

(15) Proceed north in a straight line for 2 miles, along the R7E and R8E common boundary line, to the northwest corner of section 6, in T21S and R8E (Thompson Canyon Quadrangle); then

(16) Proceed east in a straight line for 0.1 mile to the southwest corner of section 31 and continue diagonally to the northeast corner of section 31, in T20S and R8E (Thompson Canyon Quadrangle); then

(17) Proceed west in a straight line for 2 miles to the southwest corner of section 25, in T20S and R7E (Thompson Canyon Quadrangle); then

(18) Proceed due north in a straight line for 0.1 mile to the intersection with a light duty road, named Pine Canyon Road, in section 25, and continue northeast along that road for 3.2 miles to its intersection with an unnamed secondary highway, north of benchmark 337, section 18, in T20S and R8E (Thompson Canyon Quadrangle); then

(19) Proceed northwest along the unnamed secondary highway for 0.3 mile to its intersection with U.S. Highway 101, in T20S and R8E (Thompson Canyon Quadrangle); then

(20) Proceed northeast along U.S. Highway 101 for 0.7 mile to benchmark 304, returning to the point of beginning (Thompson Canyon Quadrangle).

Signed: April 26, 2004.

Arthur J. Libertucci,
Administrator.

Approved: May 26, 2004.

Timothy E. Skud,
Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

[FR Doc. 04-14652 Filed 6-28-04; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Definitions for Surface and Underground Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; Technical amendment.

SUMMARY: This technical amendment moves several definitions from subparts B, C, E, H, M, and R of 30 CFR part 56, and from subparts B, C, E, H, M and T of 30 CFR part 57 to the general definitions section in subpart A of 30 CFR parts 56 and 57 respectively. This action eliminates redundancy and

potential confusion with multiple definitions. It provides the metal and nonmetal mining community a central location in the CFR where most definitions applicable to surface or underground metal and nonmetal mines can be found. Definitions that have a specific application to a particular subpart have not been moved to subpart A.

DATES: *Effective Date:* June 29, 2004.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations and Variances, MSHA; 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939; telephone (202) 693-9440; facsimile (202) 693-9441; or e-mail: nichols.marvin@DOL.gov. This notice is available on the Internet at <http://www.msha.gov/REGSINFOR.HTM>.

SUPPLEMENTARY INFORMATION:

I. Discussion of Changes

This technical amendment moves several definitions from subparts B, C, E, H, M and R of 30 CFR part 56; and subparts B, C, E, H, M and T of 30 CFR part 57 to the general definition section of subpart A of 30 CFR parts 56 and 57. This action eliminates redundancy and potential confusion with multiple definitions. It provides the metal and nonmetal mining community a central location in the CFR where most definitions applicable to surface or underground metal and nonmetal mines can be found. Definitions that have a specific application to a particular subpart have not been moved to subpart A.

II. Procedural Matters

Administrative Procedures Act

The minor revisions contained in this notice are technical and nonsubstantive in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B) of the Administrative Procedures Act (APA), it has been determined that the notice and comment procedures do not apply to this action. For the same reason, it has been determined that in accordance with 5 U.S.C. 553(d), there is good cause to make these changes effective on the date of publication in the **Federal Register**.

III. Part 56

To eliminate potential confusion and redundancy with the definitions, the definition for *Explosive* found in § 56.2 and § 56.6000, has been combined and moved to § 56.2, the general definitions section for 30 CFR part 56. The definitions for *berm* and *mobile equipment* have been moved to § 56.2.

Accordingly, § 56.9000 has now been deleted since *berm* and *mobile equipment* were the only definitions in that section.

IV. Part 57

To eliminate potential confusion and redundancy with the definitions, the definitions for *Auxiliary fan* found in § 57.2 and § 57.22002, *Booster fan* found in § 57.2 and § 57.22002, *Combustible material* found in § 57.4000 and § 57.22002, *Mobile equipment* found in § 57.9000 and § 57.14000, and *Noncombustible material* found in § 57.4000 and § 57.22002, have been combined and moved to § 57.2, the general definitions section to 30 CFR part 57. The definitions for *berm* and *mobile equipment* have been moved to § 57.2. Accordingly, § 57.9000 has now been deleted since *berm* and *mobile equipment* were the only two definitions in that section.

