

of responsibility for blasting operations' and 30 CFR 850.15 which requires the suspension and revocation of blaster certification for specified violations.

Section 210.17(d) was added by this amendment. This section provides that a blaster's license is renewable if the blaster can demonstrate that he has had 8 hours of continuing education in Department-approved courses related to blasting and safety within the 3 year period. There is no direct Federal counterpart to this section, but it is consistent with the goals of the Federal regulations at 30 CFR 850.13 regarding continuing blaster competency. We find that this requirement does not make the Pennsylvania program inconsistent with the Federal regulations and we are approving it.

Section 210.17(g) was added by this amendment. This section provides for demolition blasting. There is no Federal counterpart for this definition, as we do not regulate demolition blasting. We are approving this definition.

Section 210.18 was added by this amendment. This section provides for recognition of out-of-state blaster's licenses. Pennsylvania may license a person who holds a blaster's license in another State if Pennsylvania determines that State has an equivalent licensing and training program. There is no counterpart to this provision in 30 CFR Subchapter M, Part 850 of the Federal regulations. However, there is nothing in Part 850 that prevents Pennsylvania from accepting a certification from another State. We are approving this provision with the understanding that blasters from other States seeking a license in Pennsylvania must be certified or licensed under that State's equivalent to 30 CFR Part 850 of the Federal regulations.

Section 211.103(b) was added by this amendment. This section provides that before Pennsylvania issues an order modifying peak particle velocity or airblast limits in a blasting activity permit, it will provide the permittee an opportunity to meet and discuss the modifications. There is no direct Federal counterpart to this provision, however 30 CFR 816/817.67(b)(1)(ii) and (d)(5) give the State regulatory authority discretion to specify lower levels for airblast and ground vibrations than set forth in the regulations. We have found that that the opportunity to discuss required revisions with the permittee does not make this provision less effective than the Federal regulations requiring the regulatory authority to specify lowered levels if necessary to prevent damage. Therefore, we have found that this provision is not

inconsistent with the Federal regulations.

Section 211.111 was added by this amendment. This section defines the scope of Subchapter B. Storage and Classification of Explosives. There is no Federal counterpart to this provision. We are approving it because it is not inconsistent with the Federal regulations.

Section 211.113 was added by this amendment. This section requires a magazine license and the contents of such a magazine license application. There is no Federal counterpart to this provision. We are approving it because it is not inconsistent with the Federal regulations.

Section 211.121(c) was added by this amendment. This section provides an exception to subsection (d), which requires a blasting activity permit to conduct blasting activities. The exception provided by subsection (c) is that blasting activities authorized under a permit issued under Pennsylvania's coal mining program serves to act as a blasting activity permit. There is no provision in the Federal regulations requiring a blasting activity permit separate from that required as part of a permit for mining activities. As a result, we are approving this section because it does not make Pennsylvania's program inconsistent with the Federal regulations. Accordingly, we are also approving subsections (d) and (e) as not inconsistent with the Federal rules as these sections are intended to apply to blasting activities other than those conducted on surface coal mining operations and therefore, there is no Federal counterpart.

Section 211.152 was added by this amendment. This section provides for control of gases generated by blasts. There is no Federal counterpart to this provision. We are approving this section because it is not inconsistent with the Federal regulations.

Section 211.157(g) was added by this amendment. This section requires a blaster-in-charge to notify Pennsylvania of the occurrence of a misfire within 24 hours. There is no Federal counterpart to this provision. We are approving this section because it is not inconsistent with the Federal regulations.

Sections 211.162(a) and (b) were added by this amendment. These sections provide for the use of safety fuses in blasting. There is no Federal counterpart to this provision. We are approving this section because it is not inconsistent with the Federal regulations.

Section 211.173(a) was added by this amendment. This section provides that, "Anyone using a monitoring instrument

shall be trained on the proper use of that instrument by a representative of the manufacturer or distributor, or other competent individual. A record of that training is to be maintained and available for review by the Department." There is no Federal counterpart to this provision. We are approving this section because it is not inconsistent with the Federal regulations.

#### **IV. Summary and Disposition of Comments**

##### *Public Comments*

We asked for public comments on the amendment (Administrative Record No. PA 878.03), but did not receive any.

##### *Federal Agency Comments*

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Pennsylvania program (Administrative Record No. PA 878.03). In a letter dated April 5, 2002 (Administrative Record No. PA 878.06), the United States Department of Labor, Mining Safety and Health Administration's District 2 New Stanton Office found the changes were not in conflict with 30 CFR, Part 77, Subpart N—Explosives and Blasting.

##### *Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. PA 878.03). EPA responded on March 26, 2002, that there were no apparent inconsistencies with the Clean Water Act or other statutes under its jurisdiction (Administrative Record No. PA 878.04).

##### *State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 1, 2002, we requested comments on Pennsylvania's amendment (Administrative Record No. PA 878.03) from the Pennsylvania Historical and Museum Commission (PHMC). The PHMC responded on March 26, 2002 (Administrative Record No. PA 878.05) that it had no comment on the amendment.

#### **V. OSM's Decision**

Based on the above findings, we approve the amendment Pennsylvania sent to us on February 25, 2002, as clarified on July 15, 2003, and July 23, 2003.