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(c) Funding shall be subject to the availability of funds.

(d) States, Indian tribes or contractors shall maintain financial records relating to the funds received and expended under a delegation of authority, cooperative agreement or contract as specified in the delegation of authority, cooperative agreement or contract.

(e) Reimbursement shall be at least quarterly and only shall be made upon submission of an invoice or request for reimbursement to the authorized officer.

[52 FR 27182, July 17, 1987, as amended at 62 FR 49586, Sept. 22, 1997]

§ 3190.2-3 Audit.

In maintaining financial records relating to the funds received and expended under a delegation of authority, cooperative agreement, or contract, States, Indian tribes and contractors shall comply with generally accepted accounting principles and audit requirements established by the Department of the Interior and Bureau of Land Management.

§ 3190.3 Sharing of civil penalties.

Fifty percent of any civil penalty collected by the United States as a result of activities carried out by a State under a delegation of authority or a State or Indian tribe under a cooperative agreement shall be payable to that State or Indian tribe upon receipt by the United States. Such amount shall be deducted from compensation due to the State or Indian tribe by the United States under the delegation of authority or cooperative agreement.

§ 3190.4 Availability of information.

Information in the possession of the Bureau of Land Management that is necessary to carry out activities authorized by delegations of authority, cooperative agreements, or contracts entered into under this part will be provided by the BLM to the States and Indian tribes party to such agreements. Release of proprietary data shall be subject to the provisions of § 3190.1 of this part.

[56 FR 2998, Jan. 25, 1991]

43 CFR Ch. II (10-1-06 Edition)

Subpart 3191—Delegation of Authority

§ 3191.1 Petition for delegation.

§ 3191.1-1 Petition.

The Governor or other authorized official of any eligible State may request in writing that the Director delegate all or part of his/her authority and responsibility for inspection, enforcement and investigation on oil and gas leases on Federal lands within the State and on Indian lands within the State where the affected Indian tribe or Indian allottee has given written permission for such inspection, enforcement and investigation. Requests by a State for delegation of other activities may be granted by the Director with the approval of the Secretary.

§ 3191.1-2 Eligibility.

Any State with producing oil or gas leases on Federal or Indian lands may request a delegation of authority.

§ 3191.1-3 Action upon petition.

Upon request for a delegation of authority, the Director shall determine if:

(a) The State has proposed an acceptable plan for carrying out the delegated activities and will provide adequate resources to achieve the purposes of 30 U.S.C. 1735. This plan shall, at a minimum:

(1) Identify specific authorities and responsibilities for which the State is requesting a delegation of authority and whether it is applicable to Federal lands only or includes Indian lands;

(2) Provide evidence of written permission of the affected Indian tribe(s) or allottee(s) for such lands;

(3) Include specifics for carrying out the delegated activities;

(4) Indicate the inspector resources for carrying out the delegated activities and documentation of inspector qualifications;

(5) Describe the proposed record keeping for funding purposes;

(6) Detail the frequency and method of payment; and

(7) Include copies of any non-Federal forms that are to be used.

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(b) The State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Department of the Interior in accordance with the provisions of 30 U.S.C. 1735.

(c) The delegation will be carried out in coordination with activities retained by the Bureau so that such delegation will not create an unreasonable burden on any lessee.

§ 3191.1-4 Public hearing on petition.

Prior to the granting of any delegation of authority, the notice of proposed delegation shall be published in the FEDERAL REGISTER. The FEDERAL REGISTER notice shall provide an opportunity for a public hearing in the affected State.

§ 3191.2 Terms of delegation.

(a) Delegations shall be continuing, contingent upon available funding, providing that there is an annual finding by the Director that the provisions of the delegation and the mineral leasing laws are still being carried out and that the requirements of §3191.1-3 (a), (b) and (c) of this title are still in effect.

(b) Authority delegated to a State under this subpart shall not be redelegated.

(c) The State regulatory authority shall maintain sufficient qualified, personnel to comply with the terms and purpose of the delegation.

(d) Inspection identification cards shall be issued by the authorized officer to all certified State inspectors for the purpose of identifying the bearer as an authorized representative of the Secretary. Identification cards remain the property of the United States.

(e) The delegation shall provide for coordination with designated offices of the Bureau of Land Management, the Minerals Management Service, and, where appropriate, the Bureau of Indian Affairs, Forest Service, and other surface management agencies.

(f) The delegation shall provide for annual program review.

(g) The delegation shall provide for annual budget and program reporting in conjunction with the Federal Budget process.

(h) The Director reserves the right to make inspections on Federal and Indian leases inspected by a State under this subpart for the purpose of evaluating the manner in which the delegation is being carried out.

(i) The Director reserves the right to act independently to carry out his/her responsibilities under the law.

§ 3191.3 Termination and reinstatement.

§ 3191.3-1 Termination.

(a) The delegation may be terminated by mutual written consent at any time.

(b) The Director may revoke a delegation if it is determined that the State has failed to meet the minimum standards for complying with the delegated authority.

(c) Prior to any action to revoke a delegation, the Director shall notify the State in writing of the deficiencies in the program leading to such revocation.

(d) Upon notification of intent to revoke a delegation, the State shall have 30 days to respond with a plan to correct the cited deficiencies. If the Director determines that the plan of correction is acceptable, the Director shall then approve the plan and specify the timeframe within which the cited deficiencies shall be corrected.

(e) In the event the Director makes a determination to revoke a delegation of authority, the State shall be provided an opportunity for a hearing prior to final action.

§ 3191.3-2 Reinstatement.

Terminated delegations of authority may be reinstated as set out below:

(a) For a delegation terminated by mutual consent under §3191.3-1(a) of this title, the State shall apply for reinstatement by filing a petition with the Director, who shall determine whether such reinstatement should be granted.

(b) For a delegation of authority revoked by the Director, the State shall file a petition requesting reinstatement. In applying for reinstatement, the State shall provide written evidence that it has remedied all defects for which the delegation was revoked