List of Subjects in 30 CFR Parts 56 and 57

Explosives, Ground control, Fire prevention, Loading, hauling, dumping, Machinery and equipment, Metal and nonmetal, Mine safety and health, Personnel hoisting.

Dated: June 23, 2004.

David Dye,

Deputy Assistant Secretary of Labor for Mine Safety and Health.

■ For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 56 and 57 of title 30 of the Code of Federal Regulations as follows:

PART 56—[AMENDED]

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Section 56.2 is revised to read as follows:

§ 56.2 Definitions.

The following definitions apply in this part. In addition definitions contained in any subpart of part 56 apply in that subpart. If inconsistent with the general definitions in this section, the definition in the subpart will apply in that subpart:

American Table of Distances means the current edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives.

Approved means tested and accepted for a specific purpose by a nationally recognized agency.

Attended means presence of an individual or continuous monitoring to prevent unauthorized entry or access.

Authorized person means a person approved or assigned by mine management to perform a specific type of duty or duties or to be at a specific location or locations in the mine.

Barricaded means obstructed to prevent the passage of persons, vehicles, or flying materials.

Barrier means a material object, or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape.

Berm means a pile or mound of material along an elevated roadway capable of moderating or limiting the force of a vehicle in order to impede the vehicle's passage over the bank of the roadway.

Blast area means the area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors shall be considered:

- (1) Geology or material to be blasted.
- (2) Blast pattern.
- (3) Burden, depth, diameter, and angle of the holes.
- (4) Blasting experience of the mine.
- (5) Delay system, powder factor, and pounds per delay.
- (6) Type and amount of explosive material.

- (7) Type and amount of stemming.

Blast site means the area where explosive material is handled during loading, including the perimeter formed by the loaded blastholes and 50 feet (15.2 meters) in all directions from loaded holes. A minimum distance of 30 feet (9.1 meters) may replace the 50-foot (15.2-meter) requirement if the perimeter of loaded holes is demarcated with a barrier. The 50-foot (15.2-meter) and alternative 30-foot (9.1-meter) requirement also apply in all directions along the full depth of the hole.

Blasting agent means any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114(a) (44 FR 31182, May 31, 1979) which is incorporated by reference. This document is available for inspection at each Metal and Nonmetal Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, DC 20402.

Blasting area means the area near the blasting operations in which concussion or flying material can reasonably be expected to cause injury.

Blasting cap means a detonator which is initiated by a safety fuse.

Blasting circuit means the electrical circuit used to fire one or more electric blasting caps.

Blasting switch means a switch used to connect a power source to a blasting circuit.

Booster means any unit of explosive or blasting agent used for the purpose of perpetuating or intensifying an initial detonation.

Capped fuse means a length of safety fuse to which a blasting cap has been attached.

Capped primer means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator.

Circuit breaker means a device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent setting without injury to itself when properly applied within its rating.

Combustible means capable of being ignited and consumed by fire.

Combustible liquids means liquids having a flash point at or above 100 °F (37.8 °C). They are divided into the following classes:

(1) Class II liquids—those having flash points at or above 100 °F (37.8 °C) and below 140 °F (60 °C).

(2) Class IIIA liquids—those having flash points at or above 140 °F (60 °C) and below 200 °F (93.4 °C).

(3) Class IIIB liquids—those having flash points at or above 200 °F (93.4 °C).

Combustible material means a material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Company official means a member of the company supervisory or technical staff.

Competent person means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

Conductor means a material, usually in the form of a wire, cable, or bus bar, capable of carrying an electric current.

Delay connector means a non-electric short interval delay device for use in delaying blasts which are initiated by detonating cord.

Detonating cord means a flexible cord containing a solid core of high explosives.

Detonator means any device containing a detonating charge that is used to initiate an explosive and includes but is not limited to blasting caps, electric blasting caps and nonelectric instantaneous or delay blasting caps.

