

1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 3. Amend § 1003.1 by revising paragraph (b)(4) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

* * * * *

(b) * * *

(4) Decisions involving administrative fines and penalties, including mitigation thereof, as provided in part 280 of this chapter, except that appeals of decisions imposing any penalty under sections 240B(d), 274D(a)(1), or 275(b) of the Act may not be filed with the Board unless the conditions described in 8 CFR 281.1(h) are met.

* * * * *

PART 1280—IMPOSITION AND COLLECTION OF FINES

■ 4. The authority citation for part 1280 continues to read as follows

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 5. Amend § 1280.1 by revising the first sentence of paragraph (b) to read as follows:

§ 1280.1 Review of fines and civil monetary penalties imposed by DHS.

* * * * *

(b) *Adjudication of civil monetary penalty proceedings.* The Board of Immigration Appeals (Board) has appellate authority to review DHS decisions involving fines and civil monetary penalties imposed under 8 CFR part 280, as provided under 8 CFR part 1003, except that the Board shall have no authority to review any decision imposing a civil monetary penalty under sections 240B(d), 274D(a)(1), or 275(b) of the Act unless the conditions described in 8 CFR 281.1(h) are met. * * *

* * * * *

Kristi Noem,
Secretary of Homeland Security.

Sirce Owen,
Acting Director, Executive Office for Immigration Review, Department of Justice.
[FR Doc. 2025–11965 Filed 6–26–25; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–172–FOR; Docket ID: OSM–2020–0001; S1D1S SS08011000 SX064A000 256S180110; S2D2S SS08011000 SX064A000 25XS501520]

Pennsylvania Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Pennsylvania regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment proposes to revise the Pennsylvania program to comply with four required amendments and to correct a provision we previously disapproved. The proposed amendment also includes revisions to Pennsylvania’s program, including effluent limitations for bituminous underground coal mines, temporary cessation, the definition of Surface Mining Activities, civil penalties, and administrative requirements, as well as other administrative updates and non-substantive corrections.

DATES: Effective July 28, 2025.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background on the Pennsylvania Program
- II. Submission of the Amendment
- III. OSMRE’s Findings
- IV. Summary and Disposition of Comments
- V. OSMRE’s Decision
- VI. Statutory and Executive Order Reviews

I. Background on the Pennsylvania Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1)

and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning the Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.13, 938.15 and 938.16.

II. Submission of the Amendment

By letter dated March 16, 2020, (Administrative Record No. PA 906.00), Pennsylvania sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). This proposed amendment addressed four separate required program amendments codified at 30 CFR 938.16(m), (n), (o), and (mmm), and addresses the term “augmented seeding.” In 1983, we disapproved a prior attempted amendment of this term, as reflected in 30 CFR 938.12(d). The submission also includes numerous other revisions to the Pennsylvania program.

We announced receipt of the proposed amendment in the December 17, 2020, **Federal Register** (85 FR 81864). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not receive any public comments related to the amendment, and we did not hold a public hearing or meeting because it was not requested. The public comment period ended January 19, 2021.

III. OSMRE’s Findings

After reviewing the proposed amendment, SMCRA, and the Federal regulations, including 30 CFR 938.12, 938.16, 730.5, 732.15, and 732.17, we are approving the amendment as described below. Any revisions that we do not specifically discuss below concerning non-substantive wording, editorial changes, or renumbering of citations are approved here without discussion.

1. Required Amendment at 30 CFR 938.16(m) (relating to Special Terms and Conditions for Collateral Bonds).

This required amendment concerns the valuation of collateral bonds. On December 22, 1989, Pennsylvania submitted several proposed amendments that included a proposed restructuring of 25 Pa. Code 86.158. *See* 56 FR 24687, 24693 (May 31, 1991). At that time, Pennsylvania proposed to add

new subsection 25 Pa. Code 86.158(b)(1) to provide a procedure for determining the value of government securities that were pledged as collateral bonds. The corresponding Federal regulations at 30 CFR 800.21(a)(2) contain a similar provision but specify that the regulatory authority “shall” value all collateral at its current market value. We disapproved the proposed Pennsylvania rule because it provided that the regulatory authority “may” determine the current market value of securities for the purpose of establishing the value of securities for bond deposit, which we interpreted to mean that the valuation of securities for bond deposit was optional. We required that Pennsylvania further amend 25 Pa. Code 86.158(b)(1) to mandate that the value of all government securities pledged as collateral bond must be determined using the current market value. *See* 56 FR at 24693. This was codified at 30 CFR 938.16(m), which required Pennsylvania to amend 25 Pa. Code 86.158(b)(1) or otherwise amend its program by requiring that the value of the government securities pledged as collateral bonds will be determined by the current market value.

OSMRE Finding: In response to this required amendment, Pennsylvania has amended 25 Pa. Code 86.158(b)(1) to provide a procedure for determining the value of government securities pledged as collateral bonds and further required that the regulatory authority “will” determine the current market value of securities pledged as collateral bonds for the purpose of establishing the value of the securities for bond deposit, as required by the Federal regulations at 30 CFR 800.21(a)(2). With this change from the use of optional to mandatory language, we find that the amendment to 25 Pa. Code 86.158(b)(1) satisfies the requirements of 30 CFR 800.21(a)(2), is consistent with the Federal regulations, is in accordance with SMCRA, and can be approved. Therefore, the provision in the Federal regulations at 30 CFR 938.16(m), which tells Pennsylvania to amend its rules or program to require the value of all government securities pledged as collateral bond to be determined using the current market value, can be removed and the paragraph reserved.

