

PENNSYLVANIA
Underground Coal Mine Safety

25 Pa. Code Chapter 208 (relating to Underground Coal Mine Safety)

See 40 Pa. Bull. 3836 (July 10, 2010)

Board of Coal Mine Safety Regulation #7-455
(Independent Regulatory Review Commission #2856)

Comment/Response Document

Pennsylvania Underground Coal Mine Safety Regulations

On July 10, 2010, the Board of Coal Mine Safety (Board) published a notice of a proposed rulemaking concerning amendments to 25 Pa. Code Chapter 208 (relating to underground coal mine safety). See 40 *Pa. Bull.* 3836 (July 10, 2010). The proposed regulations were drafted by the Department of Environmental Protection and the action of the Board to publish these rules as proposed was not necessarily an endorsement by the Board of all the proposed regulatory provisions. Rather, the Board requested comments from all interested parties, especially Pennsylvania's mining industry and miners. In particular, the Board called attention to the following sections: 208.11, 208.12, 208.15(b), 208.21, 208.32(b) and 208.41(b). Comments were invited on the need or necessity for the proposed requirements, the clarity of the wording or any other concerns.

These regulations establish safety standards relating to belt conveyor flammability, the design and installation of mine seals, escapeways, emergency response, and self-contained self-rescue devices. The regulations principally incorporate by reference safety standards adopted by the United States Department of Labor, Mine Safety and Health Administration (MSHA) found in 30 CFR Part 75 (relating to mandatory safety standards - underground coal mines). The MSHA regulations/standards being incorporated by reference implement some of the requirements of the Mine Improvement and New Emergency Response Act of 2006, Pub. L. 109-236, 120 Stat. 493 (2006) (MINER Act), which amended various provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 801 to 965.

The Board received written comments from 4 commentators regarding the proposed underground coal mine safety regulations during the public comment period. This document summarizes the written comments received during the public comment period and provides the Board's responses to each comment. An identifying number has been assigned to each commentator. A list of the commentators, including name, affiliation (if any), and city/state/country, can be found below. In addition, the comments received from the Senate Environmental Resources and Energy Committee and the Independent Regulatory Review Commission (IRRC), if any, are summarized and responses provided.

Table of Commentators

Commentator ID #	Name	Address	Requested Final Rule	Submitted One-Page Summary
1.	Louis Pianetti, Jr.	3504 Burnett Drive Murrysville, PA 15668		
2.	Jerry Hefferan	Rosebud Mining Company 511 Railroad Ave. Homer City, PA 15748		
3.	George Ellis	Pennsylvania Coal Association 212 N. Third St., Suite 102 Harrisburg, PA 17101		
4.	Marc Roda	MARCRODA@COMCAST.NET		

General Comment:

Comment: In general the Board proposes to incorporate MSHA standards by reference, rather than by rewriting the safety standards. The Pennsylvania Coal Association (PCA) agrees with this approach. This proposed rulemaking is more stringent than the MSHA regulations in some respects and in general PCA believes that uniformity with MSHA standards is the appropriate course. Uniformity is important in achieving compliance and differing standards lead to confusion in the regulated community. It appears from reading the preamble to the regulation that the Department of Environmental Protection (DEP) also agrees with this position. On Page 3, DEP explains that, “Adopting the MSHA regulations by reference will enhance safety at underground coal mines because the potential for confusion by operators as to the appropriate safety standard is minimized.” (3)

Response: The Board appreciates the commentator’s general support for the rulemaking. The Board believes that, when prudent, the MSHA regulations should be adopted by reference in order to limit the potential for confusion by operators as to the appropriate safety standard. However, there are instances where the MSHA standard does not adequately address specific hazards. In these cases the Board needs to build upon the MSHA standard to ensure the health, safety and welfare of Pennsylvania miners and others are maintained.

Comment: Commenter believes that this entire proposal to adopt Chapter 208 as put forth in the proposed rulemaking is unnecessary. MSHA standards addressing the various sections of proposed Chapter 208 are already in place and being enforced in the Commonwealth. MSHA inspectors are at Pennsylvania mine sites essentially every day of the year checking for compliance with these and many other standards. The DEP should continue to enforce the state underground mining law as currently written and concentrate on its areas of strength; mainly certifications and equipment approvals. (1)

Response: In 2008 the General Assembly found it was in the public interest to establish a comprehensive scheme to protect the lives, health, and safety of those who work at mines in the Commonwealth. Through the continuous efforts of mine operators, miners and the DEP, occurrences of deaths and injuries have been declining. The Commonwealth must maintain a strong and independent mine safety program. This rulemaking continues to ensure the Commonwealth maintains a robust mine safety program.

