

to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation. Section 528(a)(3) authorizes law enforcement personnel of the United States Secret Service, subject to the Attorney General's supervision, to conduct or perform any kind of civil or criminal investigation which Department of Justice law enforcement personnel are authorized by law to conduct or perform related to criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation.

This order delegates to the Deputy Attorney General the Attorney General's authority under section 528(a) to accept the services of attorneys and non-law enforcement employees and to supervise such personnel in the performance of any investigation and prosecution described in that section. In addition, the order delegates to the Director, Federal Bureau of Investigation, the Attorney General's authority under section 528(a) to accept the services of law enforcement personnel and to coordinate the activities of such law enforcement personnel in the performance of any investigation and prosecution described in that section.

This order is a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of or subject to Executive Order No. 12291.

#### List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 878(a), 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 599; 31 U.S.C. 1108, 3801 *et seq.*, 50 U.S.C. App. 1969b, 2001-2017p; Public Law 91-513, sec. 501; EO 11919; EO 11267; EO 11300; Public Law 101-203.

2. Section 0.15 is amended by adding paragraph (g) to read as follows:

#### § 0.15 Deputy Attorney General.

(g) The Deputy Attorney General is authorized to exercise the authority vested in the Attorney General under section 528(a), Public Law 101-509, to accept from federal departments and agencies the services of attorneys and non-law enforcement personnel to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and to supervise such personnel in the conduct of such investigations and prosecutions.

3. Section 0.85 is amended by adding paragraph (n) to read as follows:

#### § 0.85 General functions.

(n) Exercise the authority vested in the Attorney General under section 528(a), Public Law 101-509, to accept from federal departments and agencies the services of law enforcement personnel to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and to coordinate the activities of such law enforcement personnel in the conduct of such investigations and prosecutions.

Dated: March 1, 1991.

Dick Thornburgh,  
Attorney General.

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 228

#### RIN 1010-AB36

### Removal of Federal Funding Limitation for State and Indian Cooperative Agreements

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending its regulations governing the funding of cooperative agreements with States or Indian tribes. The amended regulations will permit the Federal Government to fund up to 100 percent of the costs of eligible activities under a cooperative agreement with a State or Indian tribe.

**EFFECTIVE DATE:** April 12, 1991.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432 or (FTS) 328-3432.

**SUPPLEMENTARY INFORMATION:** The principal author of this final rulemaking is Marvin D. Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

#### I. Background

Section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1732, authorizes the Secretary of the Interior to enter into a cooperative agreement with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under FOGRMA and to carry out other activities described in section 106 of FOGRMA. The MMS's implementing regulations at 30 CFR part 228 provide that the Federal share of funding of such activities is limited to not more than 50 percent of the cost of eligible activities as established under the terms of the cooperative agreement.

In February 1988, the Special Committee on Investigations of the U.S. Senate Select Committee on Indian Affairs (Select Committee) initiated a comprehensive investigation into the Federal Government's relationship with American Indians. On May 12, 1989, MMS representatives testified before the Committee that MMS was committed to work to improve services to the Indian community. To fulfill that commitment, the MMS Director created a task force to evaluate the Committee's concerns and develop an improvement plan. The MMS task force, with input from State and tribal auditors, Indian tribes and allottees, and MMS royalty management personnel, identified several initiatives to improve services to the Indian community. One of these initiatives was to remove the 50-percent Federal funding limitation on cooperative agreements provided for in 30 CFR 228.105 and 228.107. The task force recommended that the funding for Indian cooperative agreements should be the same as delegated agreements with States pursuant to section 205 of FOGRMA, 30 U.S.C. 1735, which are reimbursed at 100 percent, to provide equity for all groups.

In July 1989, MMS requested formal review of the proposed improvements by the Department of the Interior's Royalty Management Advisory

Committee (RMAC). The RMAC, chartered by the Secretary of the Interior to advise him on royalty management issues, is comprised of representatives from industry, States, and Indian tribes and allottees. The RMAC established a work panel representing these constituent interests to review the proposed initiatives and provide recommendations to RMAC. Based on recommendations of the work panel, RMAC accepted the proposed initiative to remove the 50-percent Federal funding limitation on cooperative agreements. The RMAC made this recommendation in its final report to the Secretary on September 13, 1989. The RMAC recommended the proposed initiative to be responsive to Indian tribal concerns. The RMAC also concluded that the proposed initiative provides more equity in the funding of State and Indian audit agreements, and that it could increase the number of cooperative agreements in the future.

