

§ 3192.3

(b) Tribes may join together to apply for a multi-tribe cooperative agreement.

(c) The Governor of a State having a Tribal resolution from the Tribe with jurisdiction over the Indian lands, permitting the Governor to enter into a cooperative agreement, may apply for a cooperative agreement with BLM.

§ 3192.3 What must a Tribe or State include in its application for a cooperative agreement?

(a) To apply for a cooperative agreement you must complete—

(1) Standard Form 424, Application for Federal Assistance;

(2) Standard Form 424A, Budget Information—Non-Construction Programs; and

(3) Standard Form 424B, Assurances—Non-Construction Programs.

(b) You must describe the type and extent of oil and gas inspection, enforcement, and investigative activities proposed under the agreement and the period of time the proposed agreement will be in effect (See section 11 of Standard Form 424).

(c) You may include allotted lands under an agreement with the written consent of all allottees or their heirs. BLM will ask the Bureau of Indian Affairs (BIA) to verify that the Tribe or State has obtained all of the necessary signatures to commit 100 percent of each individual tract of allotted lands to the agreement.

§ 3192.4 What is the term of a cooperative agreement?

Cooperative agreements can be in effect for a period from 1 to 5 years from the effective date of the agreement, as set out in the agreement.

§ 3192.5 How do I modify a cooperative agreement?

You may modify a cooperative agreement by having all parties to the agreement consent to the change in writing. If the agreement is with a State, and the modification would affect the duration or scope of the agreement, then the State must obtain the written consent of the affected Tribe and/or allottee or heir.

43 CFR Ch. II (10–1–04 Edition)

§ 3192.6 How will BLM evaluate my request for proprietary data?

BLM will evaluate Tribal or State requests for proprietary data on a case-by-case basis according to the requirements of § 3190.1 of this part.

§ 3192.7 What must I do with Federal assistance I receive?

You must use Federal assistance that you receive only for costs incurred which are directly related to the activities carried out under the cooperative agreement.

§ 3192.8 May I subcontract activities in the agreement?

You must obtain BLM's written approval before you subcontract any activities in the agreement with the exception of financial audits of program funds that are required by the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*).

§ 3192.9 What terms must a cooperative agreement contain?

The cooperative agreement must—

(a) State its purpose, objective, and authority;

(b) Define terms used in the agreement;

(c) Describe the Indian lands covered;

(d) Describe the roles and responsibilities of BLM and the Tribe or State;

(e) Describe the activities the Tribe or State will carry out;

(f) Define the minimum performance standards to evaluate Tribal or State performance;

(g) Include provisions to—

(1) Protect proprietary data, as provided in § 3190.1 of this part;

(2) Prevent conflict of interest, as provided in § 3192.14(d);

(3) Share civil penalties, as provided in § 3192.11; and

(4) Terminate the agreement;

(h) List BLM and Tribal or State contacts;

(i) Avoid duplication of effort between BLM and the Tribe or State when conducting inspections;

(j) List schedules for—

(1) Inspection activities;

(2) Training of Tribal or State inspectors;

(3) Periodic reviews and meetings;

(k) Specify the limit on the dollar amount of Federal funding;

Bureau of Land Management, Interior

§ 3192.15

(l) Describe procedures for Tribes or States to request payment reimbursement;

(m) Describe allowable costs subject to reimbursement; and

(n) Describe plans for BLM oversight of the cooperative agreement.

§ 3192.10 What costs will BLM pay?

(a) BLM will pay expenses allowed under part 12, subpart A, Administrative and Audit Requirements and Cost Principles for Assistance Programs, of this title.

(b) BLM will fund the agreements up to 100 percent of allowable costs.

(c) Funding is subject to the availability of BLM funds.

(d) Funding for cooperative agreements is subject to the shared civil penalties requirement of § 3192.11.

§ 3192.11 How are civil penalties shared?

(a) Civil penalties that the Federal Government collects resulting from an activity carried out by a Tribe or State under a cooperative agreement are shared equally between the inspecting Tribe or State and BLM.

(b) BLM must deduct the amount of the civil penalty paid to the Tribe or State from the funding paid to the Tribe or State for the cooperative agreement.

§ 3192.12 What activities may Tribes or States perform under cooperative agreements?

Activities carried out under the cooperative agreement must be in accordance with the policies of the appropriate BLM State or field office and as specified in the agreement, and may include—

(a) Inspecting Tribal or allotted oil and gas leases for compliance with BLM regulations;

(b) Issuing initial Notices of Incidents of Non-Compliance, Form 3160-9, and Notices to Shut Down Operations, Form 3160-12;

(c) Conducting investigations; or

(d) Conducting oil transporter inspections.

§ 3192.13 What responsibilities must BLM keep?

(a) Under cooperative agreements, BLM continues to—

(1) Issue Notices of Incidents of Non-compliance that impose monetary assessments and penalties;

(2) Collect assessments and penalties;

(3) Calculate and distribute shared civil penalties;

(4) Train and certify Tribal or State inspectors;

(5) Issue and regulate inspector identification cards; and

(6) Identify leases to be inspected, taking into account the priorities of the Tribe. Priorities for allotted lands will be established through consultation with the BIA office with jurisdiction over the lands in the agreement.

(b) If BLM enters into a cooperative agreement, that agreement does not affect BLM's right to enter lease sites to conduct inspections, enforcement, investigations or other activities necessary to supervise lease operations.

§ 3192.14 What are the requirements for Tribal or State inspectors?

(a) Tribal or State inspectors must be certified by BLM before they conduct independent inspections on Indian oil and gas leases.

(b) The standards for certifying Tribal or State inspectors must be the same as the standards BLM uses for certifying BLM inspectors.

(c) Tribal and State inspectors must satisfactorily complete on-the-job and classroom training in order to qualify for certification.

(d) Tribal or State inspectors must not—

(1) Inspect the operations of companies in which they, a member of their immediate family, or their immediate supervisor, have a direct financial interest; or

(2) Use for personal gain, or gain by another person, information he or she acquires as a result of his or her participating in the cooperative agreement.

§ 3192.15 May cooperative agreements be terminated?

(a) Cooperative agreements may be terminated at any time if all parties agree to the termination in writing.