Comment: Commenter strongly urges the adoption of these proposed regulations. Since January 1, 2010, over 44 miners have died in underground bituminous coal mines in the United States. Fortunately, none of these tragedies occurred in a Pennsylvania underground bituminous coal mine. The absence of fatal accidents in Pennsylvania’s underground *bituminous* coal mines is due in large part to the Commonwealth of Pennsylvania’s mine safety program administered and enforced by the Department of Environmental Protection, Bureau of Mine Safety. Adopting these regulations will increase the safety of miners by enhancing the Commonwealth’s mine safety program without significantly increasing the mine operators’ cost of doing business. (4)

Response: The Board appreciates the commentator’s support.

Definition Comments:

Comment: “Overpressure” is defined in the proposed rules as “the highest pressure over the background pressure that could result from an explosion, which includes the impact of the pressure wave on the object.” “Overpressure” simply refers to an increased pressure that may be associated with an event such as an explosion. Defining “overpressure” as the “highest pressure” may mislead persons in the regulated community. This definition does mirror that contained in 30 C.F.R. § 7.502, but PCA is unclear why it is believed necessary. Also, as used in the proposed regulations, it appears that overpressure is not used as it is defined and we believe that may lead to confusion. Otherwise, since it is the federal definition, we would not otherwise object to it. (3)

Response: The definition of “overpressure” has been revised. The word “highest” has been deleted from the final-form regulation.

Comment: The proposed rules have a provision that requires an operator to submit to DEP a copy of any “application, report, plan or other material submitted to MSHA pursuant to a regulation” either where submission is required by the Pennsylvania regulations or at the request of MSHA. While the proposed regulation appears to be limited to those items already submitted to MSHA, we believe that the regulation is unnecessary because the BCMSA contains the provisions of what must be provided to the DEP and to miner representatives. (3)

Response: Section 208.3 of the final-form rulemaking pertains to any application, report, plan or other material submitted to MSHA pursuant to a regulation adopted by reference in this chapter. It also gives the Department the authority to supply a copy of any application, report, plan or other material submitted to MSHA pursuant to a regulation adopted by reference in this chapter to the authorized representative of miners upon request.

Seals:

Comment: The Board has proposed incorporating by reference some of the MSHA rules on seal strengths and installation. While the Board has proposed adopting MSHA standards with respect to 120 psi seals in § 208.11(a), it proposes that the regulations will eliminate the option of using 50 psi seals. Further, the proposed regulations do not provide for “grandfathering” existing 50 psi seals. The proposed regulations adopt the MSHA sampling and monitoring requirements, which might be read to suggest that existing 50 psi seals are acceptable but that is unclear.

PCA believes it would be better to permit the installation of 50 psi seals on an ongoing basis. There are situations where the use of 50 psi seals is appropriate because of a short term life of the sealed area (i.e. outby seals are planned at a later date to seal a larger area). Given the restrictions on continuing operation with 50 psi seals (e.g. monitoring, evacuation), it should be the operator’s choice based upon mine planning as to which sort of seals are utilized. It may be that the inability to use 50 psi seals will postpone the sealing of some areas of mines which could have an adverse effect upon safety because of the need to continue to examine older works where roof and other conditions may be adverse.

50 psi seals will contain the majority of explosions unless an aberrational situation occurs, such as did at the Sago Mine on January 2, 2006. That explosion was estimated to have forces of 90 psi but a review of the literature of mine explosions indicates that mine explosions do not normally generate such forces. The 90 psi pressures at Sago are the highest pressures in a mine explosion in the United States, except for those in shafts. See NIOSH IC 9500 “Explosion Pressure Design Criteria for New Seals in U.S. Coal Mines,” Table 2.