2. Required Amendment at 30 CFR 938.16(n) (relating to Special Terms and Conditions for Collateral Bonds).

As part of the proposed restructuring of 25 Pa. Code 86.158, Pennsylvania previously proposed to add new subsection 25 Pa. Code 86.158(b)(2), which required the current market value of collateral bonds pledging negotiable securities to be at least equal to the

amount of the required bond amount. *See* 56 FR at 24693. The counterpart Federal regulation at 30 CFR 800.21(e)(1) stipulates that the “estimated bond value of all collateral bonds shall be subject to a margin which is the ratio of bond value to market value, as determined by the regulatory authority.” 30 CFR 800.21(e)(1) also requires that the calculation of the margin take into consideration legal and liquidation fees, as well as value depreciation, marketability, and fluctuations that might affect the net cash available to the regulatory authority to complete reclamation.

While similar, the prior proposed version of 25 Pa. Code 86.158(b)(2) did not consider those factors that may affect the overall value of the posted collateral. As a result, the cash value of a security could be reduced to below the bond value. We approved the prior revision, except to the extent that the value of the collateral bond could equal the overall bond value without taking into consideration the effects of depreciation, marketability, and other factors on the amount of cash available from the bond. *See* 56 FR at 24693. We also required Pennsylvania to further amend its provisions related to valuation of collateral bonds to require that the estimated bond value of all collateral include consideration of the bond value as opposed to the market value, legal and liquidation fees, value depreciation, marketability, and other fluctuations that might affect the net cash available to the regulatory authority in case of forfeiture. This requirement was codified at 30 CFR 938.16(n).

OSMRE Finding: The Federal counterpart regulation, 30 CFR 800.21(e)(1), provides that the estimated bond value of all collateral bonds will be subject to a margin which is the ratio of bond value to market value, as determined by the regulatory authority. Moreover, the Federal regulation requires that the calculation of the margin take into consideration legal and liquidation fees, as well as value depreciation, marketability and fluctuation, which may diminish the action amount of cash available to the regulatory authority to complete reclamation. In response to the required amendment, Pennsylvania has amended 25 Pa. Code 86.158(b)(2) to require that the current market value, less any legal and liquidation costs, is at least equal to the amount of the required bond amount. We find that the amendment to 25 Pa. Code 86.158(b)(2) satisfies the requirements of 30 CFR 800.21(e)(2), is consistent with the Federal regulations,

is in accordance with SMCRA, and can be approved. Therefore, the required program amendment codified in the Federal regulations at 30 CFR 938.16(n) can be removed and reserved.

3. Required Amendment at 30 CFR 938.16(o) (relating to Special Terms and Conditions for Collateral Bonds).

This required amendment concerns the revaluation of securities to be conducted during the permit renewal process in assurance that the bond value of all collateral bonds is adequate to satisfy the bond amount requirements for the facility. As part of the proposed restructuring of 25 Pa. Code 86.158, Pennsylvania previously proposed to add a new subsection at 25 Pa. Code 86.158(b)(3), which allowed the regulatory authority to periodically revalue negotiable government securities and, if necessary, to require additional amounts if the current market value is less than the required bond amount. *See* 56 FR at 24693.

The counterpart Federal regulations at 30 CFR 800.21(e)(2) contain similar provisions for periodical evaluation of the bond value of collateral, but the Federal regulations also stipulate that bonds must be evaluated as part of the regulatory authority’s review of a permit renewal application. The Federal regulations at 30 CFR 800.21(e)(2) apply to all collateral bonds and not just those pledging negotiable government securities as contained in the State’s rules for collateral bonds under 25 Pa. Code 86.158. We previously found Pennsylvania’s proposed revisions to 25 Pa. Code 86.158(b)(3) were no less effective than the cited Federal rules, except to the extent that Pennsylvania law did not require that the bond value of all collateral bonds be evaluated, at a minimum, as part of the permit renewal process. *See* 56 FR at 24693. In addition, we required Pennsylvania to further amend its rules to ensure that the bond value of all collateral bonds be evaluated during the permit renewal process to ensure that collateral bonds are sufficient to satisfy the bond amount requirements. This requirement was codified at 30 CFR 938.16(o).

OSMRE Finding: In response to this required amendment, Pennsylvania has amended its current rule. In addition to the existing provision at 25 Pa. Code 86.158(b)(3), which allows the Pennsylvania Department of Environmental Protection (PADEP) to periodically revalue the securities and require additional amounts if the current market value is insufficient to satisfy the bond amount requirements, Pennsylvania has proposed to add: “[a]t a minimum, the Department shall require any necessary additional

amounts with each permit renewal.” As amended, 25 Pa. Code 86.158(b)(3) now matches the requirement that this review must occur at least at the time of permit renewal, as required by the Federal regulations at 30 CFR 800.21(e)(2). Accordingly, we find that the amendment to 25 Pa. Code 86.158(b)(3) satisfies the requirements of 30 CFR 800.21(e)(2), is no less stringent than the Federal regulations, is consistent with SMCRA, and can be approved. Therefore, the required program amendment codified in the Federal regulations at 30 CFR 938.16(o) can be removed and reserved.

4. Required Amendment at 30 CFR 938.16(mmm) (relating to Haul Roads).

This required amendment concerns the revision of the definition of “haul roads” and the clarification of the areas of inclusion. The requirement amendment codified at 30 CFR 938.16(mmm) required Pennsylvania to amend 25 Pa. Code 88.1 or otherwise amend its program by requiring the definition of “haul roads” to be expanded.

Pennsylvania had previously proposed to revise the definition of “haul roads” as it appears in the definitions section pertaining to anthracite region mining at 25 Pa. Code 88.1. *See* 58 FR 18149, 18156 (April 8, 1993). The proposed definition of “haul roads” included roads that are reconstructed or improved as part of the mining activity. However, we found that Pennsylvania’s definition for “haul roads” was less effective than the Federal definition of “road” at 30 CFR 701.5, which establishes that haul roads include all roads (including public roads) that are used as an integral part of the coal mining operation and are comprised of the entire area within the right-of-way. *See* 58 FR at 18156.