Distribution box means a portable apparatus with an enclosure through

which an electric circuit is carried to one or more cables from a single incoming feed line, each cable circuit being connected through individual overcurrent protective devices.

Electric blasting cap means a detonator designed for and capable of being initiated by means of an electric current.

Electrical grounding means to connect with the ground to make the earth part of the circuit.

Employee means a person who works for wages or salary in the service of an employer.

Employer means a person or organization which hires one or more persons to work for wages or salary.

Emulsion means an explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

Explosive means any substance classified as an explosive by the Department of Transportation in 49 CFR 173.53, 173.88, and 173.100 which are incorporated by reference. Title 49 CFR is available for inspection at each Metal and Nonmetal Safety and Health district office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, DC 20402.

Explosive material means explosives, blasting agents, and detonators.

Face or bank means that part of any mine where excavating is progressing or was last done.

Fire resistance rating means the time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flammable means capable of being easily ignited and of burning rapidly.

Flammable gas means a gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid means a liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 °F (37.8 °C), and is known as a Class I liquid.

Flash point means the minimum temperature at which sufficient vapor is released by a liquid or solid to form a flammable vapor-air mixture at atmospheric pressure.

High potential means more than 650 volts.

Highway means any public street, public alley, or public road.

Hoist means a power driven windlass or drum used for raising ore, rock, or other material from a mine, and for lowering or raising persons and material.

Igniter cord means a fuse, cordlike in appearance, which burns progressively

along its length with an external flame at the zone of burning, and is used for lighting a series of safety fuses in the desired sequence.

Insulated means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected. Otherwise, it is, within the purpose of this definition, uninsulated. Insulating covering is one means for making the conductor insulated.

Insulation means a dielectric substance offering a high resistance to the passage of current and to a disruptive discharge through the substance.

Laminated partition means a partition composed of the following material and minimum nominal dimensions: 1/2-inch-thick plywood, 1/2-inch-thick gypsum wallboard, 1/8-inch-thick low carbon steel, and 1/4-inch-thick plywood, bonded together in that order (IME-22 Box). A laminated partition also includes alternative construction materials described in the Institute of Makers of Explosives (IME) Safety Library Publication No. 22, "Recommendations for the Safe Transportation of Detonators in a Vehicle with other Explosive Materials," (May 1993), and the "Generic Loading Guide for the IME-22 Container," (October 1993). This incorporation by reference has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available at MSHA, 1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209-3939, and at all Metal and Nonmetal Mine Safety and Health district offices, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

Lay means the distance parallel to the axis of the rope in which a strand makes one complete turn about the axis of the rope.

Loading means placing explosive material either in a blasthole or against the material to be blasted.

Low potential means 650 volts or less.

Magazine means a facility for the storage of explosives, blasting agents, or detonators.

Major electrical installation means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power.

Mantrip means a trip on which persons are transported to and from a work area.

Mill includes any ore mill, sampling works, concentrator, and any crushing, grinding, or screening plant used at, and in connection with, an excavation or mine.

Misfire means the complete or partial failure of a blasting charge to explode as planned.

Mobile equipment means wheeled, skid-mounted, track-mounted, or rail-mounted equipment capable of moving or being moved.

Multipurpose dry-chemical fire extinguisher means an extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material means a material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Non-electric delay blasting cap means a detonator with an integral delay element and capable of being initiated by miniaturized detonating cord.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined.

Overload means that current which will cause an excessive or dangerous temperature in the conductor or conductor insulation.

Permissible means a machine, material, apparatus, or device that has been investigated, tested, and approved by the Bureau of Mines or the Mine Safety and Health Administration and is maintained in permissible condition.

Potable water means water which shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located or by the Environmental Protection Agency in 40 CFR part 141, pages 169-182 revised as of July 1, 1977. Where no such requirements are applicable, the drinking water provided shall conform with the Public Health Service Drinking Water Standards, 42 CFR part 72, subpart J, pages 527-533, revised as of October 1, 1976. Publications to which references are made in this definition are hereby made a part hereof. These incorporated publications are available for inspection at each Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

Powder chest means a substantial, nonconductive portable container equipped with a lid and used at blasting sites for explosives other than blasting agents.

