

“support facilities located underground.” The proposed changes are intended to clarify that the term “underground mining operations” refers only to those operations that take place in the subsurface parts of an underground coal mine. These changes will eliminate the possibility that “underground mining operations” could be construed to include operations at a surface support facility, such as a coal storage site, bathhouse or mine drainage treatment plant. This change is necessary to clarify the scope of the term “underground mining operations” which will be inserted in many information and performance standards in response to OSM requirements. PADEP contends that these changes will not make Pennsylvania’s definition of “underground mining operations” less inclusive than the Federal definition (see paragraph (b) of the definition of “underground mining activities” in 30 CFR 701.5).

The proposed changes are as follows:

86.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

Underground mining activities includes the following:

\* \* \* \* \*

(ii) Underground operations such as underground construction, operation, and reclamation of shafts, adits, support facilities located underground, in situ processing, and underground mining, hauling, storage and blasting.

\* \* \* \* \*

89.5. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

Underground mining activities includes the following:

\* \* \* \* \*

(ii) Underground operations such as underground construction, operation, and reclamation of shafts, adits, support facilities located underground, in situ processing, and underground mining, hauling, storage and blasting.

\* \* \* \* \*

Underground mining operations—Underground construction, operation and reclamation of shafts, adits, support facilities located underground, in situ processing and underground mining, hauling, storage and blasting.

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### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment

satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

#### Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see DATES*). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Harrisburg Field Office may not be logged in.

#### Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include “Attn: SATS No. PA-143” and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Harrisburg Field Office at (717) 782-4036.

#### Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

#### Public Hearing

If you wish to speak at the public hearings, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on October 7, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard. You do not need to attend both public hearings. We will consider all comments received at either of the public hearings.

### IV. Procedural Determinations

#### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

#### Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

#### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

#### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society