

which section 355 applies, and the exchange by P constitutes and exchange to which section 351 applies. The result would be the same even if P sold less than all of the stock in X.

Example (2). The facts are the same as in example (1), except that Y organizes and owns all the stock of Z. Accordingly, after the transfer by Z, Z distributes the stock of V to Y, which in turn distributes the stock to P. P transfers all the V stock to X. Under paragraph (h)(2) of this section, the transfers by Z to Y, and Y to P constitute a reorganization described in section 368(a)(1)(D) to which section 355 applies. The transfer by P to X constitutes an exchange to which section 351 applies.

* * * * *

Par. 5. Section 1.996-3 is amended by adding a new paragraph (g) as follows:

§ 1.996-3 Divisions of earnings and profits.

* * * * *

(g) *DISCs having corporate and noncorporate shareholders.* In the case of a DISC having one or more corporate shareholders but less than all of its shareholders subject to the special rules of section 291(a)(4), relating to certain deferred DISC income as a corporate preference item, accumulated DISC income and previously taxed income of the DISC are divided between the corporate shareholders, as a class, and the other shareholders, as a class, in proportion to amounts of DISC income not deemed distributed and amounts deemed distributed to each class. Subsequent taxation of actual and qualifying distributions shall be based upon this division. Thus, if a DISC is owned 50 percent by corporate shareholders and 50 percent by individual shareholders and has undistributed taxable income of \$2,000 for its year, the division is made as follows:

Corporate shareholders:		
Previously taxed income (57.5% of \$2,000 ÷ 2)		\$575
Accumulated DISC income (42.5% of \$2,000 ÷ 2)		425
Individual shareholders:		
Previously taxed income (50% of \$2,000 ÷ 2)		500
Accumulated DISC income (50% of \$2,000 ÷ 2)		500

* * * * *

This Treasury decision is issued under the authority contained in sections 995(e) (7), (8) and (10), 995(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1655, 26 U.S.C. 995(e) (7), (8) and (10); 90 Stat. 1659, 26 U.S.C. 995(g); and 68A Stat. 917, 26 U.S.C. 7805).

Approved: September 26, 1984.
Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.
Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.
 [FR Doc. 84-28928 Filed 10-11-84; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR
Minerals Management Service
30 CFR Part 229

Implementation of the Provisions of Subsections 205 (c) and (d) of Title II of the Federal Oil and Gas Royalty Management Act of 1982

AGENCY: Minerals Management Service (MMS), Interior.
ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule would implement provisions of subsections 205 (c) and (d) of Title II of the Federal Oil and Gas Royalty Management Act of 1982 (the Act). Section 205 of the Act provides for delegation of authority by the Secretary of the Interior to the States to conduct inspections, audits, and investigations with respect to all Federal lands within a State, and with respect to Indian lands with the permission of the affected Indian tribe or allottee.

MMS recently issued general regulations implementing the Act. However, subsection (c) of section 205 requires the Secretary to promulgate regulations defining functions which must be carried out jointly to avoid duplication of effort. Subsection (d) requires the Secretary to promulgate regulations and standards pertaining to the authorities and responsibilities which a State would administer under a delegation of authority. This interim rule would establish the standards required by the provisions of subsections (c) and (d). The Secretary of the Interior has delegated to MMS the authority to administer and implement these provisions of the Act.

DATES: Effective date November 13, 1984. Comments by November 13, 1984.

ADDRESS: Send comments to: Chief, Office of Royalty Regulations, Development and Review, Minerals Management Service (Mail Stop 660), 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm (703) 860-7511, (FTS) 928-7511.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is Mr. Robert E. Boldt, Associate Director

for Royalty Management, Minerals Management Service.

The Act, 30 U.S.C. 1701 *et seq.*, has established new avenues for cooperative efforts between States and the Federal Government in carrying out royalty management activities for onshore Federal leases and mineral leases on Indian lands. In particular, sections 202 and 205 of Title II of the Act, 30 U.S.C. 1732 and 1735, provide new authority for cooperative efforts with State governments. Under section 202, the MMS is authorized to enter into cooperative agreements with State and Indian governments to carry out audit and investigative activities related to oil and gas royalties paid and collected on Federal and Indian leases. Under section 205 the Secretary, after proper notice, opportunity for hearing, and rulemaking, is authorized to delegate to any State that properly petitions for it, all or part of the authorities and responsibilities of the Secretary to conduct inspections, audits, and investigations with respect to all Federal and Indian lands within that State; except that the Secretary may not undertake such a delegation with respect to any Indian Lands unless the permission of the affected Indian tribe or allottee involved has been obtained.