OSMRE Finding: In response to this required amendment, Pennsylvania has amended 25 Pa. Code 88.1 in two places. First, it adds a sentence to the end of the definition for haul road reading “[t]he term includes public roads that are used as an integral part of the coal mining activity.” Second, Pennsylvania has rewritten the definition of road to read: “[a] surface right-of-way for purposes of travel by land vehicles used in coal exploration of surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed shoulders, parking and side area, approaches, structures, ditches, surface and such contiguous appendages as are necessary for the total structure. The term includes access and haul roads constructed, used, reconstructed, improved or maintained

for use in coal exploration or surface coal mining activities, including use by coal-hauling vehicles leading to transfer, processing or storage areas.”

The proposed amended definitions for “Haul road” and “Road” at 25 Pa. Code 88.1 provide the changes that we required in April 8, 1993 (58 FR 18156). Accordingly, we find that the amendment to 25 Pa. Code 88.1 satisfies the requirements of 30 CFR 938.16(mmm), is no less stringent than the Federal regulations, is consistent with SMCRA, and can be approved. Therefore, the required program amendment codified in the Federal regulations at 30 CFR 938.16(mmm) can be removed and reserved.

5. 25 Pa. Code 86.151(d)—Augmented Seeding (relating to the Bond Liability Period).

As part of a prior amendment submission, Pennsylvania proposed to revise 25 Pa. Code 86.151(d) to add the following language: “[a]ugmented seeding, fertilization, irrigation and repair of rill and gullies performed at levels or degrees of management which exceed those normally applied in maintaining use or productivity of comparable unmined land in die surrounding area, would necessitate extending the period of liability.”

The amendment was intended to clarify the extent to which approved husbandry practices may occur without extending the bond liability period. *See* 58 FR at 18154. We previously found that, while this language was similar to the Federal regulations at 30 CFR 816, 817.116(c)(4), those Federal regulations specifically exclude “augmented” seeding, fertilization, or irrigation from those selective husbandry practices that may be performed without extending the period of responsibility for revegetation success and bond liability. Although the intent of the prior proposed revision may have been to develop a rule that was no less effective than 30 CFR 816, 817.116(c)(4), the inclusion of “augmented seeding” caused the proposed language at 25 Pa. Code 86.151(d) to be less stringent than section 515(b)(20) of SMCRA (30 U.S.C. 1265(b)(20)), which prohibits all augmentative seeding, fertilization, irrigation or other work without restarting the liability period. Therefore, we did not approve the amendment’s inclusion of the word “augmented” as proposed in the revised language of section 25 Pa. Code 86.151(d). *See* 58 FR 18149, 18154 (April 8, 1993).

OSMRE Finding: In its new proposal, Pennsylvania has amended 25 Pa. Code 86.151(d) to delete the term “augmented” in the last sentence, in accordance with 30 CFR 938.12(d).

Accordingly, we find that the amendment to 25 Pa. Code 86.151(d) satisfies the requirements of 30 CFR 938.12(d), is consistent with the Federal regulations, is in accordance with SMCRA, and can be approved. Therefore, the non-approval of this provision that is codified in the Federal regulations at 30 CFR 938.12(d) can be removed and the paragraph reserved.

6. 25 Pa. Code 89.52—Effluent Limitations for Bituminous Underground Mines (relating to Water Quality Standards, Effluent Limitation, and Best Management Practices).

Pennsylvania currently lists effluent limitations for bituminous underground mines at 25 Pa. Code 89.52 (relating to water quality standards, effluent limitations, and best management practices). 25 Pa. Code 89.52(f)(2) includes alternative effluent limitations for underground mine discharges that can be adequately treated using passive treatment technology. However, the Federal effluent limit guidelines at 40 CFR part 434 (relating to coal mining point source category best practicable control technology currently available (BPT) limitations, best available technology economically achievable (BAT) limitations, best conventional pollutant control technology (BCT) limitations, and new source performance standards (NSPS)) do not provide alternative limits for passive treatment systems applicable to underground mines.

Sections 515(b)(10) and 516(b)(9) of SMCRA (30 U.S.C. 1265(b)(10), 30 U.S.C. 1266(b)(9)), and the Federal regulations at 30 CFR 816.41 and 817.41 (Hydrologic-balance protection for surface mining and underground mining respectively), require that surface coal mining and reclamation operations must be conducted to minimize disturbance to the prevailing hydrologic balance and to the quantity and quality of water in surface water and groundwater systems, both during and after mining and during reclamation. When water treatment is unavoidable, the regulations at 30 CFR 816.42 and 817.42 specify that discharges must be made in compliance with applicable State and Federal water quality laws, regulations, and effluent limitations. These effluent limits and water quality standards include all applicable State and Federal water quality laws and regulations, including the effluent limitation guidelines and standards for coal mining as promulgated by EPA and set forth in 40 CFR part 434.

