking about. We have gone in depth over the environmental review process, so I will not read those out under bullet three.

00:44:57:01 - 00:45:33:12

Speaker 1

It talks about lease enforcement violations cancellations. The first bullet is definitely worth taking a closer look at, because tribes will be managing all aspects of Act leases executed pursuant to their approved tribal regulations. So we've had questions about that before. What exactly happens after we secure it and what do we do? You know what's going to happen. Well, that's exactly what happens is the tribe, the onus of the entire leasing process is now on the tribe.

00:45:33:13 - 00:46:05:11

Speaker 1

So from start to finish, except where the tribe needs the Bureau's help in encoding that document into terms if they don't already have access, existing and future leases and bullet for leases already in place, executed and approved under 25 CFR 162 are still subject to by leasing regulations. Approval of Hearth act regulations does not preclude tribes from electing the process under 162.

00:46:05:12 - 00:46:39:12

Speaker 1

So but at the same time, we also talked at length, and we have in the past, as we will today, that the two leasing authorities, 25 CFR 162 and Hearth act, those two leasing authorities cannot be interchangeable and cannot be used together. In other words, the tribe cannot amend, counsel, renew a lease that was originally approved by the Secretary under 162 using their Hearth act authority and vice versa.

00:46:39:13 - 00:46:51:13

Speaker 1

The Secretary cannot be doing or approving leases that the tribe approved using their Hearth act authority, so please bear that in mind.

00:46:51:14 - 00:47:24:11

Speaker 1

What is the biz role after the leasing regulations are approved? It's very short and to the point at least review. There is none. There is no BIA review. The hearth at least must be executed pursuant to the tribe's authority. Under its approved code, the lease must not have any reference to Secretary authority under 25 CFR 162. The lease must be signed by all parties to the lease and includes standard contract provisions, which was just discussed by Mary and the legal description.

00:47:24:11 - 00:47:52:12

Speaker 1

It must be sufficient for LTO to record under the approval it says. Excuse me. The Secretary does not approve lease documents executed under a Tribes Hearth Act. Leasing rates. Path leasing documents are approved by the tribe pursuant to its regulations. Our tribal authority and 162 are not interchangeable.

00:47:52:13 - 00:48:22:12

Speaker 1

Continuing on with the town's encoding, tribes are required, as Mary mentioned, to provide BIA with a copy of all Hearth Act lease documents, which includes the amendment, the lease itself assignment, the leasehold mortgage renewals and sub leases. And while I will not read that verbatim, it does say you know, when the tribe, if they don't have the access they must submit to buy so I can get it into tems for them.

00:48:22:12 - 00:48:47:03

Speaker 1

And in preparation of that, a cursory review will be done. Meaning they simply need to check to ensure that, number one, the lease was signed, that it is executed with the signatures, that they have a legal description sufficient to encode with. So they do check for those things. Recording in TSR's.

00:48:47:04 - 00:49:21:06

Speaker 1

The tribe has contract. If the tribe has contractor compacting realty functions, they are responsible for submitting the leases to LTO for recreation purposes after they've been coded into the Tam system. Altro is responsible for recording all hearth acquis documents for leasehold mortgage documents the lender and tribe must that is bolded for a reason. They must work together to correct any recording or title issues that arise from Hearth Act leasehold mortgage document.

00:49:21:07 - 00:49:48:01

Speaker 1

We've had a lot of questions come up from that, but we refer the lender to the tribe whenever they have questions. We say BIA doesn't have a part in this game. You must contact the tribe's realty office or person who is doing, you know, executing those leases on behalf of the tribe. They must work with them to correct it and get it recorded so that title can be updated.

00:49:48:03 - 00:50:25:01

Speaker 1

That said, that brings us to the end of our presentation. Again in the chat are all the links to what we've just went through. And as you can see on the page, everything is listed here. To conclude, I would like to open up one more document right here. You will see one called Dear Tribal Leader Letter. Recently, our department, along with the coordination and help of HUD, we have created it what's called a HUD Hearth act residential lease form and writer.

00:50:25:05 - 00:50:59:06

Speaker 1

This letter was signed by the Secretary March 23rd of this year. And it goes into detail of. In the past we had old leasing forms under 162. When Hearth Act was first implemented, tribes were using the old leasing form that still had 162 language in it. So in order to help the tribe with a leasing form sufficient for HUD and approved by HUD, we created this leasing form.

00:50:59:06 - 00:51:35:07

Speaker 1

The letter is signed by the Secretary, and it goes into depth about how to use the leasing form. The form is not located on the website. It is only accessible to the tribe once they become a hearth act tribe. With residential leasing regulations in place, and within those regs they must have lease hold mortgaging provisions. So nowhere on the website will you find a copy of that HUD hearth, at least because we only give it to the tribes who meet those requirements.

00:51:35:08 - 00:52:00:11

Speaker 1

But the letter is posted here for tribes as an FYI. So most recently we had two tribes that did get approved who do have residential leasing regs in place, and they have received a copy of the letter and the lease itself. The writer is a notification for the tribe, and the tribe must have that in place with the lease.