On September 20, 1984, MMS adopted a set of regulations to implement its new authorities under the Federal Oil and Gas Royalty Management Act of 1982. Part 229 of the new regulations implements section 205 of the Act by providing the general procedures for delegations of authority to the States. However, the Act contemplated more detailed regulations governing delegations of authority. The purpose of this interim final rule is to define those MMS authorities and responsibilities subject to delegation to State governments, those authorities and responsibilities reserved to the Secretary, and to promulgate standards by which State governments would carry out audit activities under a section 205 delegation of authority.

These standards by which State governments are to carry out audit activities are those contemplated by the Act. Included are the terms of authorities and responsibilities subject to delegation and the standards for: (a) Procedures for obtaining regulatory and policy guidance from MMS; (b) required recordkeeping; (c) coordination of State audit activities with those of the Department of the Interior (DOI); (d) procedures for the development, maintenance, and referencing of workpapers; and (e) standards for

carrying out audit activities under a delegation of authority.

Some related items are also addressed in this interim rulemaking. These include: (a) Procedures for the preparation and issuance of enforcement documents; (b) procedures for handling appeals; and (c) disbursement of revenues received as a result of audits conducted under a delegation of authority.

Section 205 of the Act does not authorize the Secretary to delegate enforcement authority to the States. Accordingly, the interim rules do not address this issue.

Administrative Procedures Act

The MMS has determined that good cause exists pursuant to 5 U.S.C. 553(b) to issue this rule as an interim final rule. Notice is impracticable and unnecessary for two principal reasons. First, a substantial amount of comment was received on the State delegation issue when MMS proposed its 30 CFR Part 229 regulations (since adopted on September 21, 1984), together with the other MMS rules implementing the Act. Moreover, extensive informal discussions were held with the States industry on the delegation issue during that rulemaking process.

The second reason why notice is impracticable and unnecessary is that section 205(b) of the Act requires notice and opportunity for a hearing before any authority under the Act actually is delegated to the State. Since the requirements of this rulemaking are general in nature, opportunity for comment on a specific delegation proposal will be more meaningful.

The MMS is providing a 30-day comment period on the interim final rule and encourages interested persons to submit comments. If any comments are received which warrant a change to the rules issued today, an appropriate amendment will be made when the interim final rule is issued in final form. MMS will not finally approve the delegation of authority to a State until final regulations are issued. This will allow for consideration of all comments and possible changes to the rule before any State's delegation petition is acted upon.

For the above reasons, MMS has determined that good cause exists to issue interim final rules.

Executive Order 12291

The Department has determined that this interim rule is not a major rule and does not require the preparation of a regulatory impact analysis under Executive Order 12291.

This rulemaking has minimal economic effect on any business, large or small, as it only addresses who will perform the functions. The delegated functions will be no more stringent than are presently being performed.

Regulatory Flexibility

Some portion of the lessees/payors who will be assessed for royalty underpayments resulting from the implementation of this rulemaking will be small businesses. However, because the requirement to pay royalties is imposed by other regulations and because most of the affected lessees/payors are not small businesses, the Department has determined that this rule will not have a significant economic effect on a substantial number of small entities. Therefore, a small entity flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required.

Paperwork Reduction Act of 1980

The information collection requirements contained in this rule do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there will be fewer than 10 respondents annually.

National Environmental Policy Act of 1969

It is hereby determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

List of Subjects in 30 CFR Part 229

Auditing standards, Delegations of authority, Intergovernmental relations, Investigations, Mineral royalties.

Under the authority of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735), Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: September 18, 1984.

Garrey E. Carruthers,
Assistant Secretary for Land and Minerals Management.

PART 229—[AMENDED]

1. 30 CFR Part 229, Subpart C is amended as shown in the following redesignation table.