OSMRE regulations once included effluent limitation guidelines and standards for surface coal mining and reclamation operations, but these

standards were removed on October 22, 1982, and replaced with a reference to EPA's effluent limitation standards at 30 CFR 816.42 and 817.42. *See* 47 FR 47216, 47217 (Oct. 22, 1982); 48 FR 44006, 44008 (Sept. 26, 1983). This was done to eliminate unnecessary duplication and confusion between EPA's and OSMRE's standards and establish EPA as the responsible Federal agency for developing effluent limitation guidelines and standards as they relate to coal mining activities. *See* 85 FR 71251, 71255 (Nov. 9, 2020). Pursuant to its authority under the Clean Water Act (CWA) (33 U.S.C. 1251 *et seq.*), EPA promulgated effluent limitation guidelines and standards for various industrial categories. Coal mining industry requirements are found at 30 CFR part 434, which is split into various subparts, including subparts B., *Coal Preparation Plants and Coal Preparation Associated Area*, C., *Acid or Ferruginous Mine Drainage*, D., *Alkaline Mine Drainage*, E., *Post-Mining Areas*, and F., *Miscellaneous Provisions*. None of the effluent limit guidelines and standards provide alternative effluent limits for an underground mine discharge that can be adequately treated using a passive treatment system.

OSMRE Finding: Pennsylvania has proposed to revise 25 Pa. Code 89.52 to remove the alternative effluent limits for underground mine passive treatment systems that appeared at the end of 25 Pa. Code 89.52(f)(2)–(3). As a result, the more stringent Group A effluent requirements at 25 Pa. Code 89.52(c) continue to apply in the event of a postmining pollutorial discharge, even if the discharge can be adequately treated by a passive treatment system. This was apparently done to comply with the Federal effluent limit guidelines at 40 CFR part 434, which do not provide alternative limits for passive treatment systems applicable to underground mines. Because the deletion does not cause the Pennsylvania program to become less effective than the Federal regulations and is in accordance with SMCRA, we approve of the proposed changes to 25 Pa. Code 89.52.

7. 25 Pa. Code 87.157, 88.131, and 88.219—Temporary Cessation.

Pennsylvania has proposed revisions to 25 Pa. Code 87.157, 88.131, and 88.219 relating to temporary cessation of operations of bituminous surface mines. Pennsylvania's rules previously specified a 90-day limit on the amount of time that an operation can be in temporary cessation status, which could be extended to 180 days by PADEP. Pennsylvania has proposed to delete these limits at 25 Pa. Code 87.157,

88.131, and 88.219 to match the lack of such limits in the Federal regulations at 30 CFR 816.131(b). Pennsylvania has also proposed to amend these subsections to include provisions triggering information requirements from operators when temporary status ends due to reactivation or termination through the permittee's failure to comply with the law, regulations, or the permit. The proposal also includes the requirement for the permittee to submit timely renewal applications when applicable.

The Federal regulations addressing temporary cessation at 30 CFR 816.131 state that, before temporary cessation of mining and reclamation operations for a period of thirty days or more, or as soon as it is known that a temporary cessation will extend beyond 30 days, the operator must submit to the regulator a notice of intention to cease or abandon mining and reclamation operations. This notice must include a statement of the exact number of acres that will have been affected in the permit area prior to such temporary cessation, the extent and kind of reclamation of those areas that will have been accomplished, and identification of the backfilling, regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

OSMRE Finding: Pennsylvania's proposed, amended versions of 25 Pa. Code 87.157, 88.131, and 88.219 comply with the Federal temporary cessation notice requirements at 30 CFR 816.131(b). The proposed deletion of the prior 90-day and 180-day limits for temporary cessation matches the Federal regulations, which do not provide any specific duration limit for temporary cessation. The proposed language for 25 Pa. Code 87.157, 88.131, and 88.219 also provides the requirements at 30 CFR 816.131(a) that the operator secure surface facilities in areas in temporary cessation status and that temporary abandonment will not relieve a person of their obligation to comply with any provisions of the approved permit.

Pennsylvania has proposed to add additional protective provisions not required by the Federal regulations at 30 CFR 816.131, including the requirement for submission of certain information following on resumption of coal extraction, that temporary cessation status will terminate on a finding of failure to comply with Pennsylvania mining laws or the approved permit, and that temporary cessation does not relieve the operator of the obligation to submit an application for permit

renewal at least 180 days before the expiration of the existing permit.

We find that Pennsylvania's proposed changes are in accordance with SMCRA and no less effective than the Federal regulations. We find that that Pennsylvania's removal of the 90-day and 180-day upper time limits for temporary cessation status at 25 Pa. Code 87.157, 88.131, and 88.219 are no less stringent than 30 CFR 816.131, which contains no such limits. Therefore, we approve the changes.

8. 25 Pa. Code 86.1 and 87.1—Definition of Surface Mining Activities.

Pennsylvania has proposed to replace the prior definition for "surface mining activities" as it appeared at 25 Pa. Code 86.1 and 87.1. The prior definition included a lengthy description of surface mining activities, which included certain enumerated activities incident to the extraction of coal. This definition has been the subject of review and comment about whether one or other activity incident to coal extraction fell within the definition. *See, e.g., Amerikohl Mining Inc. v. OSMRE*, 191 IBLA 11 (August 30, 2017) (finding that under certain circumstances, timbering on permit area amounted to surface mining activities).

Rather than continuously amending the definition of "surface mining activities" as the law develops, Pennsylvania has proposed to adopt the definition for "surface coal mining activities" as it appears in the Federal regulations at 30 CFR 701.5. The Federal regulations at 30 CFR 701.5 define "surface mining activities" as "those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location."

OSMRE Finding: We find that Pennsylvania's deletion of the definition of "surface mining activities" at Pa. Code sections 86.1 and 87.1, and replacement with the Federal definition at 30 CFR 701.5, is consistent with the Federal regulations and is in accordance with SMCRA. Therefore, we are approving Pennsylvania's proposed changes to the definition of Surface Mining Activities in 25 Pa. Code 86.1 and 87.1.

9. 25 Pa. Code 86.193(b) and (c) (relating to Civil Penalties).