MSHA requires a 120-psi seal if the abandoned area’s atmosphere is not inert. A 50-psi seal is allowed by MSHA if the atmosphere in the abandoned area is inert and requires regular monitoring from within the sealed area to ensure it remains inert. PCA strongly supports adoption of the MSHA standards on seal strength including 50 psi seals. The regulatory authority should not insert its opinion as to the “best” option for an operator without substantiated documentation beyond vague references to the “Department’s experience” but should provide the operator with options and the potential risks that are part of each option. In this case, provided the operator understands the implication of the sampling requirements behind 50 psi seals and the potential effect on the mine’s operations then the choice of seal design should be the operator’s. While the Board is correct in that sampling does not necessarily include the entire sealed area, it samples the area closest to the seal which is the area where there is likely to be air exchange between the sealed and unsealed areas. This results in a relatively small area of concern. PCA believes that the entire sealed area is not affected by the air exchange through the seals.

Given the requirements in 30 C.F.R. § 75.336 and the very conservative approach MSHA adopted to the levels of methane and oxygen that prompt evacuation of the mine it seems to PCA that the MSHA requirements concerning 50 psi seals could readily be adopted. By “conservative” PCA means that MSHA requires evacuation of an entire mine based upon oxygen levels of 10% which is well below the explosive range and methane at levels above and below the explosive range. See 30 C.F.R. § 75.336(c). Moreover, it requires evacuation of the whole mine even when the seals are very distant from active mining areas. (3)

Response: This final-form rulemaking has been revised. In response to comments, the final rulemaking now limits its scope to incorporation of federal MSHA standards at 30 CFR 75.335(c) concerning the design and installation of seals.

Comment: To our knowledge, a properly installed 20 PSI Seal has never failed in Pennsylvania. MSHA Regulations permit a 50 PSI Seal if the atmosphere in the abandoned areas remains inert. Longwall Faces operate with explosive mixtures of methane in gob areas on a routine basis. What separates explosive mixtures of methane in the gob area from the Longwall Face? (2)

Response: This final-form rulemaking has been revised. In response to comments, the final rulemaking now limits its scope to incorporation of federal MSHA standards at 30 CFR 75.335(c) concerning the design and installation of seals.

Comment: The Commonwealth has no research facility to test the strength/capability of seals or evaluate integrity of seals and yet the Board sets more stringent standards than the MSHA Technical Support Guidance. Based upon the aforementioned, we propose that the Commonwealth of Pennsylvania follow the MSHA Guidelines for Mine Seals. (2)

Response: The final-form rulemaking will require operators to install only MSHA approved seals. The final-form regulations will utilize the MSHA Technical Support Guidance for 120 psi seals.

Comment: The Board does not propose that DEP approve seal design. It does require approval of the plan for installation. DEP believes that pursuant to Section 235 (regarding unused and abandoned parts of mines) of BCMSA, 52 P.S. § 690-235, it has authority concerning sealing of abandoned parts of mines. The language concerning the “application for installation” in the proposed regulation is ambiguous and could be read that DEP is approving the seal design and the installation. Proposed Section 208.11(d) reads as follows:

(d) Seal installation approval. The operator shall submit an application to install the MSHA-approved seal design to the Department for its review and approval.

We believe that this will need to be clarified by adding “concerning installation” after “approval.” (3)

Response: The Board respectfully disagrees with the commentator. The DEP needs the ability to review both the installation and the design.

Comment: The Board proposes to adopt 30 C.F.R. § 75.337 but to modify it to require DEP approval for welding and cutting and soldering within 150 feet of the seals. 30 C.F.R. § 75.337 already requires MSHA approval and PCA would submit that is adequate. PCA would have no objection to providing a copy of such a plan to the miner’s representative as specified in Section 218.13(b)(1). It does not believe that §§ 218.13 (b) and (b)(2) are necessary. (3)

Response: In addition to approving the welding, cutting or soldering within 150 feet of a seal, § 218.13(b)(2) requires the mine operator to incorporate the plan into the abandoned area ventilation plan required under § 235 of the Act (52 P.S. § 690-235) (regarding unused and abandoned parts of mines). Because of the need to incorporate the plan into the abandoned area ventilation plan, the DEP needs to review and approve the welding, cutting or soldering within 150 feet of a seal.