Primer means a unit, package, or cartridge of explosives used to initiate other explosives or blasting agents, and which contains a detonator.

Reverse-current protection means a method or device used on direct-current circuits or equipment to prevent the flow of current in the reverse direction.

Rock fixture means any tensioned or nontensioned device or material inserted into the ground to strengthen or support the ground.

Roll protection means a framework, safety canopy or similar protection for the operator when equipment overturns.

Safety can means an approved container, of not over five gallons capacity, having a spring-closing lid and spout cover.

Safety fuse means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps or a black powder charge.

Safety switch means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area.

Scaling means removal of insecure material from a face or highwall.

Secondary safety connection means a second connection between a conveyance and rope, intended to prevent the conveyance from running away or falling in the event the primary connection fails.

Shaft means a vertical or inclined shaft, a slope, incline or winze.

Short circuit means an abnormal connection of relatively low resistance, whether made accidentally or intentionally, between two points of different potential in a circuit.

Slurry (as applied to blasting). See "Water gel."

Storage facility means the entire class of structures used to store explosive materials. A "storage facility" used to store blasting agents corresponds to a BATF Type 4 or 5 storage facility.

Storage tank means a container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

Stray current means that portion of a total electric current that flows through paths other than the intended circuit.

Substantial construction means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage, to which it will be subjected.

Suitable means that which fits, and has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

Travelway means a passage, walk or way regularly used and designated for persons to go from one place to another.

Water gel or *Slurry* (as applied to blasting) means an explosive or blasting agent containing substantial portions of water.

Wet drilling means the continuous application of water through the central hole of hollow drill steel to the bottom of the drill hole.

Working place means any place in or about a mine where work is being performed.

§ 56.3000 [Amended]

■ 3. Section 56.3000 is amended by removing the definition for *Rock fixture*.

§ 56.4000 [Amended]

■ 4. Section 56.4000 is amended by removing the following definitions: (1) *Combustible liquids*; (2) *Combustible material*; (3) *Fire resistance rating*; (4) *Flammable gas*; (5) *Flammable liquid*; (6) *Noncombustible material*; and (7) *Storage tank*.

§ 56.6000 [Amended]

■ 5. Section 56.6000 is amended by removing the following definitions: (1) *Attended*; (2) *Barrier*; (3) *Blast area*; (4) *Blast site*; (5) *Emulsion*; (6) *Explosive*; (7) *Explosive material*; (8) *Laminated partition*; (9) *Loading*; and (10) *Storage facility*.

§ 56.9000 [Removed]

■ 6. Section 56.9000 is removed.

§ 56.14000 [Amended]

■ 7. Section 56.14000 is amended by removing the definition for *Mobile equipment*.

PART 57—[AMENDED]

■ 8. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 9. Section 57.2 is revised to read as follows:

§ 57.2 Definitions.

The following definitions apply to this part. In addition definitions contained in any subpart of part 57 apply in that subpart. If inconsistent with the general definitions in this section, the definition in the subpart will apply in that subpart:

Abandoned areas means areas in which work has been completed, no further work is planned, and travel is not permitted.

Abandoned mine means all work has stopped on the mine premises and an office with a responsible person in charge is no longer maintained at the mine.

Abandoned workings means deserted mine areas in which further work is not intended.

Active workings means areas at, in, or around a mine or plant where men work or travel.

American Table of Distances means the current edition of "The American Table of Distances for Storage of Explosives" published by the Institute of Makers of Explosives.

Approved means tested and accepted for a specific purpose by a nationally recognized agency.

Attended means presence of an individual or continuous monitoring to prevent unauthorized entry or access. In addition, areas containing explosive material at underground areas of a mine can be considered attended when all access to the underground areas of the mine is secured from unauthorized entry. Vertical shafts shall be considered secure. Inclined shafts or adits shall be considered secure when locked at the surface.

Authorized person means a person approved or assigned by mine management to perform a specific type of duty or duties or to be at a specific location or locations in the mine.

Auxiliary fan means a fan used to deliver air to a working place off the main airstream; generally used with ventilation tubing.

