

MINUTES
BOARD OF COAL MINE SAFETY
DEP Cambria Office
December 13, 2016 – 10 a.m. – Ebensburg, PA

BOARD MEMBERS

John Stefanko, DEP, Executive Deputy Secretary for Programs
John Gallick, PCA
Stan Popich, PCA
Frank Reidelbach, UMWA
Ron Bowersox, UMWA

OTHERS PRESENT

Ben Stock, Rosebud Mining
Tanner Lowmaster, Rosebud Mining
Jake Wells, Rosebud Mining
Patrick Dennison, Jackson Kelly/PCA
Joe Zelanko, Rosebud Mining
Will Dando, PCA
Mary Martha Truschel, DEP Office of Chief Counsel
Laura Edinger, DEP Policy Office
Joe Iole, DEP, Regulatory Counsel
Abbey Cadden, DEP Policy Office
Craig Carson, DEP, Director, Bureau of Mine Safety
Richard Wagner, DEP, Bureau of Mine Safety
Jeffrey Stancheck, DEP, Bureau of Mine Safety
Jeffrey Kerch, DEP, Bureau of Mine Safety
Arthur Brower, DEP, Bureau of Mine Safety
Allison Gaida, DEP, Bureau of Mine Safety

CALL TO ORDER AND APPROVAL OF MINUTES:

John Stefanko, DEP Executive Deputy Secretary for Programs and Acting Chairman of the Board of Coal Mine Safety called the meeting to order at 10 a.m. in the DEP Cambria Office, Conference Room 1A/B in Ebensburg. Introductions were made around the room. Board members Charles Shaynak and Jim Sabella were not able to attend due to prior commitments.

Acting Chairman Stefanko asked the Board to consider its first item of business, which was approval of the September 13, 2016, meeting minutes.

Stan Popich moved to adopt the minutes to the Board. Frank Reidelbach seconded the motion, which was unanimously approved by the Board.

FINAL RULEMAKING ON PROXIMITY DETECTION SYSTEMS

A final rulemaking package was provided to the Board prior to the meeting. However, due to the unresolved implementation issues with the federal regulations and given that this final rulemaking incorporates by reference the federal regulations, the Board agreed not to move forward until these issues at the federal level are resolved.

John Gallick made a motion to table the proximity detection system final rulemaking until issues are resolved at the federal level. Ron Bowersox seconded this motion which was unanimously approved by the Board.

PROPOSED RULEMAKING ON SENSITIVE GROUND FAULT:

Acting Chairman Stefanko said the proposed rulemaking that the Board adopted at the September meeting was sent out for external review and approved for publication. Publication is tentatively planned for January 2017. As soon as DEP has a firm publication date, the Board will be notified. The 30-day public comment period opens upon publication.

DISCUSSION ON POTENTIAL FUTURE REGULATION -- REPORTABLE ACCIDENTS:

At the last meeting, the Board requested that DEP provide any available information related to Reportable Accidents. The Board was provided with the Accident Reporting Requirements Technical Guidance Document (TGD) 580-0100-001 that went into effect on September 12, 2015, to help facilitate conversation for this potential future regulatory amendment. Acting Chairman Stefanko asked DEP Litigation Counsel Mary Martha Truschel to provide an overview of the TGD and then opened this up to the Board for discussion. Discussion centered primarily around two issues: the definition of “accident” and the 15-minute reporting time requirement.

The definition of accident under the Pennsylvania’s Bituminous Coal Mine Safety Act (BCMSA) is more inclusive than the federal definition. The TGD lists the 14 scenarios described in the BCMSA that illustrate what kind of “unanticipated events” are accidents that trigger the reporting requirement. Because this list is not exhaustive, the TGD also lists three additional types of events that DEP considers reportable. Number 17 in the list generated the most discussion and states that a reportable accident is one in which “an incident that causes or has potential to cause damage to mine infrastructure or the potential to cause serious injury or death.” Board members requested clarification and more specificity. Ms. Truschel stated that this is an area where the Pennsylvania law differs from the federal law. Because the BCMSA core definition of accident is “unanticipated event,” it is impossible to identify every possible unanticipated event that would trigger the reporting requirement. The list in the definition is illustrative, and not exhaustive, unlike federal law.

Accompanying the discussion of the definition, the Board also discussed the 15-minute notification requirement. Board members noted that some of the items on the list in the TGD cannot be adequately assessed in 15 minutes to properly determine if they are reportable accidents. Ms. Truschel responded that, if there is a question, she recommended calling the mine inspector and allowing the inspector to determine whether the accident is reportable. Since notification to MSHA takes more time, DEP recommends calling the Department inspector who is assigned to the mine in question first, or having two people call the Department and MSHA simultaneously.

John Gallick suggested a subcommittee be formed to review the accident reporting requirements and report back to the Board with any recommendations.

A motion was made by John Gallick that a subcommittee be established to review the accident reporting requirements and report back at the next meeting with any recommendations. Frank Reidelbach seconded this motion which was unanimously approved by the Board.

Acting Chairman Stefanko offered DEP regulatory counsel be available to assist the subcommittee. Allison Gaida will send an email to the Board members with suggested January dates and request the names of two Board members representing industry and UMWA.

2017 MEETING DATES:

John Gallick relayed Chuck Shaynak's request that 2017 meetings be moved to the first Tuesday rather than the second Tuesday due to a standing conflict. Honoring his request, the Board scheduled the 2017 meetings on the following dates:

March 7, 2017
June 6, 2017
September 5, 2017
December 5, 2017

All meetings will be held at 10 a.m. in Conference Room 1A/B in the Ebensburg DEP Office.

OTHER BUSINESS:

Acting Chairman Stefanko asked if there were any additional matters the Board would like to consider.

PCA's Will Dando provided an update on the EMT/EMR legislative proposal. PCA continues to move forward with the General Assembly to get the legislation introduced. The General Assembly is reorganizing committees, and Will anticipates that within the next month or so a sponsorship letter can be sent out. Acting Chairman Stefanko asked if a letter could be developed and prepared for the March meeting. PCA members to the Board can share a draft letter with the full Board for support and input from other Board members. The Board agreed to hold a conference call or send an email to approve the letter in early to mid-January.

PUBLIC COMMENTS:

Acting Chairman Stefanko asked the members of the public in attendance if they would like to provide comments. No comments were offered.

ADJOURNMENT:

With no further business to discuss,

Frank Reidelbach made a motion to adjourn the meeting. Stan Popich seconded this motion, which was unanimously approved by the Board.

The meeting adjourned at 10:46 a.m. The next Board meeting will be held on March 7, 2016, at 10 a.m. at the DEP Cambria Office in Ebensburg.