Comment: The Board proposes to adopt MSHA’s rules in 30 C.F.R. § 75.338 concerning training on seals installation. While this is the same rule as MSHA’s, that rule itself concerning the training of “senior management” is ambiguous. It is not clear who must in fact be trained and when they must be trained. Some consideration to clarifying this might be given. Section 75.338 reads as follows:

(a) Certified persons conducting sampling shall be trained in the use of appropriate sampling equipment procedures, location of sampling points, frequency of sampling, size and condition of the sealed area, and the use of continuous monitoring systems if applicable before they conduct sampling, and annually thereafter. The mine operator shall certify the date of training provided to certified persons and retain each certification for two years.

(b) Miners constructing or repairing seals, designated certified persons, and senior mine management officials shall be trained prior to constructing or repairing a seal and annually thereafter. The training shall address materials and procedures in the approved seal design and ventilation plan. The mine operator shall certify the date of training provided each miner, certified person, and senior mine management official and retain each certification for two years. (3)

Response: To eliminate any confusion, the MSHA policy on who must be trained and when they must be trained would be followed.

Escapeways

Comment: The Board proposes to adopt MSHA's rules with respect to escapeways as well as longwall travelways. PCA supports adoption of the federal rules so long as it is made clear that the designation of escapeways under the regulation is in lieu of the escapeway identified in Section 230 of BCMSA and the travelways in Section 274 of BCMSA. Adoption of the federal rules will include far more stringent requirements than BCMSA. Adoption of the federal rules in lieu of the existing BCMSA provisions will not result in a compromise in safety as described in § 106.1(g) of BCMSA because of the additional requirements for maintenance of lifelines, marking, etc. For that reason PCA would propose that § 208.21 (a) read as follows:

Bituminous mines. The provisions of 30 C.F.R. 75.380 (relating to escapeways: bituminous and lignite mines) are incorporated by reference. An operator may designate escapeways as specified therein in lieu of the escapeway described in Section 230 of the BCMSA and the travelways specified in Section 274 of the BCMSA.

There are two significant differences from the proposed rules and MSHA's rules. The first is a provision that two escapeways can not end at a multiple compartment shaft or slope separated by walls. We believe that this modification is unnecessary from a safety standpoint as well as a statutory interpretation standpoint. This is an attempt to incorporate for escapeways the provisions of § 274 of BCMSA about multiple openings. PCA believes that § 274 does not in fact address escapeways and that permitting escapeways to end at multiple compartment shafts or slopes will bring miners out of the mine by the shortest route, if that happens to be a dual compartment shaft or slope is safer. (3)

Response: BCMSA addresses mine openings or outlets at 52 P.S. § 690-274. The provisions of this section specifically require that the two intake openings or outlets to the surface shall not be at a common shaft, slope or drift opening. It also states that the openings or outlets shall have a distinct means of egress available for use by the employees. For this reason, in 25 Pa. Code § 208.21 (a), the Department did not incorporate by reference the language in 30 CFR § 75.380(c) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. Both the state and the federal regulations require no fewer than two intake openings or outlets to the surface from every seam of coal being worked.

The Department will apply escapeway requirements in accordance with MSHA regulations to primary and secondary escapeways designated by mine operators. The BCMSA

requires that the belt conveyor entry provides an intake escapeway to the main air current. 52 P.S. § 690-230(c)(1)(iii). BCMSA also requires that intake and return entries shall be kept reasonably drained and reasonably free from refuse and obstructions of all kinds, so that individuals may safely travel throughout the whole length and have a safe means of egress from workings in case of emergencies. 52 P.S. § 690-274(e).

Comment: We strongly disagree with Section 274 which does not permit multiple common shafts or slopes to be used for escapeways. When mine openings are planned and engineered for slopes and shafts suitable multi-compartment facilities should be permitted for escape situations. These shafts and slopes are to be designed with adequate compartment separations to be used as escapeways. The proposed Pennsylvania Regulation Section 208.21 far exceeds Federal Regulation CFR 75.380(d) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. (2)

Response: BCMSA addresses mine openings or outlets at 52 P.S. § 690-274. The provisions of this section specifically require that the two intake openings or outlets to the surface shall not be at a common shaft, slope or drift opening. It also states that the openings or outlets shall have a distinct means of egress available for use by the employees. For this reason, in 25 Pa. Code § 208.21 (a), the Department did not incorporate by reference the language in 30 CFR § 75.380(c) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. Both the state and the federal regulations require no fewer than two intake openings or outlets to the surface from every seam of coal being worked.