REDESIGNATION TABLE

Old 30 CFR Part 229, Subpart C	New 30 CFR Part 229, Subpart C designations
	Inserting new subheading— ADMINISTRATION OF DELEGATIONS.
229.100(a).....	229.101(a).
229.100(b).....	229.101(b).
229.100(c).....	229.101(c).
229.100(d).....	229.101(d).
229.100(e).....	Removed.
229.101(a).....	229.102(a).
229.101(b).....	229.102(b).
229.102.....	229.102(c).
229.103.....	229.103.
229.104.....	229.105.
229.105.....	Removed.
229.106.....	Removed.
229.120.....	229.106.
229.110.....	229.108.
229.109.....	229.109.
229.108.....	229.110.
	Insert new subheading— DELEGATION REQUIREMENTS.
229.107.....	229.127.

§ 229.103 [Amended]

2. 30 CFR Part 229, Subpart C is further amended by revising the title of § 229.103 to read "Duration of delegations; termination of delegations."

3. 30 CFR Part 229, Subpart C is further amended by adding a new table of contents and the following new §§ 229.100, 229.104, 229.107, 229.120, 229.121, 229.122, 229.123, 229.124, 229.125, and 229.126 to read as follows:

PART 229—DELEGATION TO STATES

* * * * *

Subpart C—Oil and Gas, Onshore

Administration of Delegations

- Sec.
- 229.100 Authorities and responsibilities subject to delegation.
- 229.101 Petition for delegation.
- 229.102 Fact-finding and hearings.
- 229.103 Duration of delegations: termination of delegations.
- 229.104 Terms of delegation of authority.
- 229.105 Evidence of Indian agreement to delegation.
- 229.106 Withdrawal of Indian lands from delegated authority.
- 229.107 Disbursement of revenues.
- 229.108 Deduction of civil penalties accruing to the State or tribe under the delegation of authority.
- 229.109 Reimbursement for costs incurred by a State under the delegation of authority.
- 229.110 Examination of the State activities under delegation.
- 229.111 Materials furnished to States necessary to perform delegation.

Delegation Requirements

- 229.120 Obtaining regulatory and policy guidance.
- 229.121 Recordkeeping requirements.
- 229.122 Coordination of audit activities.
- 229.123 Standards for audit activities.
- 229.124 Documentation standards.

- 229.125 Preparation and issuance of enforcement documents.
- 229.126 Appeals.
- 229.127 Reports from States.

Authority: The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*)

Subpart C—Oil and Gas, Onshore

Administration of Delegations

§ 229.100 Authorities and responsibilities subject to delegation.

(a) All or part of the following authorities and responsibilities of the Secretary under the Act may be delegated to a State authority:

- (1) Conduct of audits related to oil and gas royalty payments made to the MMS which are attributable to leased Federal or Indian lands within the State. Delegations with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee.
- (2) Conduct of investigations related to oil and gas royalty payments made to the MMS which are attributable to leased Federal lands or Indian lands within the State. Delegation with respect to any Indian lands require the written permission, subject to the review of the MMS, of the affected Indian tribe or allottee. No investigation will be initiated without the specific approval of the MMS or the Secretary's designee and in accordance with the Departmental Manual.

(b) The following authorities and responsibilities are specifically reserved to the MMS and are not delegable under these regulations:

- (1) Enforcement actions to assess and collect additional royalties identified as a consequence of audits, inspections, and investigations. These include all actions related to resolution of royalty obligations so identified, and the establishment and maintenance of payment performance bonds which may be required during the resolution process.
 - (2) Enforcement actions to collect civil penalties and interest charges related to findings of audits, inspections, and investigations.
 - (3) Administration of all appeals and all actions of the Department related to administrative and judicial litigation.
 - (4) Issuance of subpoenas.
- (c) The provisions of this section do not limit the authority provided to the States by section 204 of the Act.

§ 229.104 Terms of delegation of authority.

Each delegation of authority under this part shall be in writing, shall incorporate all the requirements of this part, and shall specifically include:

- (a) Terms obligating the State to conduct audit and investigative activities for a specific period of time;
- (b) Terms describing the authorities and responsibilities reserved by the MMS, including, but not limited to, those specified under § 229.100;
- (c) Terms requiring the State to provide annual audit workplans to include the lease universe by company, or by individual lease accounts, a description of the audit work product(s) to be delivered, and the State resources (staff and otherwise) to be committed to the delegation;
- (d) Terms requiring the State to notify the MMS of any changed circumstances which would affect the State's ability to carry out the terms of the delegation;
- (e) Terms requiring coordination of delegated activities among the State, the MMS, and the land management agencies responsible for management of the leases included in the audit universe;
- (f) Terms requiring the State to maintain and make available to the MMS all audit workpapers, documents, and information gained or developed as a consequence of activities conducted under the delegation;
- (g) Terms obligating the State to adhere to all Federal laws, rules and regulations, and Secretarial determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties, in all activities performed under the delegation.

