

**§ 3141.5-3 Royalties and rentals.**

(a) The royalty rate on all combined hydrocarbon leases or tar sand leases is 12½ percent of the value of production removed or sold from a lease. The Minerals Management Service shall be responsible for collecting and administering royalties.

\* \* \* \* \*

(d) The rental rate for a tar sand lease shall be \$1.50 per acre for the first 5 years and \$2.00 per acre for each year thereafter.

\* \* \* \* \*

■ 20. Revise § 3141.5-4 to read as follows:

**§ 3141.5-4 Lease size.**

Combined hydrocarbon leases or tar sand leases in Special Tar Sand Areas shall not exceed 5,760 acres.

■ 21. Revise § 3141.6-2 to read as follows:

**§ 3141.6-2 Publication of a notice of competitive lease offering.**

(a) Combined Hydrocarbon Leases. Where a determination to offer lands for competitive leasing is made, a notice shall be published of the lease sale in the **Federal Register** and a newspaper of general circulation in the area in which the lands to be leased are located. The publication shall appear once in the **Federal Register** and at least once a week for 3 consecutive weeks in a newspaper, or for other such periods deemed necessary. The notice shall specify the time and place of sale; the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and shall state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

(b) Tar Sand Leases or Oil and Gas Leases. At least 45 days prior to conducting a competitive auction, lands to be offered for a competitive lease sale shall be posted in the proper BLM office having jurisdiction over the lands as specified in § 1821.2-1(d) of this title, and shall be made available for posting to surface managing agencies having jurisdiction over any of the included lands.

■ 22. Amend § 3141.6-3 by redesignating paragraphs (a) through (f) as paragraphs (a)(1) through (a)(6), respectively; and by adding new paragraphs (a) introducing text, (b), and (c) to read as follows:

**§ 3141.6-3 Conduct of sales.**

(a) *Combined Hydrocarbon Leases.*

\* \* \* \* \*

(b) *Oil and Gas Leases.* Lease sales for oil and gas leases will be conducted using the procedures for oil and gas leases in § 3120.5 of this title.

(c) *Tar Sand Leases.* (1) Parcels shall be offered by oral bidding.

(2) The winning bid shall be the highest oral bid by a qualified bidder, equal to or exceeding \$2.00 per acre.

(3) Payments shall be made as provided in § 3120.5-2 of this title.

■ 23. Amend § 3141.6-5 by revising the section heading to read as follows:

**§ 3141.6-5 Fair market value for combined hydrocarbon leases.****Subpart 3142—Paying Quantities/ Diligent Development**

■ 24. Revise the heading of subpart 3142 to read as follows:

**Subpart 3142—Paying Quantities/ Diligent Development for Combined Hydrocarbon Leases**

■ 25. Amend § 3142.0-5 by revising paragraph (a) to read as follows:

**§ 3142.0-5 Definitions.**

\* \* \* \* \*

(a) Production, in compliance with an approved plan of operations and by nonconventional methods, of oil and gas which can be marketed; or

\* \* \* \* \*

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**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Part 303**

[Docket No. FMCSA-2002-13248]

RIN 2126-AA79

**Title VI Regulations for Federal Motor Carrier Safety Administration Financial Assistance Recipients**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FMCSA adopts as final its interim regulations at 49 CFR part 303 governing civil rights matters, consistent with the savings provision of section 106(b) of the Motor Carrier Safety Improvement Act of 1999. As with the interim rule, this final rule clarifies and modifies the applicability of certain

Federal Highway Administration (FHWA) and Departmental umbrella Title VI provisions of the Civil Rights Act of 1964, and related nondiscrimination statutes, as they apply to FMCSA Federal financial assistance recipients. Part 303 was created to provide FMCSA with initial guidelines and procedures, as well as future FMCSA Title VI implementing regulations and any future guidelines on Title VI compliance. FMCSA removed itself from the FHWA Title VI regulations in 23 CFR part 200 to avoid confusion, while not altering the substantive Title VI obligations of FMCSA and its grantees. FMCSA remains subject to the Departmental umbrella Title VI regulations in 49 CFR part 21 and will develop as needed further guidelines and procedures to assure effective and consistent implementation for financially assisted recipients. We have not made any changes to the interim rules in part 303, and we adopt the interim regulations as final without change.

**DATES:** This Final Rule is effective on November 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carmen Sevier, Office of Civil Rights (MC-CR), DOT Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-4330, or e-mail [Carmen.Sevier@fmcsa.dot.gov](mailto:Carmen.Sevier@fmcsa.dot.gov). Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Where Can You Get Copies of This Final Rule?**

You may download this document from <http://www.archives.gov/federal/register> by clicking on today's **Federal Register**; from the Department of Transportation's electronic docket at the URL address: <http://dms.dot.gov>, identified by docket FMCSA-2002-13248 and key in the last five digits of this docket number; or you can contact the person listed under **FOR FURTHER INFORMATION CONTACT** to request a copy.

