

review in the court of appeals of any order issued by the Oil Pipeline Board. The filing of a request for rehearing is not a prerequisite to the filing of a petition for review in the court of appeals of any order issued by the Commission pursuant to the Interstate Commerce Act.

(c) All appeals of staff action that were timely filed prior to [insert date of issuance of final rule] and that had not been acted upon by the Commission on their substantive merits are deemed to be timely filed requests for rehearing of final agency action. All notices issued by the Commission prior to [insert date of issuance of final rule] stating the Commission's intent to act on appeals of staff action such that they are not deemed denied by the expiration of a 30-day period after the filing of the appeal, are deemed to be orders granting rehearing of final agency action for the sole purpose of further consideration, unless the Commission issued an order on the substantive merits of the appeal prior to [insert date of issuance of final rule]. No later than (insert date that is 30 days after date of issuance of final rule), persons who had timely filed appeals of staff action prior to (insert date of issuance of final rule) which were pending before the Commission on that date may file additional pleadings to update or supplement those appeals.

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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: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) is proposing to amend its regulations governing the funding of cooperative agreements with States or Indian tribes. The amendments would remove the 50-percent limitation in the current regulations for the Federal share of funding of eligible activities under cooperative agreements. The amended regulations would permit the Federal Government to fund 100 percent of eligible activities under a cooperative agreement with a State or Indian tribe.

DATES: Comments must be received on or before September 10, 1990.

ADDRESSES: Written comments should be mailed to the Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 3910, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

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 proposed rulemaking is Marvin D. Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

Section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1719, authorizes the Secretary of the Interior to enter into a cooperative agreement with any State or Indian tribe to share oil and 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 108 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, 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 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 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 and 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.

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. Several States have elected to petition for a delegation of authority for audit activities under section 205 of FOGRMA and implementing regulations at 30 CFR part 229 which provide for a 100 percent reimbursement of eligible costs. Removal of the 50-percent funding limitation on the Federal share of costs under a cooperative agreement may encourage States who do not have a delegation of authority to enter into cooperation agreements since audit costs would be eligible for 100 percent reimbursement.

This proposed rulemaking would amend existing MMS regulations at 30 CFR 228.105 and 228.107 to remove the 50-percent Federal funding limitation under a State or an Indian cooperative agreement. Under the proposed rule, MMS will only reimburse States and Indian tribes for eligible costs based on the satisfactory performance of activities as established under the terms of the cooperative agreement.

The policy of the Department is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the ADDRESSES section of this Notice. Comments must be received on or before the day specified in the DATES section of this Notice.

II. 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 12630

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 12630, "Government Action and

Interference with Constitutionally Protected Property Rights."

Paperwork Reduction Act of 1980

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

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: June 13, 1990.

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

For the reasons set out in the preamble, 30 CFR part 228 is proposed to be 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 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 228.105, under subpart C, is amended to revise paragraph (a) and to

add a new paragraph (c) to read as follows:

228.105 Funding of cooperative agreements.

(a) The Department of the Interior shall reimburse the State or Indian tribe for eligible activities undertaken under the terms of the cooperative agreement. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement. The State or Indian tribe shall maintain books and records in accordance with chapter 1, 48 CFR subpart 31.107 and 48 CFR 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

(b) . . .

(c) The State or Indian tribe shall submit a voucher for reimbursement of 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.

3. Paragraph (a) of § 228.107, under subpart C, is revised to read as follows:

228.107 Eligible cost of activities.

(a) 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 Federal funding. 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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