(c) Terms requiring the State to provide annual audit workplans to include the lease universe by company, or by individual lease accounts, a description of the audit work product(s) to be delivered, and the State resources (staff and otherwise) to be committed to the delegation;

(d) Terms requiring the State to notify the MMS of any changed circumstances which would affect the State's ability to carry out the terms of the delegation;

(e) Terms requiring coordination of delegated activities among the State, the MMS, and the land management agencies responsible for management of the leases included in the audit universe;

(f) Terms requiring the State to maintain and make available to the MMS all audit workpapers, documents, and information gained or developed as a consequence of activities conducted under the delegation;

(g) Terms obligating the State to adhere to all Federal laws, rules and regulations, and Secretarial determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties, in all activities performed under the delegation.

§ 229.107 Disbursement of revenues.

- (a) The additional royalties and late payment charges resulting from State audit work done under a delegation of authority shall be collected by MMS. The State's share of any amounts so collected shall be paid to the State in accordance with the provisions of 30 U.S.C. 191 and Part 219 of this chapter.
- (b) Amounts collected for Indian leases shall be transferred to the appropriate Indian accounts (designated Treasury accounts) managed by the Bureau of Indian Affairs at the earliest practicable date after such funds are received, but in no case later than the last business day of the month in which such funds are received.
- (c) MMS shall provide to the State on a monthly basis, an accounting of collections resulting from audit work and enforcement actions resulting from a delegation of authority. Such accounting will identify collections

broken down by royalties, penalties and interest paid.

§ 229.111 Materials furnished to State necessary to perform delegation.

The MMS shall provide to the State all reports, files, and supporting materials within its possession necessary to allow the State to effectively carry out the terms of the delegation specified in § 229.104.

Delegation Requirements

§ 229.120 Obtaining regulatory and policy guidance.

All activities performed by a State under a delegation must be in full accord with all Federal laws, rules and regulations, and Secretarial and agency determinations and orders relating to the calculation, reporting, and payment of oil and gas royalties. In those cases when guidance or interpretations are necessary, the State will direct written requests for such guidance or interpretation to the appropriate MMS officials. All policy and procedural guidance or interpretation provided by the MMS shall be in writing and shall be binding on the State.

§ 229.121 Recordkeeping requirements.

(a) The State shall maintain in a safe and secure manner all records, workpapers, reports, and correspondence gained or developed as a consequence of audit or investigative activities conducted under the delegation. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OIG).

(b) The State must maintain in a confidential manner all data obtained from DOI sources or from payor or company sources under the delegation which have been deemed "confidential or proprietary" by DOI or a company or payor. In this regard, the State regulatory authority shall be bound by provisions of 30 U.S.C. 1733. MMS shall provide to the State guidelines for determining confidential and proprietary material.

(c) All records subject to the requirements of subsection (a) must be maintained for a 6-year period measured from the end of the calendar year in which the records were created. All dispositions or records must be with the written approval of the MMS. Upon termination of a delegation, the State shall, within 90 days from the date of termination, assemble all records specified in subsection (a), complete all

working paper files in accordance with § 229.124, and transfer such records to the MMS.

(d) The State shall maintain complete cost records for the delegation in accordance with generally accepted accounting principles. Such records shall be in sufficient detail to demonstrate the total actual costs associated with the project and to permit a determination by MMS whether delegation funds were used for their intended purpose. All such records shall be made available for review and inspection upon request by representatives of the Secretary and the Department's Office of Inspector General (OIG).

§ 229.122 Coordination of audit activities.

(a) Each State with a delegation of authority shall submit annually to the MMS an audit workplan specifically identifying leases, resources, companies, and payors scheduled for audit. This workplan must be submitted 120 days prior to the beginning of each fiscal year. A State may request changes to its workplan (including the companies and leases to be audited) at the end of each quarter of each fiscal year. All requested changes are subject to approval by the MMS and must be submitted in writing.

