

Authority: R.S. 463; 25 U.S.C. 2, 38 Stat. 586; 25 U.S.C. 200, unless otherwise noted.

2. Section 11.100 is amended by adding new paragraph (a)(14) to read as follows:

§ 11.100 Listing of Courts of Indian Offenses.

(a) * * *

(14) Sante Fe Indian School Property, including the Santa Fe Indian Health Hospital (land in trust for the 19 Pueblos of New Mexico).

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Dated: June 24, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02-16635 Filed 7-1-02; 8:45 am]

BILLING CODE 4310-4J-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

RIN 1076-AE28

Distribution of Fiscal Year 2002 Indian Reservation Roads Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: We are issuing a final rule requiring that we distribute the remaining 25 percent of fiscal year 2002 Indian Reservation Roads (IRR) funds to projects on or near Indian reservations using the relative need formula. We are using the Federal Highway Administration (FHWA) Price Trends report for the relative need formula distribution process, with appropriate modifications to address non-reporting states. Up to \$35,000 per tribe is available under this distribution until August 15, 2002, for administrative capacity building and other eligible transportation activities upon receipt, review, and approval of self-determination contracts and self-governance agreements, where applicable, and receipt of tribal requests by direct services tribes for BIA regions to perform these functions for them.

EFFECTIVE DATE: July 8, 2002 through September 30, 2002.

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, Chief, Division of Transportation, Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW., MS-4058-MIB, Washington, DC 20240. Mr. Gishi may also be reached at 202-208-4359 (phone) or 202-208-4696 (fax).

SUPPLEMENTARY INFORMATION:

Background

Where Can I Find General Background Information on the Indian Reservation Roads (IRR) Program, the Relative Need Formula, the Federal Highway Administration (FHWA) Price Trends Report, and the Transportation Equity Act for the 21st Century (TEA-21) Negotiated Rulemaking Process?

The background information on the IRR program, the relative need formula, the FHWA Price Trends Report, and the TEA-21 Negotiated Rulemaking process is detailed in the **Federal Register** notice dated February 15, 2000 (65 FR 7431).

Why Are You Publishing This Final Rule?

We are publishing this final rule only for the distribution of the remaining 25 percent of fiscal year 2002 IRR funds. This rule sets no precedent for the final rule to be published as required by Section 1115 of TEA-21. On January 10, 2002, we published a temporary rule distributing 75 percent of fiscal year 2002 IRR funds (67 FR 1290).

Where Can I Find Information on the Distribution of 75 Percent of Fiscal Year 2002 IRR Funds?

You can find this information in the **Federal Register** notice dated January 10, 2002 (67 FR 1290).

What Comments Did You Receive on the Temporary Rule for Distribution of 25 Percent of Fiscal Year 2002 IRR Program Funds?

In the 30-day comment period after publication of the temporary rule distributing 75 percent of fiscal year 2002 IRR program funds, we received comments from 2 commenters.

Comment: Two commenters disagreed with reserving \$19.53 million for administrative capacity building. The commenters stated that providing such funds decreased the amount of IRR Program funds they would receive and that 2 percent planning funds already available were adequate for administrative capacity building.

Response: The tribal caucus recommendation was to reserve funds for administrative capacity building for fiscal year 2002 in the same manner as fiscal year 2001. The Assistant Secretary—Indian Affairs considered this tribal caucus recommendation to allow all tribes to participate in the IRR program, as an acceptable funding method for fiscal year 2001 and again proposed it only for fiscal year 2002 in the temporary rule. This rule sets no precedent for the final rule to be

published as required by Section 1115 of TEA-21.

Does This Rule Include the Reserved Funds for Administrative Capacity Building?

Yes. The remaining 25 percent of fiscal year IRR program funds distributed under this rule includes the \$19.53 million reserved for administrative capacity building and other eligible transportation activities. These funds will be distributed until August 15, 2002, based on approved self-determination contracts or applicable self-governance agreements or requests by direct services tribes to the appropriate BIA region for BIA to perform administrative capacity building for them. After August 15, 2002, any undistributed funds reserved for administrative capacity building will be distributed to the appropriate BIA regions using the relative need formula.

How Will the Secretary Distribute the Remaining 25 Percent of Fiscal Year 2002 IRR Program Funds?

Upon publication of this rule, the Secretary will distribute the remaining 25 percent (approximately \$61.9 million) of fiscal year 2002 IRR program funds based on the current relative need formula used in fiscal years 2000, 2001 and in the first distribution in fiscal year 2002. From this 25 percent the Secretary is reserving \$19.53 million to distribute for administrative capacity building by the process described in the January 10, 2002, temporary rule. We are using the latest indices from the FHWA Price Trends Report with appropriate modifications for non-reporting states in the relative need formula distribution process.