The Department will apply escapeway requirements in accordance with MSHA regulations to primary and secondary escapeways designated by mine operators. The BCMSA requires that the belt conveyor entry provides an intake escapeway to the main air current. 52 P.S. 690-230(c)(1)(iii). BCMSA also requires that intake and return entries shall be kept reasonably drained and reasonably free from refuse and obstructions of all kinds, so that individuals may safely travel throughout the whole length and have a safe means of egress from workings in case of emergencies. 52 P.S. § 690-274(e).

Comment: One additional difference is that if a blockage in the longwall travelway occurs DEP must be notified in addition to MSHA. While there is no time requirement on such notification, it is possible that DEP will take the position that this must occur within 15 minutes as it has with other types of “accidents” and we believe that this should be clarified in the rule. We suggest that language to § 218.21(c) be added that it should be reported to DEP by the end of the shift on which it occurs. (3)

Response: If the blockage in the longwall travelway does occur and results in a “reportable accident” the mine operator would be required to contact the DEP.

Comment: As noted in the Preamble’s summary to this section the two escapeways may have a common air intake. This may not adequately protect the miners’ safety. The ventilation in both escapeways will be compromised if the common air intake is damaged or contaminated, e.g. by a fire. (4)

Response: BCMSA addresses mine openings or outlets at 52 P.S. § 690-274. The provisions of this section specifically require that the two intake openings or outlets to the surface shall not be

at a common shaft, slope or drift opening. It also states that the openings or outlets shall have a distinct means of egress available for use by the employees. For this reason, in 25 Pa. Code § 208.21 (a), the Department did not incorporate by reference the language in 30 CFR § 75.380(c) that allows two escapeways to end in one multiple compartment shaft or slope separated by walls. Both the state and the federal regulations require no fewer than two intake openings or outlets to the surface from every seam of coal being worked.

The Department will apply escapeway requirements in accordance with MSHA regulations to primary and secondary escapeways designated by mine operators. The BCMSA requires that the belt conveyor entry provides an intake escapeway to the main air current. 52 P.S. § 690-230(c)(1)(iii). BCMSA also requires that intake and return entries shall be kept reasonably drained and free from refuse and obstructions of all kinds, so that individuals may safely travel throughout the whole length and have a safe means of egress from workings in case of emergencies. 52 P.S. § 690-274(e).

Conveyor Belts

Comment: The proposed rules adopt the new MSHA belt conveyor belt flammability standard. We believe this is appropriate. The proposed regulation also adopts the belt maintenance standards and PCA supports this sort of across-the-board adoption. (3)

Response: The Board thanks the commentator for its support for this provision.

Comment: The proposed rule further proposes a rule that requires persons doing preshift examinations and supplemental examinations to “address compliance with this section’s maintenance requirements.” PCA believes this provision is not appropriate. The conveyor belts are not always operating during examinations which would make it difficult, if not impossible, to identify the sorts of conditions described by the regulation. Further, it will treat one malfunctioning conveyor roller potentially as a hazard and we believe that is not appropriate. This type of condition is often a maintenance issue, as opposed to a safety issue. Further the proposed rule would shift the focus of examinations away from the traditional issues such as accumulations of methane and bad roof conditions to conditions that are not an immediate hazard. There may be occasions when defective rollers or similar issues present an immediate hazard that an examiner must address but the focus of the examination should be on hazards and not specifically on belt maintenance issues. PCA believes that § 208.32 should be deleted. (3)

Response: The Board believes that examining conveyor belts for the following issues would help reduce the potential for conveyor belts from a fire. Subsection (b) makes it clear that the belt conveyor pre-shift and fixed interval inspections address compliance with the maintenance requirements. The maintenance requirements can be summarized as follows:

- (1) Damaged belt conveyor components must be repaired or replaced.
- (2) Belt conveyors must be aligned to prevent rubbing.
- (3) Materials that contribute to a frictional heating hazard are to be excluded from the belt entry.
- (4) A spliced conveyor belt must retain its flame-resistant properties.