Barricaded means obstructed to prevent the passage of persons, vehicles, or flying materials.

Barrier means a material object, or objects that separates, keeps apart, or demarcates in a conspicuous manner such as cones, a warning sign, or tape.

Berm means a pile or mound of material along an elevated roadway capable of moderating or limiting the force of a vehicle in order to impede the vehicle's passage over the bank of the roadway.

Blast area means the area in which concussion (shock wave), flying material, or gases from an explosion may cause injury to persons. In determining the blast area, the following factors, shall be considered:

- (1) Geology or material to be blasted.
- (2) Blast pattern.
- (3) Burden, depth, diameter, and angle of the holes.
- (4) Blasting experience of the mine.
- (5) Delay system, powder factor, and pounds per delay.
- (6) Type and amount of explosive material.
- (7) Type and amount of stemming.

Blast site means the area where explosive material is handled during loading, including the perimeter formed by the loaded blastholes and 50 feet (15.2 meters) in all directions from loaded holes. A minimum distance of 30 feet (9.1 meters) may replace the 50-foot (15.2-meter) requirement if the perimeter of loaded holes is demarcated with a barrier. The 50-foot (15.2-meter) and alternative 30-foot (9.1-meter) requirements also apply in all directions along the full depth of the hole. In underground mines, at least 15 feet (4.6 meters) of solid rib, pillar, or broken rock can be substituted for the 50-foot (15.2-meter) distance. In underground mines utilizing a block-caving system or similar system, at least 6 feet (1.8 meters) of solid rib or pillar, including concrete reinforcement of at least 10 inches (254 millimeters), with overall dimensions of not less than 6 feet (1.8 meters) may be substituted for the 50-foot (15.2-meter) distance requirement.

Blasting agent means any substance classified as a blasting agent by the Department of Transportation in 49 CFR 173.114(a) (44 FR 31182, May 31, 1979) which is incorporated by reference. This document is available for inspection at each Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, DC 20402.

Blasting area means the area near blasting operations in which concussion or flying material can reasonably be expected to cause injury.

Blasting cap means a detonator which is initiated by a safety fuse.

Blasting circuit means the electrical circuit used to fire one or more electric blasting caps.

Blasting switch means a switch used to connect a power source to a blasting circuit.

Blowout means a sudden, violent, release of gas or liquid due to the reservoir pressure in a petroleum mine.

Booster means any unit of explosive or blasting agent used for the purpose of perpetuating or intensifying an initial detonation.

Booster fan means a fan installed in the main airstream or a split of the main airstream to increase airflow through a section or sections of a mine.

Capped fuse means a length of safety fuse to which a blasting cap has been attached.

Capped primer means a package or cartridge of explosives which is specifically designed to transmit detonation to other explosives and which contains a detonator.

Circuit breaker means a device designed to open and close a circuit by nonautomatic means and to open the circuit automatically on a predetermined overcurrent setting without injury to itself when properly applied within its rating.

Combustible means capable of being ignited and consumed by fire.

Combustible material means a material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion or release flammable vapors when subjected to fire or heat. Wood, paper, rubber, and plastics are examples of combustible materials.

Company official means a member of the company supervisory or technical staff.

Competent person means a person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

Conductor means a material, usually in the form of a wire, cable, or bus bar, capable of carrying an electric current.

Delay connector means a nonelectric short interval delay device for use in delaying blasts which are initiated by detonating cord.

Detonating cord means a flexible cord containing a solid core of high explosives.

Detonator means any device containing a detonating charge that is used to initiate an explosive and includes but is not limited to blasting caps, electric blasting caps and non-electric instantaneous or delay blasting caps.

Distribution box means a portable apparatus with an enclosure through which an electric circuit is carried to one or more cables from a single incoming feed line; each cable circuit being connected through individual overcurrent protective devices.

Electric blasting cap means a detonator designed for and capable of being initiated by means of an electric current.

Electrical grounding means to connect with the ground to make the earth part of the circuit.

Employee means a person who works for wages or salary in the service of an employer.

Employer means a person or organization which hires one or more persons to work for wages or salary.