Regulatory Planning and Review (Executive Order 12866)

Under the criteria in Executive Order 12866, this rule is not an economically significant regulatory action because it will not have an annual effect of more than \$100 million on the economy. The total amount available for distribution of fiscal year 2002 IRR program funds is approximately \$226 million and we are distributing approximately \$61.9 million under this rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR program funds, especially under the relative need formula with which the tribal governments and tribal organizations and the BIA are already familiar, is negligible. The distribution of fiscal year 2002 IRR program funds does not require tribal governments and tribal

organizations to expend any of their own funds. This rule is consistent with the policies and practices that currently guide our distribution of IRR program funds. This rule continues to adopt the relative need formula that we have used since 1993, adjusting the FHWA Price Trends Report indices for states that do not have current data reports. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency. The FHWA has transferred the IRR program funds to us and fully expects the BIA to distribute the funds according to a funding formula approved by the Secretary. This rule does not alter the budgetary effects on any tribes from any previous or any future distribution of IRR program funds and does not alter entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not raise novel legal or policy issues. It is based on the relative need formula in use since 1993. We are changing determination of relative need only by appropriately modifying the FHWA Price Trend Report indices for states that did not report data for the FHWA Price Trends Report, just as we did for the second partial distribution of fiscal years 2000 and 2001 IRR program funds and the first partial distribution of fiscal year 2002 IRR funds.

Approximately 1400 road and bridge construction projects are at various phases that depend on this fiscal year's IRR program funds. Leaving these ongoing projects unfunded will create undue hardship on tribes and tribal members. Lack of funding would also pose safety threats by leaving partially constructed road and bridge projects to jeopardize the health and safety of the traveling public. Thus, the benefits of this rule far outweigh the costs. This rule is consistent with the policies and practices that currently guide our distribution of IRR program funds. This rule continues to adopt the relative need formula that we have used since 1993.

Regulatory Flexibility Act

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required for this rule because it applies only to tribal governments, not state and local governments.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because it does not have an annual effect on the economy of \$100 million or more. We are distributing

approximately \$61.9 million under this rule. Congress has already appropriated these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR program funds, especially under the relative need formula with which tribal governments, tribal organizations, and the BIA are already familiar, is negligible. The distribution of the IRR program funds does not require tribal governments and tribal organizations to expend any of their own funds. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this rule will distribute Federal funds to Indian tribal governments and tribal organizations for transportation planning, road and bridge construction, and road improvements. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign based enterprises. In fact, actions under this rule will provide a beneficial effect on employment through funding for construction jobs.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), this rule will not significantly or uniquely affect small governments, or the private sector. A Small Government Agency Plan is not required. This rule will not produce a federal mandate that may result in an expenditure by State, local, or tribal governments of \$100 million or greater in any year. The effect of this rule is to immediately provide the remaining 25 percent of fiscal year 2002 IRR program funds to tribal governments for ongoing IRR activities and construction projects.

Takings Implications (Executive Order 12630)

With respect to Executive Order 12630, the rule does not have significant takings implications since it involves no transfer of title to any property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment. This rule should not affect the relationship between state governments and the Federal government because this rule concerns administration of a fund dedicated to IRR projects on or near Indian reservations that has no

effect on Federal funding of state roads. Therefore, the rule has no Federalism effects within the meaning of Executive Order 13132.

Civil Justice Reform (Executive Order 12988)

This rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. This rule contains no drafting errors or ambiguity and is clearly written to minimize litigation, provide clear standards, simplify procedures, and reduce burden. This rule does not preempt any statute. We are still pursuing the TEA-21 mandated negotiated rulemaking process. The rule is not retroactive with respect to any funding from any previous fiscal year (or prospective to funding from any future fiscal year), but applies only to the remaining 25 percent of fiscal year 2002 IRR program funding.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose record keeping or information collection requirements or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.* We already have all of the necessary information to implement this rule.

National Environmental Policy Act

This rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, because its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and the road projects funded as a result of this rule will be subject later to the National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

Pursuant to the President's Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," we have consulted with tribal representatives throughout the negotiated rulemaking process and in developing this rule. The TEA-21 Negotiated rulemaking

committee's tribal caucus presented a consensus recommendation to the Assistant Secretary for distribution of fiscal year 2002 IRR program funds. We have evaluated any potential effects on federally recognized Indian tribes and have determined that there are no potential adverse effects and have determined that this rule preserves the integrity and consistency of the relative need formula process we have used since 1993 to distribute IRR funds. We are making a change from previous years (which we also made for fiscal years 2000, 2001, and the first part of fiscal year 2002 IRR program funds (see **Federal Register** notices at 65 FR 37697 and 66 FR 17073)) to modify the FHWA Price Trends Report indices for non-reporting states which do not have current price trends data reports. The yearly FHWA Report is used as part of the process to determine the cost-to-improve portion of the relative need formula. As in fiscal year 2001, this rule will provide for up to \$35,000 per tribe for administrative capacity building and other eligible transportation activities by reserving \$19.53 million from this distribution. Consultation with tribal governments and tribal organizations is ongoing as part of the TEA-21 negotiated rulemaking process and this distribution uses the TEA-21 Negotiated Rulemaking Committee's tribal caucus recommendation.