Pennsylvania has proposed to revise its civil penalty requirements at 25 Pa. Code 86.193(b) and (c). Currently, these regulations require PADEP to assess a civil penalty if the penalty is calculated at \$1,100 or more but provides that

PADEP “may” assess a penalty if calculated below \$1,100. Pennsylvania has proposed to strike the \$1,100 threshold in both subsections and replace them with a threshold set at 31 assessed points, as it appears at 30 CFR 723.12(b)–(c).

30 CFR 723.12(b) requires that a penalty must be assessed for each notice of violation if the violation is assigned 31 points or more under the point system described in 30 CFR 723.13. 30 CFR 723.12(c) allows that a penalty may be assessed for each notice of violation assigned 30 points or less under the point system described in 30 CFR 723.13. In determining whether to assess a penalty, the assessor will consider the factors listed in 723.13(b).

OSMRE Finding: We note that Pennsylvania has drafted these changes in reference to the Federal regulations at 30 CFR Chapter VII, Subchapter B, which provides initial regulatory program regulations required by section 502 of SMCRA (30 U.S.C. 1252). The initial regulatory program regulations are effective until permanent programs are approved in accordance with sections 503, 504, or 523 of SMCRA, at which point 30 CFR Chapter VII, Subchapter L applies. 30 CFR 840.1. Because the Secretary of the Interior conditionally approved the Pennsylvania program effective July 31, 1982, the reference to the interim regulatory program regulation at 30 CFR 723.12 should be corrected to comparable permanent regulatory program regulation at 30 CFR 845.12; likewise, the reference to the table in the interim regulatory program regulations at 30 CFR 723.14 should be corrected to comparable table at 30 CFR 845.14 of the permanent program regulations.

However, the civil penalty regulations at 30 CFR 723.12 and 723.14 are substantively identical to those that appear at 30 CFR 845.12 and 845.14, and both have been updated at the same time. As such, even though Pennsylvania’s proposed rules continue to reference the interim program regulations, these regulations are no less stringent than the correct permanent program regulations appearing at 30 CFR part 845. Because the two sections are substantively identical, this error does not make the Pennsylvania law less effective than the Federal regulations or inconsistent with SMCRA. However, we recommend that Pennsylvania correct these references in the future to avoid the possibility that the referenced portions of Part 723 and Part 845 become substantively distinct via future amendments.

Given that the proposed changes to 25 Pa. Code 86.193(b) and (c) do not

include deletion of the reference to 25 Pa. Code 86.194, which specifies its own schedule and criteria for penalties without reference to a points schedule, it appears that Pennsylvania only wishes to set the threshold for a mandatory penalty assessment at the Federal rate rather than require penalty assessors in Pennsylvania assess the actual penalty with the schedule provided at 30 CFR 723.14. Under the current Federal penalty schedule, this change would effectively more than triple Pennsylvania’s \$1,100 mandatory penalty assessment threshold, as the current schedule at 30 CFR 723.14 sets the dollar amount owed for 31 points at \$4,499. *See* 89 FR 23910 (Apr. 5, 2024). However, this would not make the Pennsylvania program less stringent than the Federal regulations, because it would match the Federal threshold for a mandatory penalty assessment. PADEP retains the ability to cite penalties below this threshold at its discretion as provided by 25 Pa. Code 86.193(c) and 30 CFR 723.12(c).

Because the proposed amendments to Pennsylvania’s penalty assessment threshold at 25 Pa. Code 86.193(b) and (c) are in accordance with SMCRA and consistent with those set in the Federal regulations at 30 CFR 723.12, 723.14, 845.12, and 845.14, we approve the proposed changes.

10. *Remining Financial Guarantees to Insure Reclamation—General.*

A. *25 Pa Code 86.281*

Pennsylvania is proposing revisions to their remining financial guarantees provisions at 25 Pa. Code 86.281. These largely provide PADEP with more discretion to apply this incentive on a broader, program-wide basis, rather than applying amounts provided for reclamation costs on a per-permit basis.

25 Pa. Code 86.281 through 86.284 were added by Pennsylvania as part of an effort to provide incentives for active coal mine operators to conduct remining and reclamation of abandoned mine lands and bond forfeiture sites by assisting the operators in meeting their obligation to bond these activities. These regulations established a Remining Financial Assurance Fund to financially assure bonding obligations for an operator engaged in remining, providing the requirements for an operator’s participation, the limits of use of the fund, and the procedures to be followed in the event of bond forfeiture. Under this incentives program, PADEP reserves a portion of the financial guarantees special account in the Remining Financial Assurance Fund as collateral for reclamation obligations on the remining area. We

previously found that this remining incentive was consistent with the provisions of SMCRA, and that the basic Pennsylvania program requirement to secure a bond for surface and underground coal mining operations had not been altered by this incentive. *See* 70 FR 25472, 25480 (May 13, 2005).

At 25 Pa. Code 86.281(b), Pennsylvania has proposed to require that the amount of an individual remining financial guarantee will be the estimated cost for PADEP to reclaim the remining area, subject to the limitations established at 25 Pa. Code 86.281(d). Pennsylvania has proposed to remove, at 25 Pa. Code 86.281(c), the requirement that PADEP designate a specified amount of the financial guarantees special account in the Remining Financial Assurance Fund to financially assure reclamation obligations on the permits with an approved remining area. Previously, this subsection was tied to each individual permit and fixed the specific amount designated at the estimated cost for PADEP to reclaim the remining area. This change is meant to allow PADEP to have flexibility to assign amounts at the program level rather than the individual permit level. Pennsylvania has also proposed to add references at 25 Pa. Code 86.281(d) identifying the designated amount when describing the permit limit, the operator limit, and the program limit of the special account. Finally, Pennsylvania proposes to add 25 Pa. Code 86.281(f) to describe a reserve for the account which provides funds to pay for costs incurred when the financial guarantee program is used for land reclamation.

