

MINUTES
BOARD OF COAL MINE SAFETY
January 27, 2010 - Uniontown, PA

BOARD MEMBERS

John Hanger, Chairman, Secretary, Department of Environmental Protection
Ron Bowersox, United Mine Workers of America
James Sabella, United Mine Workers of America
John Gallick, Alpha Natural Resources,
Frank Reidelbach, United Mine Workers of America
Albert Aloia, CONSOL Energy, Inc.

OTHERS PRESENT

J. Scott Roberts, Deputy Secretary, Mineral Resources Management
Joseph Scaffoni, Director, Bureau of Mine Safety
Daniel Lapato, Executive Policy Specialist, Policy Office
Mary Lou Barton, Attorney, Office of Chief Counsel
R. Henry Moore, Attorney, Pennsylvania Coal Association
Jim Schuessler, UMWA, Emerald Mine
Todd Moore, CONSOL Energy, Inc.
Gerald Abbott, UMWA, Emerald Mine
John Burr, CONSOL Energy, Inc.
Allison Gaida, Bureau of Mine Safety

CALL TO ORDER AND APPROVAL OF MINUTES

Chairman Hanger called the meeting to order at 10:04 a.m. in the Bureau of Mine Safety conference room, Fayette County Health Center, 100 New Salem Road, Uniontown, PA. The Board introduced themselves to the public present. All members of the Board except Stanko Popich were present, and a quorum existed.

The Board considered its first item of business -- the September 9, 2009, meeting minutes. Chairman Hanger called for a motion to adopt the minutes of the September 9, 2009, meeting.

**Frank Reidelbach moved to adopt the minutes. John Gallick
seconded the motion, which was unanimously approved by the
Board.**

OLD BUSINESS

Procedure for Accepting Requests for Rulemaking from the Public or Board Members:

Dan Lapato from the Policy Office will have a draft petition process to review at the next meeting. Chairman Hanger initiated a discussion concerning the Board's wishes in developing a

written policy for the petition process to initiate rulemaking, both by the Board and the public. Chairman Hanger also requested that the Board consider having time set aside on the agenda for the public to comment at each meeting as part of this process. This will be discussed at the next meeting.

John Gallick asked if it would be all right for a Board member to ask a member of the public to add to the Board meeting discussion. Chairman Hanger said that it could be part of the written policy, but should take into consideration that large numbers of people could be in attendance.

Proposed Rulemaking Adopting MINER Act Regulations:

Scott Roberts summarized the provision of the Act where the Board would consider various federal standards and regulations and determine whether the Commonwealth wanted to adopt these in Pennsylvania. At the last meeting it was concluded that DEP would provide to the Board at this meeting regulations that would capture those items of federal requirements and standards. These proposed regulations were presented to the Board.

Chairman Hanger explained that, if the Board agreed to move forward on the proposed regulations, they would need to decide what the public comment period would be. The DEP would look at and evaluate all comments and come back to the Board with recommendations. He wanted the Board to be clear on the fact that, whatever the Board approves, it is simply a proposal and will not be adopted as a final law or regulation at this point. The Board will be able to change what it puts out for comment.

John Gallick wanted to discuss each regulation individually and not vote on the entire Annex A as a whole. Chairman Hanger explained that Annex A and the preamble would both be published for comment. The Executive Summary would not be published for comment.

Albert Aloia stated that he thought that if the proposal goes forward, it would be the assumption of the public that the Board agrees on what is going out. Specific concerns on the regulations dealing with seals, escapeways, responsible persons, and self-contained self rescuer recordkeeping were discussed by the Board. John Gallick also stated that there were some direct errors in the Preamble. Albert Aloia noted that the regulation on seals is the only difference listed in the Executive Summary and that all of the differences should be included. John Gallick inquired on the definition of 'overpressure' as this definition is not anywhere in the federal rules. Scott Roberts stated that maybe a definition is not necessary, but if it is, maybe there is a standard dictionary of mining terms that would describe overpressure.

To avoid a misinterpretation, John Hanger commented that, if the proposal is not written in language that states the regulations clearly enough, it should have more direct language.

After a lengthy discussion and with no other comments from the Board, Chairman Hanger gave the Board the option of either moving forward with the proposal allowing DEP to take this conversation into account and try to capture the conversation so that the document would be closer to the issues that were identified during the meeting, or allow DEP to make changes and bring back to the Board at the next meeting and then move forward with the proposal.

After a brief recess to discuss these options, the Board agreed that the Department would do another draft of Annex A and the preamble, circulate to the Board prior to the next meeting, and have a document that is ready to go out for public comment at the March 17 meeting. At that time, the Board will also determine the length of the comment period. The Department will also modify the executive summary to be more complete.

Requiring Automated External Defibrillators (AEDs) in Bituminous Coal Mines:

Albert Aloia distributed a draft proposed rule regarding AEDs for the Board to review and discuss at the next meeting. John Gallick explained that this was a basic performance standard to be used as a starting point in requiring AEDs in mines. The Board will review the draft rule and discuss at the next meeting.

NEW BUSINESS

Reportable Accidents

John Gallick distributed a draft for "Reportable Accidents." Two items were added to the existing reportable accidents identified in the Act:

- An interruption to the mine ventilation system that results in withdrawal of personnel from the mine (fan stoppage)
- An unplanned connection into an adjacent mine, abandoned workings in the same mine or borehole

The Board will review the draft proposed rule and discuss at the next meeting.

PCA Cable Report:

John Burr is the chairman of the PCA committee to study shielded cables and the enhancement of safety of direct-current cables. Chairman Hanger opened the floor to John Burr, inviting him to make comments on the report. Mr. Burr briefed the Board on the issue and gave a summary of the interim cable report, including safety issues and testing of cables.

The PCA requested an additional year to complete this testing. The Board agreed and requested they be provided updates at future meetings as an Old Business agenda item until the cable report is final.

DEP Website:

Ron Bowersox brought to the Chairman's attention the problems that the Technical Advisory Committee on Diesel-Powered Equipment and the public are having in trying to access diesel documents since the overhaul of the Department's website. This issue is being investigated and DEP will work on correcting.

Scott Roberts introduced Counsel Mary Lou Barton who represents the Bureau of Mine Safety on regulatory issues. Ms. Barton will also be the Department's legal representative for the Board of Coal Mine Safety.

ADJOURNMENT:

With no further business to discuss, Chairman Hanger called for a motion to adjourn the meeting.

Ron Bowersox moved to adjourn the meeting. John Gallick seconded this motion.

The official meeting adjourned at 12:24 p.m.