

DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE MANUAL

TRANSMITTAL SHEET

Release No. 244

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SUBJECT: Administrative Series
Part 346 Cost Recovery
Chapter 1 Policy, Guidelines, and Responsibilities

EXPLANATION OF MATERIAL TRANSMITTED

This release provides Minerals Management Service (MMS) cost recovery policy governing charges for service provided to the non-Federal sector.

REPORTS REQUIRED:

<u>Title</u>	<u>Reference</u>	<u>Frequency</u>
Cost Recovery	346.1.7E	Annual


Director

FILING INSTRUCTIONS:

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OPR: Budget and Finance Division
Associate Director for Administration and Budget

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346.1.1

1. Purpose. This chapter provides Minerals Management Service (MMS) cost recovery policy governing charges for services provided to the non-Federal sector.

2. Objectives. The MMS cost recovery program is intended to ensure that:

- A. Fees or charges are assessed on all applicable services.
- B. Fees or charges imposed accurately recover all the identified costs to MMS of providing the services.
- C. MMS cost recovery activities are reported in compliance with Department requirements.

3. Authority.

A. In the absence of specific statutory authority to recover the costs of particular services, Title V of the Independent Offices Appropriation Act (IOAA) of 1952 (31 U.S.C. 9701) is a Government-wide authority that permits cost recovery. The terms of the IOAA, however, require implementation by rulemaking.

B. Departmental Manual (346 DM 1 Cost Recovery).

4. Definitions.

A. Service. A service is rendered when a special benefit or privilege is bestowed to an identifiable recipient above and beyond that which accrues to the public at large.

B. Benefit. A benefit is essentially any good or service provided by MMS. It may be a complicated authorization of a pipeline right-of way or simply a copy of a document or map. There are three types of benefits:

- (1) Private benefit - benefits only the recipient.

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(2) Public benefit - benefits only the public or some independent public interest.

(3) Incidental public benefit - a public benefit in conjunction with a private benefit.

C. Recipient. The recipient of a benefit must be clearly identifiable. Cost recovery is not applicable where the ultimate beneficiary is obscure. The identifiable recipient can be an individual, organization, business entity, or a combination of these.

5. Policy. MMS policy is to recover, consistent with the provisions of 346 DM 1, the cost of services or special benefits provided to identifiable non-Federal recipients.

6. Guidelines.

A. A special benefit accrues when a Government-rendered service:

(1) Enables the beneficiary to obtain more immediate or substantial gains or values. An example is the review of royalty-in-kind applications.

(2) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public.

B. A special benefit does not accrue and cost recovery should not be sought when:

(1) Services or benefits are provided by an MMS motion or initiative; for example, MMS royalty compliance audits.

(2) Services provided by MMS benefit the public at large and the ultimate and/or individual beneficiaries are obscure; for example, prelease environmental impact studies.

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346.1.6.C.

C. In the provision of services to private recipients, incidental public benefits may also accrue. In such cases the cost of providing the public benefit need not be segregated from the cost of providing the benefit to the private recipient(s). That is, MMS "may recover the full cost of providing a service to a private beneficiary, regardless of whether that service may also benefit the public" (Mississippi Power & Light Co. v. Nuclear Regulatory Commission, 601 F.2d 223 (5th Cir. 1979), cert. denied, 444 U.S. 1102 (1980)).

D. Costs to be recovered should include both the direct and indirect costs incurred by MMS in providing the service. More specific guidance on cost-finding techniques, cost measurement and the types of direct and indirect costs to be included in the computation can be found at 346 DM 1.4, 346 DM 2.4, and 346 DM 3.

E. Cost Recovery Exemptions.

(1) The Director, MMS, may exempt or limit fees for a cost recovery activity when the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable charges are set on a reciprocal basis with a foreign country.

(2) Additional fees will not be imposed for the review and processing of plans, permits, applications, etc. mandated by MMS regulations and considered as integral elements of the OCS minerals leasing and development program.

(3) Fees or cost recovery charges will not be imposed for the review and processing of royalty and production reports and payments which are required of all lessees and/or operators.

(4) Services or benefits, the costs of which would normally be recovered, may be provided to individual recipients at no cost if demanded by fairness and equity. Such exceptions must be approved in writing by the Associate Director or Regional Director having the authority to provide the service or benefit involved. The basis for granting the exception must be explained fully. This authority is granted for case-by-case fee exceptions

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only and cannot be used as a basis to exempt an entire activity from cost recovery.

(5) Other activities and programs may be exempted from cost recovery subject to the approval of the Department of the Interior's Office of Financial Management and the Office of Management and Budget. Exemptions should be sought when:

(a) The incremental cost of collecting the charges would be an unduly large part of the receipts from the activity.

(b) The recipient of the service is an organization engaged in a nonprofit activity designed for the public safety, health or welfare.

(c) The imposition of charges or fees would have significant adverse impacts on -

(i) Environmental quality and safety of OCS operations.

(ii) Conservation or production of OCS mineral resources.

(iii) Large numbers of small businesses.

7. Responsibilities.

A. Associate Directors are responsible for ensuring that activities within their offices are in compliance with the provisions of this chapter. Associate Directors shall maintain an inventory of all activities in which they are engaged with non-Federal entities. Each activity should be identified according to one of the following classifications:

(1) Provides a public benefit only.

(2) Provides a private benefit or a private benefit with incidental public benefits but is exempt from cost recovery. The basis for the exemption from paragraph 6.E, above, should be cited.

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(3) Provides a private benefit or a private benefit with incidental public benefits, the costs of which will be recovered.

B. Associate Directors shall review and update the inventory annually for the use of the Associate Director for Administration and Budget in preparing the report described in paragraph 7.E., below.

C. In the absence of specific statutory authority, Associate Directors shall initiate rulemaking proceedings under the provisions of the IOAA as necessary to recover costs in accordance with this chapter and the Departmental Manual.

D. Associate Directors in conjunction with the Associate Director for Administration and Budget shall determine costs, establish fees and ensure that collections are credited to the appropriate accounts in accordance with 346 DM 1.3C, 1.4, 2.4, and 3.

E. The Associate Director for Administration and Budget shall prepare the annual cost recovery report required by 346 DM 1.6B. Associate Directors shall provide such information as may be necessary to complete the report.