Emulsion means an explosive material containing substantial amounts of oxidizers dissolved in water droplets, surrounded by an immiscible fuel.

Escapeway means a passageway by which persons may leave a mine.

Explosive means any substance classified as an explosive by the

Department of Transportation in 49 CFR 173.53, 173.88 and 173.100 which are incorporated by reference. Title 49 CFR is available for inspection at each Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the U.S. Government Printing Office, Washington, DC 20402.

Face or bank means that part of any mine where excavating is progressing or was last done.

Fire resistance rating means the time, in minutes or hours, that an assembly of materials will retain its protective characteristics or structural integrity upon exposure to fire.

Flame spread rating means the numerical designation that indicates the extent flame will spread over the surface of a material during a specified period of time.

Flammable means capable of being easily ignited and of burning rapidly.

Flammable gas means a gas that will burn in the normal concentrations of oxygen in the air.

Flammable liquid a liquid that has a flash point below 100 °F (37.8 °C), a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 °F (37.8 °C), and is known as a Class I liquid.

Flash point means the minimum temperature at which sufficient vapor is released by a liquid or solid to form a flammable vapor-air mixture at atmospheric pressure.

Geological area means an area characterized by the presence of the same ore bodies, the same stratigraphic sequence of beds, or the same ore-bearing geological formation.

Highway means any public street, public alley or public road.

High potential means more than 650 volts.

Hoist means a power driven windlass or drum used for raising ore, rock, or other material from a mine, and for lowering or raising persons and material.

Igniter cord means a fuse, cordlike in appearance, which burns progressively along its length with an external flame at the zone of burning, and is used for lighting a series of safety fuses in the desired sequence.

Insulated means separated from other conducting surfaces by a dielectric substance permanently offering a high resistance to the passage of current and to disruptive discharge through the substance. When any substance is said to be insulated, it is understood to be insulated in a manner suitable for the conditions to which it is subjected. Otherwise, it is, within the purpose of this definition, uninsulated. Insulating

covering is one means for making the conductor insulated.

Insulation means a dielectric substance offering a high resistance to the passage of current and to a disruptive discharge through the substance.

Laminated partition a partition composed of the following material and minimum nominal dimensions: 1/2-inch-thick plywood, 1/2-inch-thick gypsum wallboard, 1/8-inch-thick low carbon steel, and 1/4-inch-thick plywood, bonded together in that order (IME-22 Box). A laminated partition also includes alternative construction materials described in the Institute of Makers of Explosives (IME) Safety Library Publication No. 22, "Recommendations for the Safe Transportation of Detonators in a Vehicle with other Explosive Materials," (May 1993), and the "Generic Loading Guide for the IME-22 Container," (October 1993). This incorporation by reference has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available at MSHA, 1100 Wilson Blvd., Room 2436, Arlington, Virginia 22209-3939, and at all Metal and Nonmetal Mine Safety and Health district offices, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

Lay means the distance parallel to the axis of the rope in which a strand makes one complete turn about the axis of the rope.

Loading means placing explosive material either in a blasthole or against the material to be blasted.

Low potential means 650 volts or less.

Magazine means a facility for the storage of explosives, blasting agents, or detonators.

Main fan means a fan that controls the entire airflow of the mine, or the airflow of one of the major air circuits.

Major electrical installation means an assemblage of stationary electrical equipment for the generation, transmission, distribution, or conversion of electrical power.

Mantrip means a trip on which persons are transported to and from a work area.

Mill includes any ore mill, sampling works, concentrator, and any crushing, grinding, or screening plant used at, and in connection with, an excavation or mine.

Mine atmosphere means any point at least 12 inches away from the back, face, rib, and floor in any mine; and additionally, in a Category IV mine, at least 3 feet laterally away from the collar

of a borehole which releases gas into a mine.

Mine opening means any opening or entrance from the surface into a mine.

Misfire means the complete or partial failure of a blasting charge to explode as planned.

Mobile equipment means wheeled, skid-mounted, track-mounted, or rail-mounted equipment capable of moving or being moved.

