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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1436

RIN 0560-AG00

Farm Storage Facility Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule which was published Thursday, January 18, 2001 (66 FR 4607). The section entitled "Eligible borrowers" was incorrectly numbered and is corrected with this document.

EFFECTIVE DATE: March 29, 2001.

FOR FURTHER INFORMATION CONTACT: Tom Witzig, (202) 205-5851.

Correction of Publication

Accordingly, in the final rule published January 18, 2001, (66 FR 4607) make the following correction:

§ 1436.5 [Corrected]

On page 4613, in § 1436.5, the second paragraph (a)(6) and paragraphs (a)(7) through (a)(10) are redesignated as paragraphs (a)(7) through (a)(11).

Signed at Washington, DC, on March 22, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01-7787 Filed 3-28-01; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

RIN 1076-AE13

Distribution of Fiscal Year 2001 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 2001 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, 2001, 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. We are extending the deadline for applying for these funds from March 15, 2001, to May 15, 2001.

EFFECTIVE DATE: March 29, 2001. Section 170.4b expires September 30, 2001.

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). You may obtain additional information on the IRR program web site at <http://www.irr.bia.gov>.

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 2001 IRR funds. This rule sets no precedent for the final rule to be published as required by Section 1115 of TEA-21. On January 9, 2001, we published a temporary rule distributing 75 percent of fiscal year 2001 IRR funds (66 FR 1576).

Where Can I Find Information on the Distribution of 75 Percent of Fiscal Year 2001 IRR Funds?

You can find this information in the **Federal Register** notice dated January 9, 2001 (66 FR 1576).

What Comments Did You Receive on the Temporary Rule for Distribution of 25 Percent of Fiscal Year 2001 IRR Program Funds?

In the 30-day comment period after publication of the temporary rule distributing 75 percent of fiscal year 2001 IRR program funds, we received comments from 84 commenters. We have reviewed and considered these comments on distributing the remaining 25 percent of fiscal year 2001 IRR program funds.

Many commenters referred to "the [TEA-21] Negotiated Rulemaking Committee's consensus" on IRR funding for fiscal year 2001. The full committee did not consider or come to a consensus on this funding. Rather, the tribal caucus came to consensus and made written recommendations for fiscal year 2001 IRR funding to the Assistant Secretary—Indian Affairs, as requested by the Assistant Secretary. The Assistant Secretary considered the recommendations and implemented almost all of them, except for specific items for which the Department's legal review required changes.

Comment: Eight commenters objected to the Secretary's reserving \$19.53 million for administrative capacity building and other transportation activities out of the second 25 percent distribution rather than out of the first 75 percent distribution. Their objection

was that reserving the \$19.53 million from the 25 percent distribution subjected those funds to "further decision-making" and violated the tribal caucus recommendation on fiscal year 2001 IRR funding.

Response: The portion of fiscal year 2001 IRR program funds reserved for administrative capacity building was a new provision and departed from the current relative need formula. Therefore, we were required to solicit comments from the public. Those funds necessarily must come from the second distribution to allow for consideration of comments and any appropriate changes. After considering all comments, we will distribute fiscal year 2001 IRR program funds according to the diagram shown in the January 9, 2001, **Federal Register** notice (66 FR 1578).

Comment: Twenty-nine commenters objected to the requirement that tribes submit contract applications for administrative capacity building funds (\$35,000 per tribe from the \$19.53 million reserved) in order to receive those funds. The commenters said that the tribal caucus recommendation only required that tribes submit a tribal resolution or other official tribal action to receive the funds.

Response: The temporary rule, following the tribal caucus recommendation, required that tribes submit a scope of work, a budget, and a tribal resolution or other official tribal action in order to apply for a self-determination contract or self-governance agreement. It required that direct services tribes request the administrative capacity building services from the appropriate region.

Comment: Five commenters said the March 15, 2001, deadline for tribes to apply for administrative capacity building and other eligible transportation activities should be extended to August 15, 2001, as the tribal caucus recommendation stated.

Response: The tribal caucus recommendation set August 15, 2001, as the deadline for both the application requests as well as awards of ACB funds. This deadline for applications does not allow BIA a reasonable time for consideration and approval of applications and direct service requests. Since the fiscal year ends September 30, 2001, the August 15, 2001, deadline for application allows BIA and the tribes only 45 days to negotiate all requests for contracts and agreements and requests for direct services. However, in this final rule BIA is extending the deadline for tribes to apply for funds for administrative capacity building and

other eligible transportation activities to May 15, 2001.

