

## § 227.801

(3) Coordinate on-site visits and Office of the Inspector General, General Accounting Office, and MMS audits of your performance of your delegated functions; and

(4) Maintain reports of its monitoring activities.

### § 227.801 What if a State does not adequately perform a delegated function?

If your performance of the delegated function does not comply with your delegation agreement, or the *Standards*, or if MMS finds that you can no longer meet the statutory requirements under §227.106, then MMS may:

(a) Notify you in writing of your non-compliance or inability to comply. The notice will prescribe corrective actions you must take, and how long you have to comply. You may ask MMS for an extension of time to comply with the notice. In your extension request you must explain why you need more time; and

(b) If you do not take the prescribed corrective actions within the time that MMS allows in a notice issued under paragraph (a) of this section, then MMS may:

(1) Initiate proceedings under §227.802 to terminate all or a part of your delegation agreement;

(2) Withhold compensation provided to you under §227.112; and

(3) Perform the delegated function, before terminating or without terminating your delegation agreement, including, but not limited to, issuing a demand or order to a Federal lessee, or its designee, or any other person when:

(i) Your failure to issue the demand or order would result in an underpayment of an obligation due MMS; and

(ii) The underpayment would go uncollected without MMS intervention.

### § 227.802 How will MMS terminate a State's delegation agreement?

This section explains the procedures MMS will use to terminate all or a part of your delegation agreement:

(a) MMS will notify you in writing that it is initiating procedures to terminate your delegation agreement;

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(b) MMS will provide you notice and opportunity for a hearing under §227.803 of this part;

(c) The MMS Director, with concurrence from the Secretary, will decide whether to terminate your delegation agreement.

(d) After the hearing, MMS may:

(1) Terminate your delegation agreement; or

(2) Allow you 30 days to correct any remaining deficiencies. If you do not correct the deficiency within 30 days, MMS will terminate all or a part of your delegation agreement.

(e) MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

### § 227.803 What are the hearing procedures for terminating a State's delegation agreement?

(a) The MMS Director will appoint a hearing official to conduct one or more public hearings for fact finding and to determine any actions you must take to correct the noncompliance. The hearing official will not decide whether to terminate your delegation agreement;

(b) The hearing official will contact you about scheduling a hearing date and location;

(c) The hearing official will publish notice of the hearing in the FEDERAL REGISTER and other appropriate media within your State;

(d) At the hearing, you will have an opportunity to present testimony and written information on your ability to perform your delegated functions as required under this part, your delegation agreement, and the *Standards*;

(e) Other persons may attend the hearing and may present testimony and written information for the record;

(f) MMS will record the hearing;

(g) After the hearing, MMS may require you to submit additional information; and

(h) Information presented at each public hearing will help MMS to determine whether:

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(1) You have complied with the terms and conditions of your delegation agreement; or

(2) You have the capability to comply with the requirements under § 227.106 of this part.

### § 227.804 How else may a State's delegation agreement terminate?

You may request MMS to terminate your delegation at any time by submitting your written notice of intent 6 months prior to the date on which you want to terminate. MMS will determine the date your agreement is terminated and will notify you of that date in writing. MMS will determine the termination date based on the number of delegated functions and the impact of the termination on all affected parties.

### § 227.805 How may a State obtain a new delegation agreement after termination?

After your delegation agreement is terminated, you may apply again for delegation by beginning with the proposal process under this part.

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

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AUTHORITY: Sec. 202, Pub. L. 97-451, 96 Stat. 2457 (30 U.S.C. 1732).

SOURCE: 49 FR 37348, Sept. 21, 1984, unless otherwise noted.

## Subpart A—General Provisions

### § 228.1 Purpose.

It is the purpose of cooperative agreements to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system as indicated at 30 U.S.C. 1701.

### § 228.2 Policy.

It shall be the policy of DOI to enter into cooperative agreements with States and Indian tribes to carry out audits and related investigations and enforcement actions whenever a State or tribe initiates a request to enter into an agreement and a finding is made that a State or tribe has the ability to carry out cooperative activities in a timely and efficient manner.

### § 228.3 Limitation on applicability.

As of the effective date of this rule, September 11, 1997, this part does not apply to Federal lands.

[62 FR 43091, Aug. 12, 1997]

### § 228.4 Authority.

The Secretary of the Interior is authorized to enter into cooperative agreements with States and Indian tribes (30 U.S.C. 1732) to share oil or gas royalty management information, and to carry out auditing and related investigation or enforcement activities in cooperation with the Secretary.

### § 228.5 Delegation of authority.

(a) Authority to enter into cooperative agreements to carry out audit and related investigation and enforcement activities with State and tribal governments has been delegated to the Director of the Minerals Management Service (MMS).

(b) Authority to enter into cooperative agreements with State and tribal governments to carry out inspection and related investigation and enforcement activities has been delegated to the Director of the Bureau of Land Management (BLM) and is not covered by this part.