00:52:00:11 - 00:52:24:13

Speaker 1

If they have used an older lease form, that writer must be filled out and it must be filed with the lease. The tribe must do that because they are the ones doing the leasing process. So none of that is on file with the BIA, and the writer is available to the tribe. So for the folks here on this call today, all tribes listed on the website.

00:52:24:13 - 00:52:47:04

Speaker 1

And let me go back just to show you to the right, here you can find all kinds of links that you can jump to, because you don't want to have to start looking for things or, or scrolling here and there. Sometimes you want to just a quick you want a quick jump. So you might want to just go and and jump to that particular thing.

00:52:47:06 - 00:53:14:03

Speaker 1

But we already had a question in an email. So I want to address that real quick. If this session will be recorded. Yes it will. It's already being recorded and it will be put here. As you can see, the March 11th session is already here, along with all the information that we have presented to you today. So today's session will also be listed here for those who missed it today or who want to revisit what we have said.

00:53:14:03 - 00:53:33:14

Speaker 1

If you want to visit the March 11th, it's already there for your review. But back to the approvals. When you are looking at this page, you can see that we have these buttons here for your purpose. So if you want to view the Hearth Act rates, you can skip to that page and get down to where it is you need to go.

00:53:33:14 - 00:54:02:08

Speaker 1

But the rigs will be posted here along along with the link to that tribe. So for instance, let's open Point of Vistas. So Buena Vista is here with the approval page along with their leasing ordinance. As Mary discussed earlier, these are public for public consumption. So she went over in-depth about areas of the leasing rigs that might be challenged.

00:54:02:08 - 00:54:26:06

Speaker 1

But this is these leasing rigs, once approved, are published and are on the website for public consumption. So they are here. But as you can see, we don't have we don't have the leasing, the HUD Hearth Act leasing ordinance form here for anybody to look at. It's only for those tribes who have already those things, those two items in place.

00:54:26:06 - 00:54:50:13

Speaker 1

So we want it to bring that up because I see in the on the the list of attendees today that we have some tribes listening in. So I really appreciate them being on here with their councils or

whoever is appointed to attend. We appreciate your presence here today and that that concludes our session. We do see the chat and we do see that we don't have any questions, which is good.

00:54:50:13 - 00:55:17:06

Speaker 1

But if you do come up with some after today, please go ahead and reach out to Carla Clark, who is the division chief, Simone Jones, who is the acting and myself, the hearth at coordinator. If you have any questions about the material presented or the the presentation itself, any questions at all, you can go ahead and contact us.

00:55:17:06 - 00:55:41:15

Speaker 1

However, if the tribe is asking a legal sufficiency question, please include Mary Brooks, Donna Owens, and Karen Lindquist. Their email addresses are in the chat, so please reach out to them with a copy to us if you have questions about legal sufficiency.

00:55:42:00 - 00:55:46:05

Speaker 5

That and I did see Sharon. I did see there is a hand raised.

00:55:46:06 - 00:55:47:09

Speaker 1

Okay.

00:55:47:10 - 00:55:58:05

Speaker 2

Hey, I went ahead and unmuted your mic. Ruth, I think you should be able to answer your question or ask your question. Sorry. Okay. Good morning.

00:55:58:06 - 00:56:26:05

Speaker 6

Yes. You mentioned that if there was an old lease that couldn't be, like, replaced, I guess you said with the Hirth act, but it it could be canceled. Or if it was or if it expires it we could issue a new one under the thought. Right. I mean we have it in place, which we do, but.

00:56:26:06 - 00:56:31:05

Speaker 6

Does that make sense?

00:56:31:06 - 00:56:34:14

Speaker 5

Do you mean if your Hearth act has been approved?

00:56:34:15 - 00:57:00:10

Speaker 6

Yes, yes. So if sometimes there's some very old ones and they either need to be for various reasons, maybe they need to be canceled or there it, you know, up to an expiration date. And if they expire, we can issue another one under the Hertha. Correct.

00:57:00:11 - 00:57:12:11

Speaker 5

If your Hearth act has been approved and you're issuing a new lease, you can't just do a swap, but you can. You can issue a lease under your approved Hearth act.

00:57:12:13 - 00:57:21:15

Speaker 6

Right. Okay. Thank you. It was just because of the wording mentioned earlier. I wanted to make sure.

00:57:22:01 - 00:57:46:05

Speaker 5

And I did see there's a question in the chat from Romero, Candice or Candice Romero about using the hearth act in lieu of a section 17. Can you expand upon that? I don't know what you mean by section 17.

00:57:46:06 - 00:57:53:12

Speaker 3

Would you be able to briefly explain what a section 17 business leases.

00:57:53:13 - 00:58:02:10

Speaker 1

Her mike has been unneeded.

00:58:02:11 - 00:58:17:03

Speaker 5

We can provide you a separate email response about that. We'll take a look at the section 17.

00:58:17:05 - 00:58:40:07

Speaker 1

Yes. Thank you very much. Appreciate the question. Okay. We don't have any more questions. I don't see any more hands raised with that. We are going to conclude today's session. This will be available. This recorded session will be available on the website in a couple of weeks. And you will be notified via email. We thank you for attending today.

00:58:40:08 - 00:58:41:08

Speaker 1

Have a great day.