**Background**

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. No. 105-159, 113 Stat. 1748, December 9, 1999), created the Federal Motor Carrier Safety Administration (FMCSA) and transferred to FMCSA certain motor carrier safety and related responsibilities. Prior to MCSIA, the powers and authorities transferred to the FMCSA had been exercised by various entities within the Department. FMCSA consequently was charged with

enforcing motor carrier safety requirements previously enforced by its predecessors: the former Federal Highway Administration (FHWA) Office of Motor Carriers; the former FHWA Office of Motor Carrier and Highway Safety; and the former Office of Motor Carrier Safety within the DOT.

Section 106(b) of MCSIA contained a “savings provision” which, among other things, preserved for FMCSA the applicability of various rules and regulations that were applicable to its predecessor agencies and offices. Among those regulations are certain FHWA nondiscrimination protections and provisions that implement Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d, *et seq.*, and related nondiscrimination statutes). The FHWA’s regulations in 23 CFR part 200 are applicable to recipients of Federal grant and cooperative agreement aid. Those regulations, promulgated by FHWA in 1975 and 1976, supplemented the Departmental umbrella Title VI protections in 49 CFR part 21.

#### Interim Final Rule (IFR)

FMCSA published an IFR in the **Federal Register** on February 14, 2005 (70 FR 7411) which established Part 303 for FMCSA Title VI implementing regulations by adopting the Departmental Title VI provisions under 49 CFR part 21. The interim regulations in Part 303 were intended to provide initial guidelines and procedures for future FMCSA Title VI implementing regulations and any future guidelines on Title VI compliance. FMCSA clarified the Title VI authorities covering FMCSA programs by deleting references specific to only FHWA programs and by stating the applicability of the Department-wide Title VI regulations to FMCSA. We invited public comment on the IFR and the 60-day comment period closed April 15, 2005. We did not receive any comments on the IFR.

#### Title VI

Title VI states that, “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.” In addition, Title VI and the other related nondiscrimination statutes<sup>1</sup> bar

intentional discrimination, as well as disparate impact discrimination, which is a neutral policy or practice that has an unequal and adverse impact on protected groups.

#### Applicability of FHWA Title VI Provisions to FMCSA

The FHWA’s regulations in 23 CFR part 200 provide guidance on how FHWA will implement its Title VI compliance and define the role and responsibilities of State transportation agencies in ensuring compliance with Title VI. FMCSA reviewed those regulations in light of its motor carrier safety objectives and concluded the FHWA regulations in 23 CFR part 200 do not meet the needs of FMCSA Federal financial assistance recipients. This is because FHWA non-discrimination policies and procedures are geared toward highway planning and development.

Alternatively, the Departmental implementing regulations in 49 CFR part 21 specify the manner and degree to which grant recipients must comply, and the basic recordkeeping requirements necessary to meet the intent of the nondiscrimination statutes. The Departmental regulations are broader in scope and therefore do not involve the degree of specificity required by the FHWA regulations. On that basis, FMCSA concluded the broader Departmental regulations are more appropriate for the level of financial assistance involved in FMCSA programs or activities. For these reasons, FMCSA adopted the Departmental umbrella provisions.

#### Programs or Activities

Under this final rule, FMCSA Federal financial assistance recipients must comply with the Title VI regulations in

subjected to discrimination under any program or activity receiving Federal financial assistance.”

2. *Age Discrimination Act of 1975*—“No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

3. *Section 504, Rehabilitation Act of 1973*—“No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.”

4. *Title IX of the Education Amendments Act of 1972* prohibits discrimination on the basis of sex, in education and training programs provided by recipients of Federal financial assistance. Title IX is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution.

49 CFR part 21 for FMCSA-only programs or activities. As noted above, we believe the less cumbersome but equally effective Departmental provisions better accommodate the interests of State agencies and other grantees by providing them with more streamlined Title VI procedures than those established in 23 CFR part 200. FMCSA established Part 303 in Subchapter A, Chapter III of Title 49 of the CFR, for its Title VI implementing regulations, by adopting the Departmental Title VI provisions under 49 CFR part 21. FMCSA remains subject to those requirements, and may develop further guidelines and procedures in accordance with the law to assure effective implementation by grantees.

For Joint or Multi-agency programs or activities, FMCSA grant recipients must follow the requirements of 49 CFR part 21 unless an agreement is reached by the Federal funding agencies for the recipients to use those Title VI procedures of the Federal lead agency.<sup>2</sup>

#### Conclusion

FMCSA carefully weighed the benefits to be gained by clarifying and modifying Title VI regulations applicable to the agency. By taking itself out from under FHWA Title VI regulations, FMCSA expects this rule to increase grant and cooperative agreement participation levels for FMCSA programs or activities by simplifying reporting requirements. Since the FHWA Federal-aid programs or activities tend to be much more costly than the FMCSA financially assisted programs or activities, FMCSA expects this rule to lower administrative costs for grantees in carrying out their Title VI responsibilities. FMCSA intends to continue applying and using the adequate Title VI protections under the Departmental umbrella regulations at 49 CFR part 21.