Multipurpose dry-chemical fire extinguisher means an extinguisher having a rating of at least 2-A:10-B:C and containing a nominal 4.5 pounds or more of dry-chemical agent.

Noncombustible material means a material that, in the form in which it is used and under the conditions anticipated, will not ignite, burn, support combustion, or release flammable vapors when subjected to fire or heat. Concrete, masonry block, brick, and steel are examples of noncombustible materials.

Non-electric delay blasting cap means a detonator with an integral delay element and capable of being initiated by miniaturized detonating cord.

Outburst means the sudden, violent release of solids and high-pressure occluded gases, including methane in a domal salt mine.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials or ores that are to be mined.

Overload means that current which will cause an excessive or dangerous temperature in the conductor or conductor insulation.

Permissible means a machine, material, apparatus, or device which has been investigated, tested, and approved by the Bureau of Mines or the Mine Safety and Health Administration, and is maintained in permissible condition.

Potable water means water which shall meet the applicable minimum health requirements for drinking water established by the State or community in which the mine is located or by the Environmental Protection Agency in 40 CFR part 141, pages 169–182 revised as of July 1, 1977. Where no such requirements are applicable, the drinking water provided shall conform with the Public Health Service Drinking Water Standards, 42 CFR part 72, subpart J, pages 527–533, revised as of October 1, 1976. Publications to which references are made in this definition are hereby made a part hereof. These incorporated publications are available for inspection at each Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

Powder chest means a substantial, nonconductive portable container equipped with a lid and used at blasting sites for explosives other than blasting agents.

Primer means a unit, package, or cartridge of explosives used to initiate other explosives or blasting agents, and which contains a detonator.

Reverse-current protection means a method or device used on direct-current circuits or equipment to prevent the flow of current in a reverse direction.

Rock burst means a sudden and violent failure of overstressed rock resulting in the instantaneous release of large amounts of accumulated energy. Rock burst does not include a burst resulting from pressurized mine gases.

Rock fixture means any tensioned or nontensioned device or material inserted into the ground to strengthen or support the ground.

Roll protection means a framework, safety canopy or similar protection for the operator when equipment overturns.

Safety can means an approved container, of not over 5 gallons capacity, having a spring-closing lid and spout cover.

Safety fuse means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps or a black powder charge.

Safety switch means a sectionalizing switch that also provides shunt protection in blasting circuits between the blasting switch and the shot area.

Scaling means removal of insecure material from a face or highwall.

Secondary safety connection means a second connection between a conveyance and rope, intended to prevent the conveyance from running away or falling in the event the primary connection fails.

Shaft means a vertical or inclined shaft, a slope, incline, or winze.

Short circuit means an abnormal connection of relatively low resistance, whether made accidentally or intentionally, between two points of difference potential in a circuit.

Slurry (as applied to blasting). See “Water gel.”

Storage facility means the entire class of structures used to store explosive materials. A “storage facility” used to store blasting agents corresponds to a BATF Type 4 or 5 storage facility.

Storage tank means a container exceeding 60 gallons in capacity used for the storage of flammable or combustible liquids.

Stray current means that portion of a total electric current that flows through paths other than the intended circuit.

Substantial construction means construction of such strength, material, and workmanship that the object will withstand all reasonable shock, wear, and usage to which it will be subjected.

Suitable means that which fits, and has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

Travelway means a passage, walk or way regularly used and designated for persons to go from one place to another.

Water gel or Slurry (as applied to blasting) means an explosive or blasting agent containing substantial portions of water.

Wet drilling means the continuous application of water through the central hole of hollow drill steel to the bottom of the drill hole.

Working level (WL) means any combination of the short-lived radon daughters in one liter of air that will result in ultimate emission of 1.3×10^5 MeV (million electron volts) of potential alpha energy, and exposure to these radon daughters over a period of time is expressed in terms of “working level months” (WLM). Inhalation of air containing a radon daughter concentration of 1 WL for 173 hours results in an exposure of 1 WLM.”

Working place means any place in or about a mine where work is being performed.

§ 57.3000 [Amended]

■ 10. Section 57.3000 is amended by removing the definitions for *Rock burst* and *Rock fixture*.