OSMRE Finding: As we have previously noted, the remining financial guarantee incentive is not inconsistent with SMCRA or the Federal regulations. *See* 70 FR at 25480. These minor changes appear to ensure the stability of the program. The basic Pennsylvania program requirement to secure a bond for surface and underground coal mining operations has not been altered by these incentives. We find that, collectively, Pennsylvania’s proposed revisions to 25 Pa. Code 86.281(b), (c), (d), and (f) ensure that the remining financial guarantee program for remining continues to operate in a manner that ensures solvency of the program and provides Pennsylvania with the monies that would be required if the remining bond was forfeited and the State has to reclaim the site. Because these revisions are in accordance with SMCRA and consistent with the Federal regulations, we approve the proposed changes to 25 Pa. Code 86.281.

B. 25 Pa. Code 86.282(a)(4)

25 Pa. Code 86.282 provides requirements for operators who wish to participate in the reining financial guarantees program, providing four subsections containing prerequisites for participation. One of these prerequisites, at 25 Pa. Code 86.282(a)(4), allows a qualified operator to participate in the fund when they have previously participated in the reining financial guarantee program, met its reclamation obligations, and made timely payments.

Pennsylvania has proposed to add to the end of the subsection a provision requiring that an operator will be eligible under this subsection if it has not been cited through a notice of violation under 25 Pa Code 86.165(a) (relating to failure to maintain proper bond) within the previous three years prior to the request for a reining financial guarantee. This is clearly meant as an effort to not permanently exclude involvement of an operator who once had a missing or late payment, after a sufficient time has passed.

OSMRE Finding: As above, we find that the basic Pennsylvania program requirement to secure a bond for surface and underground coal mining operations has not been altered by this incentive. We find that Pennsylvania's requirements in 25 Pa. Code 86.282(a)(4) stating the limitations of participation of operators who have missed and/or late payments and describing the time frame of said violations as a method of risk management are in accordance with SMCRA and consistent with the Federal regulations. Accordingly, we are approving additional participation requirement and limitation at 25 Pa. Code 282(a)(4).

C. 25 Pa. Code 86.284(d) (Relating to Forfeiture)

Pennsylvania has proposed revisions to 25 Pa. Code 86.284(d), which describes the consequences when a reining financial guarantee program participant's bond is forfeited. 25 Pa. Code 86.254(d) requires that on bond forfeiture of a financial guarantees program participant, PADEP will discontinue the program immediately and publish a notice in the *Pennsylvania Bulletin* if 25% or greater of the total outstanding financial guarantees are declared forfeit. Pennsylvania has proposed to remove the mandatory discontinuation of the program, providing that the program "may" be discontinued immediately, and to change the phrase "declared forfeit" to "subject to forfeiture." Pennsylvania states that this revision is

meant to prevent the confusion that has resulted from a difference between 25 Pa. Code 86.284(d) and Section 4.12 of the Pennsylvania Surface Mining Conservation and Reclamation Act ("PASMCR") (52 P.S. 1396.41), which authorizes PADEP to establish the financial guarantees program.

OSMRE Finding: The proposed amendment would standardize the use of "may" at 25 Pa. Code 86.254(d) to match the wording that appears at 52 P.S. 1396.41(d). As above, we find that the basic Pennsylvania program requirement to secure a bond for surface and underground coal mining operations has not been altered by this incentive. We find that Pennsylvania's proposed revisions are in accordance with SMCRA and consistent with the Federal regulations. Therefore, we are approving the changes to 25 Pa. Code 86.24(d).

11. 25 Pa. Code 90.201—Coal Refuse Disposal Site Selections.

25 Pa. Code 90.201 provides definitions applicable to 25 Pa. Code Chapter 90 (Coal Refuse Disposal). The existing definition for "preferred site" included various types of watersheds impacted by mining, unreclaimed coal refuse disposal piles, or other unreclaimed areas previously affected by mining activities. Pennsylvania has proposed to add to the end of this list "or an area adjacent to or an expansion of an existing coal refuse disposal site."

Section 4.1(a) of Pennsylvania's Coal Refuse Disposal Control Act (CRDCA) (52 P.S. 30.54a(a)) provides site selection criteria for determining where to place coal refuse following mining activities. The CRDCA provided that areas that have been previously affected by mining activities within a specific area of the source mine are preferred for coal refuse disposal unless the applicant demonstrates that another site is more suitable based on site-specific conditions. Pennsylvania provided a definition of "preferred sites" at Section 4.1(a), 52 P.S. 30.54a(a) of the CRDCA that includes "an area adjacent to or an expansion of an existing coal refuse disposal site."

OSMRE Finding: We have previously approved several categories of "preferred sites" in 52 P.S. 30.54a(a) because there was no direct Federal counterpart to the proposed State language. See 63 FR 19802, 19806–09 (Apr. 22, 1998). We further noted that the establishment of criteria to be used for selecting sites for coal refuse disposal is not itself inconsistent with the intent of SMCRA. The Federal regulations do not include specific criteria for establishing coal refuse disposal areas. Allowing refuse disposal

on areas adjacent to or an expansion of an existing coal refuse disposal site, provided that all other environmental and safety requirements are met, is not inconsistent with section 102(d) of SMCRA, 30 U.S.C. 1202(d), which requires surface coal mining operations to be conducted so as to protect the environment. That same rationale applies to our approval of the addition of the sixth category of a preferred site, an "area adjacent to or an expansion of an existing coal refuse disposal site" at 52 P.S. 30.54a(a). See 80 FR 63125, 63127 (October 19, 2015).

Pennsylvania's proposed amendment would add this sixth category of preferred site to 25 Pa. Code 90.201.

