

**FINAL RULEMAKING
BOARD OF COAL MINE SAFETY
25 PA. CODE CH. 208
PROXIMITY DETECTION SYSTEMS**

ORDER

The Board of Coal Mine Safety (Board) amends Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A. The final rulemaking implements existing Federal regulations, thereby making certain Federal provisions independently enforceable by the Commonwealth.

This final rulemaking was adopted by the Board at its meeting of _____, 2016.

A. Effective Date

This final rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Craig Carson, Acting Director, Bureau of Mine Safety, 131 Broadview Road, New Stanton, PA 15672, (724) 404-3154, or by e-mail to cocarson@pa.gov; or Joseph Iole, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-9376, jiole@pa.gov.

C. Statutory Authority

The Board is promulgating this final-form rulemaking under statutory authority provided in sections 106 and 106.1 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106 and 690-106.1).

D. Background and Purpose

On July 7, 2008, the General Assembly enacted BCMSA, which was the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. Section 106 of BCMSA (52 P.S. § 690-106) establishes the Board, which consists of three members representing mine workers, three members representing underground bituminous coal mine operators and the Secretary of the Department of Environmental Protection (Department) who serves as the Board's chairperson.

The purposes in section 103(b) of BCMSA (52 P.S. § 690-103(b)) include the promulgation of improved mandatory standards to protect the health and safety of miners and other individuals in and about mines. Section 106.1(c) of BCMSA (52 P.S. § 690-106.1) authorizes the Board to promulgate regulations consistent with Federal standards. This final rulemaking implements Federal regulations in 30 CFR Part 75 (80 FR 2187 (January 15, 2015)) promulgated by the

Federal Mine Safety and Health Administration. These regulations require underground bituminous coal mine operators to equip continuous mining machines, except full-face continuous mining machines, with proximity detection systems. Conditions in underground bituminous coal mines, including low visibility, limited space, and uneven ground, present hazards that contribute to machine-related accidents that can cause injury or death. Proximity detection systems, which use electronic sensors to detect motion or the location of one object relative to another, can be used to provide warning and stop mining machines before the machine pins, crushes, or strikes a miner.

By adopting these regulations, the Board ensures that operations at underground bituminous coal mine sites are safely conducted and maintained. Although underground bituminous coal mine operators are already required to comply with these Federal regulations, incorporating them into Chapter 208 provides the Department with the independent authority to enforce the Federal requirements when Commonwealth inspectors observe violations, improving worker safety.

E. Summary of Comments and Responses to the Proposed Rulemaking

The Board published a proposed rulemaking in the *Pennsylvania Bulletin* for a 30-day public comment period on March 19, 2016 (46 Pa.B.1421). The Board received no comments from the public or from the Independent Regulatory Review Commission (IRRC) on this rulemaking.

F. Summary of Final-form Rulemaking

Proximity Detection Systems

§ 208.500. Proximity Detection Systems

This section requires operators to install proximity detection systems on certain mobile machines.

§ 208.501. Machines Covered

This section incorporates by reference 30 CFR § 75.1732(a) (machines covered). This provision describes the types of machines that must be equipped with a proximity detection system and provides the schedule by when certain machines must be in compliance with the rule.

§ 208.502. Requirements

This section incorporates by reference 30 CFR § 75.1732(b) (requirements). This provision describes certain technical specifications required in a proximity detection system.

§ 208.503. System Checks

This section incorporates by reference 30 CFR § 75.1732(c) (system checks). This provision requires a manual inspection of the system at specified intervals, and requires any defects be corrected.

§ 208.504. *Certifications and Records*

This section incorporates by reference 30 CFR § 75.1732(d) (certifications and records). This provision describes the certifications and records related to a proximity detection system an operator must maintain, and requires the operator to make such records available for inspection to the regulating authority.

G. *Benefits, Costs and Compliance*

Benefits

This final-form rulemaking makes certain Federal regulations independently enforceable by the Commonwealth. This improves safety by providing enforcement authority to the Commonwealth and maintaining consistency between Federal and Commonwealth safety requirements.

Compliance costs

This final-form rulemaking does not add compliance costs since it implements existing Federal regulations with which mining operators in this Commonwealth must already comply.

Paperwork requirements

This final-form rulemaking does not generate additional paperwork because mining operators must comply with the existing Federal regulations that are implemented by this rulemaking.

H. *Pollution Prevention*

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) establishes a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final rulemaking has minimal impact on pollution prevention since it is focused on mine safety.

I. *Sunset Review*

The Board is not establishing a sunset date for these regulations because they are needed for the Department to carry out its statutory obligations. The Department will continue to review these regulations for their effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 9, 2016, the Department submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 1421 (March 19, 2016), to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees are to be provided with copies of the comments received during the public comment period as well as other documents when requested. No documentation was requested by IRRC or the Committees. No public comments were received. IRRC did not submit any comments on the proposed rulemaking.

Under section 5.1(j.2) of the Regulatory Review Act, on DATE these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on DATE and approved the final-form regulations.

K. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and no comments were submitted.

(3) These regulations do not enlarge the purpose of the proposal published at 46 Pa.B. 1421 (March 19, 2016).

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department of Environmental Protection, 25 Pa. Code, are amended by adding §§ 208.500—208.504, to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

- (c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees for review and approval as required by the Regulatory Review Act.
- (d) The Chairperson of the Board shall certify this order and Annex A, consistent with the above approvals, and deposit them with the Legislative Reference Bureau, as required by law.
- (5) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK MCDONNELL,
Acting Chairperson