List of Subjects in 25 CFR Part 170

Highways and Roads, Indians-lands.

For the reasons set out in the preamble, we are amending Part 170 in Chapter I of Title 25 of the Code of Federal Regulations as follows.

PART 170—ROADS OF THE BUREAU OF INDIAN AFFAIRS

1. The authority citation for part 170 continues to read as follows:

Authority: 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e-2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

2. Revise § 170.4b to read as follows:

§ 170.4b What formula will BIA use to distribute the remaining 25 percent of fiscal year 2002 Indian Reservation Roads program funds?

On July 8, 2002 we will distribute the remaining 25 percent of fiscal year 2002 IRR Program funds authorized under Section 1115 of the Transportation Equity Act for the 21st Century, Public Law 105-178, 112 Stat. 154. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. The formula has been

modified to account for non-reporting states by inserting the latest data reported for those states for use in the relative need formula process. Of this remaining 25 percent of fiscal year 2002 IRR program funds, \$19.53 million is available for immediate distribution to provide for up to \$35,000 for each tribe for administrative capacity building and other eligible transportation activities based on approved contracts, agreements, or requests for such funds by the deadline of August 15, 2002.

Dated: May 9, 2002.

Neal A. McCaleb,

Assistant Secretary, Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC92

Oil and Gas and Sulphur Operations on the Outer Continental Shelf—Suspension of Operations for Exploration Under Salt Sheets

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is modifying regulations that govern suspensions of operations for oil and gas leases on the Outer Continental Shelf (OCS). The amendment covers instances where oil and gas lessees begin timely interpretation of geophysical data early in the lease term, but the analysis proves inconclusive because of problems caused by the existence of salt sheets underlying the seabed and overlying possible hydrocarbon deposits. In such cases, the rule allows lessees to apply for a suspension of operations to complete the necessary geophysical interpretation before drilling a well. To qualify for a suspension of operations, the lessee must show it has made and will continue to make substantial efforts and financial commitment to process and reprocess its geophysical data.

DATES: This rule is effective August 1, 2002.

FOR FURTHER INFORMATION CONTACT: John Mirabella, Engineering and Operations Division, (703) 787-1598.

SUPPLEMENTARY INFORMATION: When a lessee obtains an oil and gas lease on the OCS, MMS regulations allow the lessee flexibility to schedule activities during the primary term. At the end of the

primary term, the lease can continue in force only by production, suspension, drilling, or well reworking operations as approved by the Secretary of the Interior. MMS regulations at 30 CFR 250.168-177 authorize suspensions before discovery of oil or gas in paying quantities only in limited circumstances. Generally, when a lease reaches the end of the primary term, the lessee must conduct drilling operations until it has made a discovery of oil or gas and a commitment to proceed to development and production.

Although lessees have made great progress in imaging potential objectives in areas under salt sheets, processing, analyzing, and interpreting geophysical, geological, and other relevant data and information is complex and time-consuming. As a result, lessees have been faced with the end-of-lease-term decisions to either allow the lease to expire or drill a well without sufficient geophysical information.

On December 21, 2000, MMS issued a Notice to Lessees (NTL) 2000-G22, Subsalt Lease Term Extension. That NTL provides for an extension of lease terms for subsalt exploration in cases where the lessee has drilled a well on the lease during the primary term but needs additional time to process geophysical data before drilling another well. The NTL did not provide additional time to process geophysical data in cases where a well had not been drilled. This rule authorizes MMS to grant a suspension for a lease when the operator has conducted timely analysis and interpretation of the geophysical data that may ultimately lead to a drilling objective but, due to the complexity of the salt sheet, needs additional time to complete the geophysical analysis before drilling.

MMS published a proposed rule on January 9, 2002 (67 FR 1171). The public comment period ended on February 8, 2002. Seven interested parties responded with comments and recommendations during the comment period. Commenters agreed with the need to encourage drilling in areas under salt sheets and supported the change, although they made specific recommendations about the rule and its implementation.

Comments: One commenter noted that the effect of the regulation will delay the commencement of drilling on the lease. He asked that MMS closely scrutinize requests made under the rule to ensure that lessees are diligently working toward drilling activities.

Response: We agree with the commenter that this rule should be