#### Rulemaking Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

This Final Rule is not a significant regulatory action within the meaning of Executive Order 12866, or significant within the meaning of the Department of Transportation’s regulatory policies and procedures. This rule clarified and modified the applicability of certain Title VI provisions of the FHWA and of the Department as they concern FMCSA’s Federal financial assistance recipients under the motor carrier safety program. It also established Part 303 (49

<sup>1</sup> NONDISCRIMINATION PROGRAM REQUIREMENTS

1. *Title VI of the Civil Rights Act of 1964*—“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

<sup>2</sup> The Federal lead agency is the agency that provides the most overall funding to the recipient.

CFR part 303) to provide FMCSA with Title VI implementing regulations, as well as any further procedures for ensuring compliance with Title VI. This was done by adopting the Department's longstanding Title VI regulations at 49 CFR part 21. Therefore, FMCSA expects this rule to impose no costs on industry or States, since all FMCSA Federal financial assistance recipients are currently complying with the requirements of Title VI. We requested comments on any potential costs or burdens associated with the IFR, but none were received.

#### *Regulatory Flexibility Act*

FMCSA evaluated the effects of this action on small entities in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act. In taking itself out from under FHWA's Title VI reporting and procedural requirements, because they are not appropriate for the level of financial assistance in FMCSA's programs, FMCSA expects to ease the compliance standards for Title VI by all FMCSA Federal-aid recipients. We certify that this action will not have a significant economic impact on a substantial number of small entities, and may have some positive net benefits.

#### *Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532, *et seq.*) requires each Federal agency to assess the costs, benefits, and other effects of its regulatory actions on State, local, or tribal governments, or on the private sector, except to the extent the regulations incorporate requirements specifically set forth in law. FMCSA determined that this rule does not include a Federal mandate likely to result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of \$120.7 million or more in any one year (adjusted for inflation). Furthermore, regulations implementing civil rights requirements are explicitly excluded from unfunded mandates consideration. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act do not apply to this final rule.

#### *Executive Order 13132 (Federalism)*

FMCSA analyzed this final rule under the principles and criteria of Executive Order 13132. We certify that this rule will not have a substantial direct effect on the States, or sufficient federalism implications for the States, nor will it limit the policymaking discretion of the

States. This is because nothing in this final rule directly preempts any State law or regulation.

#### *Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

FMCSA analyzed this final rule under the principles and criteria of Executive Order 13175. This rule will not significantly or uniquely affect the communities of Indian tribal governments and will not impose substantial direct compliance costs. Therefore, Executive Order 13175 does not apply to this final rule.

#### *Executive Order 13211 (Energy Supply, Distribution, or Use)*

FMCSA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, dated May 18, 2001. The rule is procedural in nature and, therefore, is not a significant regulatory action under the provisions of Executive Order 12866, and is not likely to have significant adverse effect on the supply, distribution, or use of energy.

#### *Paperwork Reduction Act of 1995*

We determined that this rule does not include an information collection requirement for which we need approval from the Office of Management and Budget, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Executive Order 12988 (Civil Justice Reform)*

This action meets the applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *Executive Order 13045 (Protection of Children)*

We analyzed the rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. Consequently, this rule is not economically significant and does not concern an environmental risk to the health or safety of children.

#### *Executive Order 12630 (Taking of Private Property)*

This action does not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *Executive Order 12372 (Intergovernmental Review)*

Catalog of Federal Domestic Assistance Program Number 20.217 Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

#### *Executive Order 13166 (Limited English Proficiency)*

Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" (LEP) applies to Federally assisted programs. It requires each Federal agency to examine the services it provides and develop reasonable measures to ensure that persons seeking government services but limited in their English proficiency can meaningfully access these services consistent with, and without unduly burdening, the fundamental mission of the agency.

Its purpose is to clarify for Federal-fund recipients the reasonable steps those grant recipients should take to ensure that its programs or activities are meaningfully accessible to individuals who are limited in English proficiency. Moreover, the Executive Order on LEP requires each Federal agency to provide guidance on Federal financial assistance to ensure that the recipients' programs or activities are meaningfully accessible.

As FMCSA develops its Title VI program, we will explore whether additional outreach to LEP individuals is appropriate. FMCSA will be operating under DOT LEP guidance. Therefore, this final rule complies with the principles enunciated in the Executive Order.

#### *National Environmental Policy Act*

FMCSA Environmental Order 5610.1C dated March 1, 2004 (69 FR 9680) defines FMCSA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. This final rule merely clarified and modified FMCSA's Title VI program, the applicability of both the FHWA's and the Department's Title VI provisions, and established a new part in 49 CFR chapter III, Subchapter A, for civil rights matters. Therefore, this final rule is categorically excluded in accordance with FMCSA Order 5610.1C, paragraph 6.a.

#### **List of Subjects in 49 CFR Part 303**

Civil Rights, Implementation and review procedures, Title VI compliance program, Title VI program and related statutes, Transportation.

**Final Rule**

Accordingly, the interim regulations published February 14, 2005 at 70 FR 7411, Part 303 of Subchapter A, Chapter

III of Title 49 of the Code of Federal Regulations, are adopted without further revision.

Issued on: October 3, 2005.

**Annette M. Sandberg,**  
*Administrator.*

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