We find that the proposed revision to 25 Pa. Code 90.201 reflects the statutory language that we previously approved on October 19, 2015. While there are no direct Federal counterparts to the proposed site selection criterion, by providing this criterion, and by prohibiting, generally, coal refuse disposal operations on non-preferred sites, Pennsylvania imposes a more stringent environmental control of coal refuse disposal operations than is provided in either SMCRA or its implementing regulations. Moreover, Pennsylvania will continue to apply the Pennsylvania counterparts to the Federal permitting and performance standard requirements. Because the revised regulation is in accordance with SMCRA and consistent with the Federal regulations, we are approving the revision.

12. 25 Pa. Code 86.31—Public Notices of Filing of Permit Applications.

Pennsylvania has proposed to revise 25 Pa. Code 86.31 relating to public notices of filing of permit applications. Previously, 25 Pa. Code 86.31(c)(1) required notification by registered mail to the municipality where mining is proposed.

The Federal requirement at 30 CFR 773.6(a)(3) (relating to public participation in permit processing) requires that the regulatory authority will issue a written notification indicating the applicant's intention to mine the described tract of land, the application number or other identifier, the location where the copy of the application may be inspected, and the location where comments on the application may be submitted.

OSMRE Finding: While the Federal regulations require written notice to government agencies, the regulations do not specify the means by which written notice is given. We find that because there is no requirement of notification by registered mail in the Federal regulations, the revised regulation is in

accordance with SMCRA and consistent with the Federal regulations. Accordingly, we are approving the proposed change.

13. 25 Pa. Code 87.103, 88.93, 88.188, 88.293, 89.53, and 90.103 (relating to Storm Events).

Pennsylvania has proposed revisions to 25 Pa. Code 87.103, 88.93, 88.188, 88.293, and 89.53, each containing a table of data representing the amount of precipitation for a 10-year, 24-hour storm event on a county-by-county basis. 25 Pa. Code 90.103 includes tables of similar data representing the 1-year and 10-year rainfall events. Pennsylvania's submission letter states that the tables were created using climatological data available in the early 1980s, at which time data was available for only a limited number of stations in each county.

Pennsylvania's submission makes it clear that it seeks to replace these data tables with data from the Precipitation Frequency Data Server (PFDS) developed by the National Oceanic and Atmospheric Administration (NOAA), which provides data from NOAA Atlas 14. NOAA Atlas 14 contains precipitation frequency estimates for the United States and U.S. affiliated territories with associated lower and upper bounds of the 90% confidence interval and supplementary information on temporal distribution of heavy precipitation, and analysis of seasonality and trends in annual maximum series data. Pennsylvania's incorporation of these data is meant to bring the storm event tables up to date.

OSMRE Finding: The Federal regulations at 40 CFR 434.11(n) define the terms "1-year, 2-year, and 10-year, 24-hour precipitation events" as "the maximum 24-hour precipitation event with a probable recurrence interval of once in one, two, and ten years respectively as defined by the National Weather Service and Technical Paper No. 40, 'Rainfall Frequency Atlas of the U.S.,' May 1961, or equivalent regional or rainfall probability information developed therefrom." We find that the proposed changes to 25 Pa. Code 87.103, 88.93, 88.188, 88.293, 89.53, and 90.103, replacing the tables "reference to data provided by the National Oceanic and Atmospheric Administration or equivalent resources," complies with the Federal regulations, which allow standards for such events to be set via "equivalent regional or rainfall probability information." Because the proposed revisions are in accordance with SMCRA and consistent with the Federal regulations, we are approving the proposed revisions.

14. 25 Pa. Code 87.102, 88.92, 88.187, 88.292 (relating to Hydrologic Balance: Effluent Standards); 89.52 (relating to Water Quality Standards, Effluent Limitations, and Best Management Practices); and 90.102 (relating to Hydrologic Balance: Water Quality Standards, Effluent Limitation and Best Management Practices).

Pennsylvania has proposed to amend 25 Pa. Code 87.102, 88.92, 88.187, 88.292, 89.52, and 90.102 to incorporate a reference to the Environmental Quality Board's Chapter 96, which became effective November 18, 2000 (30 Pa.B 6059). Chapter 96 establishes the process for attaining and maintaining water quality standards and cross-references in each of the identified sections.

OSMRE Finding: 25 Pa. Code 87.102(f), 88.92(f), 88.187(f), 88.292(f), 89.52(h), and 90.102(f) provide a list of chapters of the Pennsylvania Administrative Code with which the foregoing regulated activity must comply. Pennsylvania seeks to add Chapter 96 to these lists. Because the proposed revisions are in accordance with SMCRA and consistent with the Federal regulations, we are approving the proposed revisions.

15. 25 Pa. Code 86.54 and 87.100 (relating to Coal Ash and Biosolids).

Pennsylvania has proposed to replace the use of the term "fly ash" with "coal ash," and the term "sewage sludge" with "biosolids or residential septage" as those terms appear in 25 Pa. Code 86.54(1)(iii) and 87.100(d) respectively.

OSMRE Finding: "Fly ash" is already included, along with other materials, in the definition of "Coal Ash" at 25 Pa. Code 287.1. While "sewage sludge" is also defined at 25 Pa. Code 287.1, there are no mentions of "biosolids" or "residential septage."

Neither SMCRA nor the Federal regulations promulgated pursuant to the Act define these terms. Accordingly, we find that Pennsylvania's replacement of the terms "fly ash" and "sewage sludge" with "coal ash" and "biosolids" is consistent with the Federal regulations and in accordance with SMCRA. Therefore, we are approving the changes.

16. 25 Pa. Code 86.162(a) (relating to the Anthracite Mine Operator's Emergency Bond Fund).