During September 1989, MMS provided the Select Committee with a list of proposed improvements and a copy of the RMAC report. The Select Committee was advised that the proposed initiatives for improvements would be incorporated into an MMS Action Plan. The MMS Action Plan was published in February 1990 and included an action item to propose to modify existing regulations governing section 202 cooperative agreements to allow 100 percent reimbursement for eligible cooperative agreement audit costs.

The MMS published a Notice of Proposed Rulemaking in the *Federal Register* on August 9, 1990 (55 FR 32448), proposing to amend its regulations to remove the 50-percent funding limitation. In response to the proposed rulemaking, MMS received comments from four interested parties. All of the comments were considered in the final rule and are discussed in section II below. The final rule is summarized and discussed in section III below.

## II. Comments Received on Proposed Rule

As stated above, MMS published a Notice of Proposed Rulemaking in the *Federal Register* on August 9, 1990 (55 FR 32448). The proposed rule provided for a 30-day public comment period which ended September 10, 1990. Four commenters (three Indian representatives and one State) submitted comments in response to the proposed rulemaking.

The three Indian commenters expressed strong support for adoption of the proposed amendment to remove the Federal funding limitation on cooperative agreements. Although the

State representative did not specifically express support for the proposed rule, the State's concurrence was implied by a requested amendment to section 202 of FOGRMA. The State representative recommended that section 202 be amended to include an option for a State to enter into an agreement with MMS without reimbursement by MMS as a mandatory requirement of the cooperative agreement.

*Response:* Paragraph (c) of section 202 of FOGRMA states that any cooperative agreement shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of the Act. Because the Secretary or his designated representative has the authority to specify terms and conditions in a cooperative agreement, MMS does not consider it necessary for section 202 to be amended to include the recommended option. In any event, FOGRMA amendments must be enacted by Congress.

However, based on the State commenter's recommendation, MMS has amended §§ 228.100 and 228.105 of the final rule to provide for cooperative agreements without a requirement for Federal funding. If a cooperative agreement provides for Federal funding, the amount of costs to be reimbursed would be established under the terms of the cooperative agreement, up to 100 percent of the costs of eligible activities.

The State representative also pointed out an error in the Supplementary Information section of the proposed rule relative to MMS's statement that: "Although a State can enter into a cooperative agreement under the provisions of section 202 of FOGRMA and 30 CFR Part 228, no State has requested to do so." The representative referred to an application for a cooperative agreement that had been filed by his State, which is in the process of being reviewed by MMS. Therefore the above statement in the proposed rule was incorrect.

## III. Summary of Final Rule

The final rulemaking amends existing MMS regulations at paragraph (a) Of §§ 228.105 and 228.107 to remove the 50-percent Federal funding limitation. Under the final rule, MMS may reimburse States and Indian tribes up to 100 percent of eligible costs based on the satisfactory performance of activities as established under the terms of the cooperative agreement. The final rule also adds a new paragraph (c) under § 228.100 and a new § 228.105(a)(2) to provide for cooperative agreements without a requirement for Federal funding. The

reference to 48 CFR 31.107 and 31.6 included under § 228.105(a) of the proposed rule was redesignated, with clarification, as a new § 228.103(b) of the final rule for organizational purposes.

## IV. Procedural Matters

### *Executive Order 12291 and the Regulatory Flexibility Act*

The Department has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### *Executive Order 12830*

Because this rule would result in an increase in funds to States and Indian tribes that have entered into a cooperative agreement, the Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12830, "Government Action and Interference with Constitutionally Protected Property Rights."

### *Paperwork Reduction Act of 1980*

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* Public reporting burden for this collection of information is estimated to average 152 hours per response, including the time for reviewing instructions, searching existing data resources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Mail Stop 2300, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070, and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

### *National Environmental Policy Act of 1969*

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

**List of Subjects in 30 CFR Part 228**

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: January 3, 1991.

