

EXECUTIVE SUMMARY

Federal Office of Surface Mining Reclamation and Enforcement (OSM) Program Consistency 25 Pa. Code, Chapters 86, 87, 88, 89, and 90

This proposed rulemaking amends the coal mining regulations at 25 Pa. Code Chapter 86 (Surface and Underground Coal Mining: General), Chapter 87 (Surface Mining of Coal), Chapter 88 (Anthracite Coal), Chapter 89 (Underground Mining of Coal and Coal Preparation Facilities) and Chapter 90 (Coal Refuse Disposal).

This rulemaking is authorized under the Surface Mining Conservation and Reclamation Act, the Clean Streams Law, the Coal Refuse Disposal Control Act, the Bituminous Mine Subsidence and Land Conservation Act and the Administrative Code of 1929.

The Office of Surface Mining Reclamation and Enforcement (OSM), under the U.S. Department of the Interior, reviews state coal mining regulatory programs and approves state primary regulatory authority if a state's regulations are consistent with (*i.e.*, no less protective than) federal requirements. Over the past several years, OSM has identified several regulations within the Commonwealth's regulatory program that are inconsistent with federal requirements. Therefore, DEP must revise its regulations so that they are no less stringent than federal requirements. In this rulemaking, DEP included additional revisions to reflect general program maintenance, such as correcting typographical errors and updating organization names, statutory citations, remaining requirements, and the use of reference data for stormwater control facilities.

Failure to address these inconsistencies puts the Commonwealth at risk for losing program primacy to the federal government. The loss of program primacy would threaten the federal Title V grant which funds about fifty percent of the coal mining program which, in FY 16-17, totaled about \$25,413,733.

DEP will achieve compliance assistance for this rulemaking through routine consultation with trade groups, citizens, and individual applicants. The regulated community is comprised of about 400 businesses, most of which are small businesses. The regulations will apply consistently among all operations, for small and large businesses alike. The rulemaking will not require revisions to application forms and guidance documents.

On April 6, 2017, the Mining and Reclamation Advisory Board (MRAB) recommended that the Department move the proposed rulemaking forward in the regulatory review process. This recommendation came after extensive interaction with the MRAB Regulation, Legislation and Technical committee.

DEP recommends the adoption of the proposed regulation and publication with a 30-day public comment period.