Comment: Twelve commenters stated that direct services tribes should not be required to submit anything in order to receive administrative capacity building services from their respective regional offices.

Response: The tribal caucus recommendation states that "the BIA will provide administrative capacity building services for tribes which so request." The temporary rule required that tribes needing direct services request those services from the appropriate BIA regional office.

Comment: Eighteen commenters stated the temporary rule does not indicate that funds will be provided to regions to provide administrative capacity building services to direct services tribes.

Response: The temporary rule states that the reserved funds will be distributed to the twelve BIA regions based on the number of tribes in the region that request to participate by tribal resolution or other official action of the tribe.

Comment: Twenty-eight commenters agreed with the Secretary's reserving \$19.53 million for administrative capacity building and other eligible transportation activities.

Response: Accepted.

Comment: Five commenters stated administrative capacity building funds should continue and be made available as part of the new funding formula.

Response: The tribal caucus recommendation stated that this funding allocation is for fiscal year 2001 only. The temporary rule also states that this funding allocation applies only to fiscal year 2001 IRR program funding.

Comment: Five commenters opposed the \$19.53 million reserved for administrative capacity building and other eligible transportation activities.

Response: The tribal caucus recommendation was to reserve funds for administrative capacity building for fiscal year 2001 only. 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 proposed it only for fiscal year 2001 in the temporary rule.

Comment: Four commenters supported using the current relative need formula.

Response: Accepted.

Comment: One commenter stated the BIA should not use empty cells in the funding formula, but should use the regional engineer's estimates and recompute the cost to construct in that

region and distribute the remaining 25 percent of fiscal year 2001 IRR program funds to correct for the entire year.

Response: We are continuing to distribute IRR program funds for fiscal year 2001 as we have done in previous years using nationwide data in the approved relative need formula.

Comment: Twenty-one commenters support the existing relative need formula only if it includes funds for administrative capacity building.

Response: The tribal caucus recommendation was to use the current relative need formula and reserve funds for administrative capacity building for fiscal year 2001 only. 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 proposed it only for fiscal year 2001 in the temporary rule.

Comment: Twelve commenters recommend distributing program management and oversight funds in an equitable manner considering number of tribes served, difficulty, and cost to travel to provide service to tribes, and geographic location.

Response: Program management and oversight funds are part of the statutorily directed takedown and are not subject to the formula distribution.

Comment: One commenter noted that "administrative capacity building" is not defined.

Response: Accepted.

Comment: One commenter recommended immediately distributing the first part of fiscal year 2001 IRR funds and immediately making available the \$35,000 per tribe for administrative capacity building and other eligible transportation activities.

Response: Upon publication of the temporary rule on January 9, 2001, we distributed 75 percent of fiscal year 2001 IRR program funds. The portion of fiscal year 2001 IRR program funds reserved for administrative capacity building was a new provision and departed from the current relative need formula. Therefore, we were required to solicit comments from the public. Those funds necessarily must come from the second distribution to allow for consideration of comments and any appropriate changes. After considering all comments, we will distribute fiscal year 2001 IRR program funds according to the diagram shown in the January 9, 2001, **Federal Register** notice (66 FR 1578).

Comment: Twenty-nine commenters objected to the requirement that tribes submit contract applications for administrative capacity building funds

(\$35,000 per tribe from the \$19.53 million reserved) in order to receive those funds. The commenters said that the tribal caucus recommendation only required that tribes submit a tribal resolution or other official tribal action to receive the funds.

Response: The temporary rule, following the tribal caucus recommendation, required that tribes submit a scope of work, a budget, and a tribal resolution or other official tribal action in order to apply for a self-determination contract or self-governance agreement. It required that direct services tribes request the administrative capacity building services from the appropriate region.

Comment: Forty-two commenters agreed with using the Federal Highway Administration Price Trends Report with appropriate modifications for non-reporting states in the relative need formula if the report is implemented correctly; i.e., if BIA uses the most recently reported data and does not default non-reporting states to their lowest scores.

Response: Accepted.

Comment: Two commenters disagreed with using FHWA Price Trends Report as the guide for determining the cost-to-construct because the trends are taken from projects exceeding \$500,000 and most reservation projects are much less than this.

Response: The FHWA Price Trends Report indices are a reflection of the market trends for different categories of highway construction in each state. It does not determine the cost-to-construct. The cost-to-construct is determined by updates tribes/agencies submit to BIA regional offices and approved by BIA Division of Transportation. The FHWA Price Trends Report is applied consistently to all states which have federally-recognized tribes.