§ 57.4000 [Amended]

■ 11. Section 57.4000 is amended by removing the following definitions for: (1) *Booster fan*; (2) *Combustible material*; (3) *Fire resistance rating*; (4) *Flame spread rating*; (5) *Flammable gas*; (6) *Flammable liquid*; (7) *Noncombustible material*; and (8) *Storage tank*.

§ 57.6000 [Amended]

■ 12. Section 57.6000 is amended by removing following the definitions for: (1) *Attended*; (2) *Barrier*; (3) *Blast area*; (4) *Blast site*; (5) *Emulsion*; (6) *Laminated partition*; (7) *Loading*; and (8) *Storage facility*.

§ 57.9000 [Removed]

■ 13. Section 57.9000 is removed.

§ 57.14000 [Amended]

■ 14. Section 57.14000 is amended by removing the definition for *Mobile equipment*.

§ 57.22002 [Amended]

■ 15. Section 57.22002 is amended by removing the definitions for (1) *Abandoned areas*; (2) *Auxiliary fan*; (3)

Blowout; (4) Booster fan; (5) Combustible material; (6) Geological area; (7) Mine atmosphere; (8) Noncombustible material; (9) Outburst.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 282

RIN 0790-AG89

Procedures for Settling Personnel and General Claims and Processing Advance Decision Requests

AGENCY: Defense Office of Hearings and Appeals, Office of the General Counsel of the Department of Defense.

ACTION: Final rule.

SUMMARY: This rule implements policy and prescribes procedures for processing and settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense. Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

EFFECTIVE DATE: May 12, 2004.

FOR FURTHER INFORMATION CONTACT: Michael Hipple, 703-696-8510.

SUPPLEMENTARY INFORMATION: A proposed rule was published Thursday, November 14, 2002 (67 FR 68957-68963). No comments were received.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that this rule is not a significant rule because it does not (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact on entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96-354, "Regulatory Flexibility Act"

It has been certified that this rule does not have a significant economic impact on a substantial number of small entities because this rule affects members of the Uniformed Services, Federal employees and transportation carriers and provides procedures by which their claims against the United States will be adjudicated. The same minimal requirements for submitting a claim are applicable to members and transportation carriers.

Public Law 96-511, "Paperwork Reduction Act"

It has been certified that this rule does not impose information collection requirements.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been certified that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, "Federalism"

It has been certified that this rule does not have federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 282

Administrative practice and procedure, Armed forces, Claims.

■ Accordingly, 32 CFR part 282 is added to subchapter M to read as follows:

PART 282—PROCEDURES FOR SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS

Sec.

282.1 Purpose.

282.2 Applicability and scope.

282.3 Definitions.

282.4 Policy.

282.5 Responsibilities.

Appendix A to Part 282—Guidance

Appendix B to Part 282—Claims Description

Appendix C to Part 282—Submitting a Claim

Appendix D to Part 282—Processing a Claim

Appendix E to Part 282—Appeals

Appendix F to Part 282—Requests for an Advance Decision

Authority: 5 U.S.C. 552; 10 U.S.C. 2575; 10 U.S.C. 2771; 10 U.S.C. 4712; 10 U.S.C. 9712; 24 U.S.C. 420; 31 U.S.C. 3529; 31 U.S.C. 3702; 32 U.S.C. 714; and 37 U.S.C. 554.

§ 282.1 Purpose.

This part implements policy under 32 CFR part 281 and prescribes procedures for processing and settling personnel and general claims under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, 32 U.S.C. 714 and for processing requests for an advance decision under 31 U.S.C. 3529.

§ 282.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as "the DoD Components").

(b) The Coast Guard, when it is not operating as a Service in the Navy under agreement with the Department of Homeland Security, and the Commissioned Corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), under agreements with the Departments of Health and Human Services and Commerce (hereafter referred to collectively as "the non-DoD Components").

§ 282.3 Definitions.

(a) *Armed Forces.* The Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

(b) *Claim.* A demand for money or property under one of the following statutes: 31 U.S.C. 3702, 10 U.S.C. 2575,