(b) When a State plans to audit leases of a lessee or royalty payor for which there is an MMS or OIG resident audit team, all audit activities must be coordinated through the MMS or OIG resident supervisor. Such activities include, but are not limited to, issuance of engagement letters, arranging for entrance conferences, submission of data requests, scheduling of audit activities including site visits, submission of issue letters, and closeout conferences.

(c) The State shall consult with the MMS and/or OIG regarding resolution of any coordination problems encountered during the conduct of delegation activities.

§ 229.123 Standards for audit activities.

(a) All audit activities performed under a delegation of authority must be in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" as issued by the Comptroller General of the United States.

(b) The following audit standards also shall apply to all audit work performed under a delegation of authority.

(1) *General standards*—(i) *Qualifications*. The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required, including a knowledge of accounting,

auditing, agency regulations, and industry operations.

(ii) *Independence*. In all matters relating to the audit work, the audit organization and the individual auditors must be free from personal or external impairments to independence and shall maintain an independent attitude and appearance.

(iii) *Due professional care*. Due professional care is to be used in conducting the audit and in preparing related reports.

(iv) *Quality control*. The State governments must institute quality control review procedures to ensure that all audits are performed in conformity with the standards established herein.

(2) *Examination and evaluation standards—Standards and requirements for examination and evaluation*.

Auditors should be alert to situations or transactions that could be indicative of fraud, abuse, or illegal acts with respect to the program. If such evidence exists, auditors should forward this evidence to the Royalty Compliance Division (RCD) of the MMS. The RCD will contact the appropriate Federal law enforcement agencies. The scope of examinations are to be governed by the principle of a justifiable relationship between cost and benefit as determined by the auditor or audit supervisor. Audit procedures should reflect the most efficient method of obtaining the requisite degree of satisfaction. The auditor should determine, to the extent possible, the effect on royalty reporting of the non-arms'-length nature of related party transactions, such as transfers of oil to refinery units affiliated with the producer. A review should be made of compliance with the appropriate laws and regulations applicable to program operations. MMS shall issue guidelines as to the definition and nature of arms'-length and non-arms'-length transactions for use in carrying out delegated audit activities.

(3) *Standards of reporting*. (i) Written audit reports are to be submitted to the appropriate MMS officials at the end of each field examination.

(ii) A statement in the auditors' report that the examination was made in accordance with the generally accepted program audit standards (including the applicable General Accounting Office (GAO) standards) for royalty compliance audits should be in the appropriate language to indicate that the audit was made in accordance with this statement of standards.

(iii) The auditor's report should contain a statement of positive assurance on those items tested and negative assurance on those items not

tested. It should also include all instances of noncompliance and instances or indications of fraud, abuse, or illegal acts found during or in connection with the audit.

(iv) The auditor's report should contain any other material deficiency identified during the audit not covered in paragraph (b)(3)(iii) of this section.

(v) When factors external to the program and to the auditor restrict the audit or interfere with the auditor's ability to form objective opinions and conclusions (such as denial of access to information by a company), the auditor is to notify the MMS. If the limitation is not removed, a description of the matter must be included in the auditor's report. MMS will take all legally enforceable steps necessary to seek information necessary to complete the audit.

(vi) If certain information is prohibited from general disclosure, the auditor's report should state the nature of the information omitted and the requirement that makes the omission necessary.

(vii) Written audit reports are to be prepared in the format prescribed by the RCD.

(viii) In instances where the extent of the audit findings or the amounts involved do not warrant it, a formal audit report need not be issued. In lieu of an audit report, a memorandum of audit findings will be prepared and placed on the case file.

§ 229.124 Documentation standards.

Every audit performed by a State under a delegation of authority must meet certain documentation standards. In particular, detailed workpapers must be developed and maintained.

(a) "Workpapers" are defined to include all records obtained or created in performing an audit.

(b) Each audit performed varies in scope and detail. As a result, the audit team must determine the best presentation of the workpapers for a particular audit. The following general standards of workpaper preparation are consistent with the goal of achieving proper documentation while maintaining sufficient flexibility.

(1) All relevant information obtained orally must be promptly recorded in writing and incorporated in the workpapers.

(2) Workpapers must be complete and accurate in order to provide support for findings and conclusions.