Comment: One commenter recommended using projected FHWA price indices for relative need formula for fiscal year 2001 IRR funds only if fiscal year 2000 4th quarter price indices have not been published by FHWA at the time regional distributions are finally calculated.

Response: The use of FHWA Price Trends Report in the current relative need formula for fiscal year 2001 is consistent with its use since 1993. Recommendations for changes in use of the FHWA Price Trends Report or its elimination are appropriate for comments to the Notice of Proposed Rulemaking for the new relative need formula as proposed the TEA-21 Negotiated Rulemaking Committee.

Comment: One commenter disagreed with modifications to the FHWA Price Trends Report and use of that data in distribution of fiscal year 2001 IRR funds.

Response: The use of FHWA Price Trends Report in the current relative need formula for fiscal year 2001 is consistent with its use since 1993. Recommendations for changes in use of the FHWA Price Trends Report or its elimination are appropriate for comments to the Notice of Proposed Rulemaking for the new relative need formula as proposed the TEA-21 Negotiated Rulemaking Committee.

Comment: Two commenters stated that \$35,000 per tribe for administrative capacity building and other eligible transportation activities is arbitrary and should be increased under certain circumstances based on need and available funding.

Response: As proposed, \$35,000 per tribe for administrative capacity building is only for fiscal year 2001 IRR program funds.

Comment: Seven commenters agreed with distributing fiscal year 2001 IRR funds in two installments.

Response: Accepted.

Comment: Six commenters objected to distributing fiscal year 2001 IRR funds in two parts, noting that the tribal caucus consensus recommendation was to distribute the funds to the BIA regions in one payment.

Response: The portion of fiscal year 2001 IRR program funds reserved for administrative capacity building was a new provision and departed from the current relative need formula. Therefore, we were required to solicit comments from the public. Those funds necessarily must come from the second distribution to allow for consideration of comments and any appropriate changes. After considering all comments, we will distribute fiscal year 2001 IRR program funds according to the diagram shown in the January 9, 2001, **Federal Register** notice (66 FR 1578).

Comment: One commenter stated that undistributed funding from the \$19.53 million should remain in the region from which it was to be appropriated.

Response: The tribal caucus recommendation states "any funds reserved by the BIA to fund administrative capacity building applications which are not needed for this purpose based on the number of applications received by August 15 shall be redistributed nationally under the relative need formula." We accepted and used the tribal caucus recommendation in the temporary rule.

Comment: Three commenters noted that the temporary rule did not include the Negotiated Rulemaking Committee's tribal caucus consensus statement that a transition distribution formula was necessary to provide tribes not already participating in the IRR program the opportunity to participate and that this should be addressed in future IRR regulations.

Response: The temporary rule provided that all tribes should be able to participate in administrative capacity building.

Comment: Three commenters noted that the temporary rule did not include the formula component diagram exactly as the committee caucus recommendation had presented it. The commenters said displaying the term "reserved" in the "takedowns" oval is misleading and should be correctly applied to the "reserved" amounts for the nationwide priority program for improving deficient IRR bridges of not less than \$13 million.

Response: The diagram as published in the temporary rule accurately reflects the current method for distributing IRR program funds under the current relative need formula. The statutorily directed takedown is not subject to formula distribution. The commenter is correct that reserved funds refer to reserved IRR bridge funds.

Comment: Three commenters noted that the temporary rule and the diagram included in it imply that the \$35,000 per tribe is intended only to be used for administrative capacity building rather than also for "other eligible transportation activities" and the diagram ignores possible allocations to regions to perform other eligible transportation activities for direct services tribes.

Response: The temporary rule provides that the funds are reserved for administrative capacity building and other eligible transportation activities.

Comment: Two commenters noted that they were hereby submitting their applications for \$35,000 for administrative capacity building and other eligible transportation activities.

Response: Accepted.

Comment: Four commenters noted that they would be submitting a scope of work, budget, and tribal resolution for administrative capacity building funds by March 15, 2001.

Response: Accepted.

Comment: One commenter stated that the BIA should distribute the remaining 25 percent of fiscal year 2001 IRR funds according to the same relative need formula used to distribute the first 75 percent of those funds.

Response: Accepted.

Comment: Thirty-seven commenters stated that although the temporary rule did not address the population factor in the relative need formula, they were commenting that BIA should not reduce Alaska's population numbers in the BIA Labor Force Report.

Response: We are continuing to distribute IRR program funds as we have in previous years under the relative need formula using data tribes provide to BIA.

Comment: Two commenters support lifting the restriction that requires funds to be used on BIA projects.

Response: All IRR program funds are eligible for use on projects, functions, services, and activities for all IRR transportation projects.