James M. Hughes,  
Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 228 is amended as set forth below:

**PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES**

1. The authority citation for part 228 continues to read as follows:

Authority: Federal Oil and Gas Royalty Management Act of 1962 (30 U.S.C. 1701 *et seq.*).

2. Section 228.100, under subpart C, add a new paragraph (c) to read as follows:

**§ 228.100 Entering into an agreement.**

(c) The eligible activities to be conducted under the terms of a cooperative agreement may be funded or unfunded by the Department. See § 228.105 of this subpart for funding of cooperative agreements.

3. Section 228.103, under subpart C, redesignate and revise the existing paragraph as paragraph (a) and add a new paragraph (b) to read as follows:

**§ 228.103 Maintenance of records.**

(a) The State or Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials for a period specified by MMS. All records and support materials must be available for inspection and review by appropriate personnel of the Department including the Office of the Inspector General.

(b) The State or Indian tribe shall maintain all books and records as may be necessary to assure compliance with the provisions of chapter 1, 48 CFR 31.107 and 48 CFR subpart 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

(4) Section 228.105, under subpart C, revise paragraph (a) and add a new paragraph (c) to read as follows:

**§ 228.105 Funding of cooperative agreements.**

(a)(1) The Department may, under the terms of the cooperative agreement, reimburse the State or Indian tribe up to

100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement.

(2) A cooperative agreement may be entered into with a State or Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.

(c) The State or Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. The State or Indian tribe must provide the Department a summary of costs incurred, for which the State or Indian tribe is seeking reimbursement, with the voucher.

5. Section 228.107, under subpart C, revise paragraph (a) to read as follows:

**§ 228.107 Eligible cost of activities.**

(a) If a cooperative agreement provides for Federal funding, only costs directly associated with eligible activities undertaken by the State or Indian tribe under the terms of a cooperative agreement will be eligible for reimbursement. Costs of services or activities which cannot be directly related to the support of activities specified in the agreement will not be eligible for Federal funding or for inclusion in the State's share or in the Indian tribe's share of funding that may be established in the agreement.

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD13 90-13]

**Drawbridge Operation Regulations; Duwamish Waterway, WA**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** At the request of the Seattle Engineering Department (SED), the Coast Guard is changing the regulations governing the First Avenue South highway bridge across the Duwamish Waterway, mile 2.5, at Seattle, Washington, by lengthening the weekday morning and evening periods during which the bridge need not open for the passage of vessels (closed periods). This change is being made because of increases in both the volume and duration of vehicular traffic during

morning and afternoon peak periods. The change will extend morning and afternoon closed periods by one hour each. Morning closed periods will be from 6 a.m. to 9 a.m. and evening closed periods will be from 3 p.m. to 6 p.m. This action should accommodate the needs of increased vehicular traffic and should still provide for the reasonable needs of navigation.

Also, the Coast Guard is revoking the regulations governing the Spokane Street highway bridge across the Duwamish West Waterway, mile 0.3, at Seattle, Washington. The bridge has been removed from the waterway and is being replaced with a new bridge which will provide greater navigation clearances.

**DATES:** These regulations become effective on April 12, 1991.

**FOR FURTHER INFORMATION CONTACT:** John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch (Telephone: (206) 553-5864).

**SUPPLEMENTARY INFORMATION:** On August 17, 1990, the Coast Guard published a proposed rule (55 FR 33723) concerning the First Avenue South Bridge. The Commander, Thirteenth Coast Guard District, also published the proposal as Public Notice 90-N-06, dated August 17, 1990. In each notice interested persons were given until October 1, 1990 to submit comments.

**Drafting Information**

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Deborah K. Schram, project attorney.

**Discussion of Comments**

Three comments were received concerning the First Avenue South Bridge. Two were from federal resource agencies who routinely respond to our public notices. Both had no objection to the proposed change. The third comment was from a barge and towing industry association. The commenter was concerned that the change would adversely affect scheduled departures of some barge line operators, citing a weekly 3:45 p.m. departure of one operator. We have carefully considered this comment and have decided that the requested increase in closed period time is not excessive and that barge operators can easily reschedule their departure times to accommodate it. Since the publication of the Notice of Proposed Rulemaking in August 1990, it was determined that the Spokane Street Bridge has been removed from the waterway. Accordingly, the portion of the final rule governing the First Avenue