Emergencies

Comment: The Board proposes to adopt 30 C.F.R. § 75.1501 as to mine emergencies but requires that a person to take charge in an emergency must remain on the surface in addition to the “responsible person” described in the federal standards. This obviously means that the responsible person on the surface cannot be the shift foreman or similar person if they are expected to go underground during any given shift. We do not believe that the inclusion of this requirement is appropriate. This is especially true, given the improved communication and tracking requirements that have been adopted under the federal MINER Act. The whereabouts of the responsible person, should he be underground, will be known to the person on the surface and the surface personnel will be able to communicate with him. It is important that, in many instances, the person who directly responds to an emergency be a person in the chain of supervision at the mine. This provision could be revised as follows:

Individual located on the surface. An individual designated by the mine operator shall be located on the surface during all shifts. Such person will be trained in emergency response notification procedures. (3)

Response: The Board has revised § 208.41 to require that an individual designated by the mine operator, that has received the training in emergency response shall be located on the surface during all shifts.

Comment: Section 208.41 of the proposed rulemaking, specifically the requirement that the responsible person be on the surface in the event of a mine emergency is overly punitive to the operators, is unnecessary, and will potentially provide a less safe working environment for our miners. MSHA recognized in its adoption of this standard that the vast majority of responsible individuals required will be certified mine officials such as Mine Superintendents, Mine Foremen and Assistant Mine Foremen. These individuals are directly responsible for maintaining and promoting a safe underground working environment for themselves and the states’ miners. By keeping these individuals on the surface in the infinitesimal event of a mine emergency is counterproductive to the goal of maintaining safe coal mines in our state. Anyone who is paying attention will tell you of the shortage of these types of individuals willing to accept the major responsibilities assigned them relative to maintaining the health and safety of the workforces they supervise. They are also held to a higher level of accountability by both the state and federal government in the performance of their duties under the two laws.

Having these types of individuals, who are already in short supply sitting outside waiting for a mine emergency to occur is neither good business nor conducive to maintaining a safe underground working environment. (1)

Response: The Board has revised § 208.41 to require that an individual designated by the mine operator, that has received the training in emergency response shall be located on the surface during all shifts.

Comment: The Board has proposed adopting MSHA’s rules on the emergency evacuation and firefighting program of instruction, the use of fire suppression equipment (which requires

persons knowledgeable in the use of such equipment be present on the working section and at attended equipment), emergency evacuation training and drills, escapeway maps, refuge alternatives, emergency response plan, training and records for examination, maintenance and repair of refuge alternatives. PCA believes such adoption is appropriate. (3)

Response: The Board thanks the commentator for its support for this provision.

Comment: We agree that the (1) hour additional responsible person training should be provided on an annual basis. The responsible person(s) would be instructed during the training session by a MSHA Certified Instructor. The training session would include the following topics: appropriate mine's ventilation system, post accident response, escapeways, communication systems, accident and emergency response. (2)

Response: The Board thanks the commentator for its support for this provision.

Comment: We strongly disagree with the proposed language "to have current knowledge". This language leaves a very subjective interpretation of the topic's instruction and the employees' respective comprehension. Each PA DEP Inspector will have his own individual level of standard for the term "knowledge". Who determines how much knowledge is adequate to comply with the regulation? How is the pass/fail determination made of a person's knowledge in order to be in compliance with the regulation? We propose that the (1) hour training is provided by a MSHA Certified Instructor and each topic area is documented to validate instruction. This method of instruction and documentation is utilized for all MSHA Annual Training. (2)

Response: The Board adopted the same standards as MSHA and would enforce the standard in the same manner as MSHA.

Communications

Comment: The Board proposes to adopt the MSHA standards relating to communications facilities for refuge alternatives. PCA believes such adoption is appropriate. (3)

Response: The Board thanks the commentator for its support for this provision.

SCSRs

Comment: The Board proposes to adopt MSHA rules providing miners with multi-gas detectors. While PCA believes such a requirement is appropriate it believes that it needs to be clarified that the provision of the detectors is for the purposes of use during an emergency. MSHA has taken the position that the detectors to be turned on all the time and actually on the person of the miner (as opposed to in his vehicle, for example). The standard says "provide" a detector but MSHA is interpreting this as ensuring the miner has it turned on and on his person. The problem of course is that if an event occurs toward the end of the shift such detectors will have limited battery life and limited usefulness in the emergency situation. We believe that the standard should be revised to state that the detector is to be "provided for use in an emergency." (3)

Response: The Board adopted the same standards as MSHA and would enforce the standard in the same manner as MSHA.