(3) Workpapers should be clear and understandable without the need for supplementary oral explanations. The information they contain must be clear, complete, and concise, so that anyone using the workpapers will be able to

readily determine their purpose, the nature and scope of the work done, and the conclusions drawn.

(4) Workpapers must be legible and as neat as practicable. They must meet standards which allow their use as evidence in judicial and administrative proceedings.

(5) The information contained in workpapers should be restricted to matters which are materially important and relevant to the objectives established for the assignment.

(6) Workpapers must be in sufficient detail to permit a subsequent independent execution of each audit procedure, assuming the target company retains its accounting documentation.

§ 229.125 Preparation and issuance of enforcement documents.

(a) Determinations of additional royalties due resulting from audit activities conducted under a delegation of authority must be formally communicated by the State, to the companies or other payors by an issue letter prior to any enforcement action. The issue letter will serve to ensure that all audit findings are accurate and complete by obtaining advance comments from officials of the companies or payors audited. Issue letters must be prepared in a format specified by the MMS, and transmitted to the company or payor. The company or payor shall be given 30 days from receipt of the letter to respond to the State on the findings contained in the letter.

(b) After evaluating the company or payor's response to the issue letter, the State shall draft a demand letter which will be submitted with supporting workpaper files to the MMS for appropriate enforcement action. Any substantive revisions to the demand letter will be discussed with the State prior to issuance of the letter. Copies of all enforcement action documents shall be provided to the State by MMS upon their issuance to the company or payor.

§ 229.126 Appeals.

(a) Appeals made pursuant to the rules and procedures at 30 CFR Parts 243 and 290 related to demand letters issued by officers of the MMS for additional royalties identified under a delegation of authority shall be filed with the MMS for processing. The State regulatory authority shall, upon the request of the MMS, provide competent and knowledgeable staff for testimony, as well as any required documentation and analyses, in support of the lessor's position during the appeal process.

(b) An affected State, upon the request of the MMS, shall provide expert

witnesses from their audit staff for testimony as well as required documentation and analyses to support the Department's position during the litigation of court cases arising from denied appeals. The cost of providing expert witnesses including travel and per diem is reimbursable under the provisions of a delegation of authority, at the Federal Government's existing per diem rates.

* * * * *
[FR Doc. 84-26933 Filed 10-11-84; 8:45 am]
BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Permanent State Regulatory Program of Pennsylvania; Modification of Deadline

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 938 by modifying the deadlines for Pennsylvania to meet two of the conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). After providing opportunity for public comment, the Secretary has decided to extend the deadline for the State to resolve conditions (d) and (k) to November 30, 1984. Condition (d) pertains to prime farmland requirements for a permit applicant who proposed to mine coal in the anthracite region and condition (k) pertains to Pennsylvania's hearings provision for bond release.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on Conditional Approval

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional

approval. The curing of each deficiency is a condition of the approval. Steps to terminate the conditional approval must be taken if the conditions are not met according to the schedule. The dates are established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and SMCRA and the time required for changes to be adopted under State procedures or legislative schedules.

II. Background on Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior disapproved the program. The State resubmitted its program on January 25, 1982, and, subsequently the Secretary approved the program conditioned on the correction of minor deficiencies. Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 *Federal Register* (47 FR 33050). Additionally, on April 20, 1983, the United States District Court for the Middle District of Pennsylvania in *Pennsylvania Coal Mining Association v. Watt*, Civl No. 82-1129, remanded to the Secretary with instructions to rectify the corresponding provision in the Pennsylvania program concerning the timing of the bond release hearing and the decision. Pursuant to 30 CFR 732.17(c), the Secretary notified Pennsylvania by a letter dated June 7, 1983, that a State program amendment was required to rectify the matter. In the *Federal Register* (48 FR 27102) dated June 13, 1983, OSM announced its intention to impose new condition (k) on the approval of the Pennsylvania program to comply with the District court decision. The State responded to OSM's June 7, 1983 letter on July 27, 1983 and advised OSM that it would amend its regulations (PA 86.171) to rectify the matter. In the *Federal Register* dated September 6, 1983 (48 FR 40223), OSM imposed condition (k) and required that Pennsylvania correct its program by August 1, 1984.

Pennsylvania agreed at the time of conditional approval to correct condition (d) by August 1, 1983. However, in a letter dated April 25, 1983, it requested an extension of time to