Pennsylvania has proposed to amend 25 Pa. Code 86.162 to delete the word "deep" from section 86.162(a) as clarification that other sorts of mine operations, in addition to deep mines, are eligible for participation in the Anthracite Mine Operators Emergency Bond Fund. In 1992, PASMCR section 4.7 (52 P.S. 1396.4g) was revised to

allow anthracite surface mining operators to participate. This proposed amendment is meant to bring Pennsylvania regulations into conformity with 52 P.S. 1396.4g.

OSMRE Finding: PASMCR Section 4.7 (52 P.S. 1396.4g) provides for the anthracite mine operators emergency bond fund. We have previously approved modifications to this section that allowed anthracite surface mine operators to participate in the emergency bond fund. See 70 FR at 25476. We previously found that the emergency bond fund is not an alternative bonding system; it is an adjunct to the conventional bonding system for anthracite mining operations. Because no permit may be issued without adequate bonds being posted, allowing operators other than "deep mine" operators to use the fund would not make 25 Pa. Code 86.162 inconsistent with section 509 of SMCRA. Accordingly, we find that Pennsylvania's proposed amendment is consistent with the Federal regulations and in accordance with SMCRA, and we approve the changes.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment and received one comment, but that comment was completely unrelated to the subject matter of this amendment.

Federal Agency Comments

On March 18, 2020, 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. We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). On March 18, 2020, under 30 CFR 732.17(h)(11)(i), we requested comments and concurrence from the EPA on the amendment (Administrative Record No. PA 906.01). On July 13, 2023, we received concurrence of the approval of the amendment from EPA. EPA further commented that the revisions do not alter the Clean Water Act.

State Historical 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 18, 2020, we requested comments on Pennsylvania amendment. Neither the SHPO nor ACHP responded to our request.

V. OSMRE's Decision

Based on the above findings, we are approving Pennsylvania's program amendment sent to us on March 16, 2020 (Administrative Record No. PA 906.00). To implement this decision, we are amending the Federal regulations at 30 CFR part 938, that codify decisions concerning the Pennsylvania program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not cause a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M–94–3), the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3 of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that

the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the Commonwealth of Pennsylvania drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications, as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to “grant the States the maximum administrative discretion possible” with respect to Federal statutes and regulations administered by the States. Pennsylvania, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Pennsylvania program submitted and drafted by the State, and thus is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal government and Tribes. The basis for this determination is that our decision on the Pennsylvania program does not include Indian lands as defined by SMCRA or other Tribal lands, and it does not affect the regulation of activities on Indian lands or other Tribal lands. Indian lands under SMCRA are regulated independently under the applicable Federal Indian lands program. The

Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared, and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied

upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Ben Owens,

Acting Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—Pennsylvania

■ 1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 938.12 [Amended]

■ 2. Section 938.12 is amended by removing and reserving paragraph (d).

■ 3. Amend § 938.15 in the table by adding an entry in chronological order by “Date of final publication” for “March 16, 2020” to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
March 16, 2020	June 27, 2025	25 Pa. Code 86.1 (amending definition of “surface mining activities”); 25 Pa. Code 86.31(c)(1)(removing registered mail requirement); 25 Pa. Code 86.62(a)(3) (removing date of issuance requirement); and 25 Pa. Code 86.238 (updating OSMRE form number); 25 Pa. Code 86.151(d); 25 Pa. Code 86.158(b)–(b)(3); 25 Pa. Code 86.193(b)–(c) (incorporating Federal penalty schedule for mandatory assessment threshold); 25 Pa. Code 86.281(b), (c), (d), and (f) (changing various provisions of the remaining financial guarantee incentive program); 25 Pa. Code 87.1 (amending definition of “surface mining activities”); 25 Pa. Code 87.103, 88.93, 88.188, 88.293, and 89.53 (replacing storm event tables with NOAA data); 25 Pa. Code 87.157; 25 Pa. Code 88.1 (amending of definition for “haul roads”); 25 Pa. Code 88.131; 25 Pa. Code 88.219; and 25 Pa. Code 89.52(f) (deleting of portion of subsection (f), eliminating the alternative effluent limits for passive treatment systems for underground mines). <i>Minor changes and citation corrections:</i> 52 P.S. 305.54a; 25 Pa. Code 86–90; 25 Pa. Code 86.51; 25 Pa. Code 86.54; 25 Pa. Code 86.84; 25 Pa. Code 86.162a; 25 Pa. Code 86.189(b)(4); 25 Pa. Code 86.232; 25 Pa. Code 86.282(a)(4); 25 Pa. Code 86.284(d); 25 Pa. Code 87.100(d); 25 Pa. Code 87.102; 25 Pa. Code 88.1; 25 Pa. Code 88.92; 25 Pa. Code 88.187; 25 Pa. Code 88.190(b)–(g); 25 Pa. Code 88.292; 25 Pa. Code 88.295(b)–(i); 25 Pa. Code 88.502; 25 Pa. Code 88.507(c); 25 Pa. Code 88.508; 25 Pa. Code 89.52; 25 Pa. Code 90.102; and 25 Pa. Code 90.308.

§ 938.16 [Amended]

■ 4. Section 938.16 is amended by removing and reserving paragraphs (m), (n), (o) and (mmm).

[FR Doc. 2025–11907 Filed 6–26–25; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0558]

RIN 1625–AA00

Safety Zone; Lake Erie, Lakewood, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 450 foot radius of the Solstice Steps in Lakewood, OH on Lake Erie on July 4, 2025 for the Lakewood Independence Day fireworks. The safety zone is needed to protect personnel and vessels from potential hazards created by the firework show. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Eastern Great Lakes or a designated representative.