Comment: One commenter stated that each village in Alaska should not receive tribal status.

Response: IRR program funds are available for approved IRR projects for all federally recognized tribes as identified in the **Federal Register**. This comment is outside the scope of this rule.

Comment: One commenter stated that Alaska needs a separate IRR program because the relative need formula was not designed for Alaska.

Response: The IRR program was developed to serve all federally recognized tribes. This comment is outside the scope of this rule.

Comment: Two commenters noted that using adjusted mileage for Alaska in the current relative need formula is contrary to Public Law 102-381 after the relative need formula was put into place in 1993.

Response: Comments on inventory data are properly addressed in TEA-21 Section 1115 negotiated rulemaking process and comments to the Notice of Proposed Rulemaking when it is published. This comment is outside the scope of this rule.

Comment: One commenter stated that revenue from the federal fuel excise tax should be used mainly for community road maintenance and construction and should not be used for other transportation activities.

Response: This comment is outside the scope of this rule.

Comment: One commenter noted that the temporary rule does not take into account the Office of Self-Governance or the 100 percent advance payment provision of a fiscal year 2001 self-governance agreement.

Response: This comment is correct, however, this comment is properly addressed in TEA-21 Section 1115 negotiated rulemaking process and comments to the Notice of Proposed Rulemaking when it is published.

Comment: One commenter noted that each chapter of the Navajo Nation should be allocated \$35,000 for administrative capacity building.

Response: The temporary rule provides that administrative capacity building funds in the temporary rule are available to federally recognized tribes in the amount of \$35,000 per tribe.

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, 2001, 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, 2001, any undistributed funds reserved for administrative capacity building will be distributed to the appropriate BIA regions using the relative need formula.

*What Is the Deadline for Applying for Administrative Capacity Building Funds for Fiscal Year 2001 as Outlined in the January 9, 2001, **Federal Register** Notice?*

The deadline for applying for administrative capacity building funds for fiscal year 2001 is changed from March 15, 2001 to May 15, 2001.

How Will the Secretary Distribute the Remaining 25 Percent of Fiscal Year 2001 IRR Program Funds?

Upon publication of this rule, the Secretary will distribute the remaining 25 percent (approximately \$56.5 million) of fiscal year 2001 IRR program funds based on the current relative need formula used in fiscal year 2000 and in the first distribution in fiscal year 2001. From this 25 percent the Secretary is reserving \$19.53 million to distribute for administrative capacity building by the process described in the January 9, 2001, 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 a significant regulatory action because it will have an annual effect of more than \$100 million

on the economy. The total amount available for distribution of fiscal year 2001 IRR program funds is approximately \$226 million and we are distributing approximately \$56.5 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 2001 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 year 2000 IRR program funds and the first partial distribution of fiscal year 2001 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 a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because it has an annual effect on the economy of \$100 million or more. We are distributing approximately \$57.5 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 2001 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 2001 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 2001 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 year 2000 and the first part of fiscal year 2001 IRR program funds (see **Federal Register** notices at 65 FR 7431 and 66 FR 1576)) 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. The only other change from previous years is to 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 2001 Indian Reservation Roads program funds?

On March 29, 2001 we will distribute the remaining 25 percent of fiscal year 2001 IRR program funds authorized under Section 1115 of the Transportation Equity Act for the 21st Century, Public Law 105-178. 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 2001 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 May 15, 2001.

Dated: March 23, 2001.
James H. McDivitt,
Deputy Assistant Secretary—Indian Affairs (Management).
 [FR Doc. 01-7744 Filed 3-28-01; 8:45 am]
BILLING CODE 4310-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 179-0275; FRL-6954-9]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Bay Area Air Quality Management District (BAAQMD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on July 24, 1997 and concerns oxides of nitrogen (NO_x) and carbon monoxide (CO) emissions from boilers, steam generators and process heaters in petroleum refineries. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates these emission sources

and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on April 30, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

- Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901
- Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460
- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814
- Bay Area AQMD, 939 Ellis Street, San Francisco, CA 94109-7799

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1160.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

I. Proposed Action

On July 24, 1997, 62 FR 39795, EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule#	Rule title	Adopted	Submitted
BAAQMD	9.10	Nitrogen Oxides and Carbon Monoxide from Boilers, Steam Generators and Process Heaters in Petroleum Refineries.	01/05/94	07/23/96

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

Rule does not specify any test method for determination of compliance with the NO_x emission limit, and does not require recordkeeping to demonstrate compliance with the emission rate.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18

months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the BAAQMD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements