

MINUTES
BOARD OF COAL MINE SAFETY
Bureau of Mine Safety Training Facility
March 26, 2013 – 10 a.m. – Ebensburg, PA

BOARD MEMBERS

John Stefanko, DEP, Deputy Secretary for Active and Abandoned Mine Operations,
alternate for Chairman Michael Krancer, DEP, Secretary
John Gallick, AlphaNatural Resources
Stan Popich, Rosebud Mining Company
Mike Sinozich, ConsoIENERGY
Frank Reidelbach, United Mine Workers of America
James Sabella, United Mine Workers of America

OTHERS PRESENT

Joseph Sbaffoni, Director, DEP, Bureau of Mine Safety
Michele Tate, DEP, Policy Office
George Ellis, Pennsylvania Coal Alliance
R. Henry Moore, Jackson Kelly PLLC
Susana Cortina, DEP, Office of Chief Counsel
Robert Reiley, DEP, Office of Chief Counsel
Craig Carson, DEP, Bureau of Mine Safety
Jeffry Kerch, DEP, Bureau of Mine Safety
Allison Gaida, DEP, Bureau of Mine Safety

CALL TO ORDER AND APPROVAL OF MINUTES:

Deputy Secretary for Active and Abandoned Mine Operations John Stefanko served as Chairman in Secretary Krancer's absence. Acting Chairman Stefanko called the meeting to order at 10:05 a.m. in the DEP Bureau of Mine Safety Mine Rescue and Training Facility in Ebensburg. He announced to Board members that Secretary Krancer would be leaving DEP in April. He also announced that a replacement has not yet been named, but in the interim, Chris Abruzzo, Deputy Chief of Staff for Governor Corbett, will serve as Acting Secretary until someone is appointed. Ron Bowersox was not able to attend the meeting due to the Blacksville #2 mine fire. Acting Chairman Stefanko asked all board members and meeting attendees to introduce themselves.

Following introductions, Acting Chairman Stefanko asked the Board to consider its first item of business, which was consideration of the August 2, 2012, meeting minutes.

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

AED RULEMAKING UPDATE:

Acting Chairman John Stefanko informed the Board about the status of the AED final rulemaking, including its approval by the Independent Regulatory Review Commission (IRRC) on October 18, 2012, and its publication as final in the PA Bulletin on December 8, 2012. He also noted to the Board concerns raised by IRRC about the rulemaking, including that the language included in the rulemaking was ambiguous and may not be easily understood by the general public. Acting Chairman Stefanko noted that in response to IRRC's concerns, future rulemakings will be scrutinized by DEP staff to ensure they are written in language that is clear both to the mining industry and the general public. Acting Chairman Stefanko also noted that it would be beneficial for a member of the Board to attend an IRRC meeting where a Board rulemaking would be considered so that the Board member can personally address questions from the Commissioners and provide the perspective of a Board member who has experience in the underground coal mining industry.

John Gallick made a motion to have a Board member, including the Chairman, attend future IRRC meetings on final rulemakings. Jim Sabella seconded the motion, which was unanimously approved by the Board.

PROPOSED RULEMAKING – MAINTENANCE OF INCOMBUSTIBLE CONTENT OF ROCK DUST:

Acting Chairman Stefanko asked Board members if they had any questions on the proposed rulemaking prepared by the Department. Michele Tate explained to the Board that if it voted to approve the proposed rulemaking, the rulemaking would be published in the *Pennsylvania Bulletin* for a 30-day public comment period.

Mike Sinozich made a motion to adopt the proposed rulemaking with a 30-day public comment period. Jim Sabella seconded this motion, which unanimously passed by the Board.

DRAFT REGULATIONS: BCMSA, SECTION 106.4, STANDARDS FOR SURFACE FACILITIES:

Acting Chairman Stefanko asked the Board if it had any questions regarding the materials prepared by the Department to assist the Board in its review of the draft Section 106.4 Standards for Surface Facilities proposed regulations. Those materials included a listing of MSHA regulations at 30 CFR 77.0 that were not included in the draft proposal, as well as a listing of federal MSHA provisions not included in 25 PA Code Chapter 209a Surface Mining and the draft proposed rulemaking. Acting Chairman Stefanko asked the Board if it had a recommendation regarding the draft proposed regulations and noted that the next step the Board would need to take if it approved the draft regulations was to adopt a motion asking the Department to develop the rulemaking package.

John Gallick noted that when the Bituminous Coal Mine Safety Act (BCMSA) was enacted, it was understood that the legislation created a distinctive split in authority and would only pertain

to those activities applicable at an underground bituminous coal mine and those surface operation activities directly related to underground bituminous mining operations. He furthered by noting that he thought the draft regulatory proposal was crafted so that only the federal MSHA regulations that affect underground bituminous coal mines would be incorporated and that regulations affecting surface activities at mining operations would continue to be covered under Pennsylvania's surface mining regulations at 25 Pa Code Chapter 209a. Following John's remarks, Jim Sabella requested that the Board take a short break for discussion. Once the Board reconvened, the following motion was made:

John Gallick made a motion to table action on the draft proposed Standards for Surface Facilities regulations until the next board meeting to allow further review of the proposal by the Board. Frank Reidelbach seconded this motion, which was unanimously approved by the Board.

After the vote, Acting Chairman Stefanko requested that the Board complete its review of the regulations and come prepared to take action on the proposal at the next board meeting.

DISCUSSION ON PCA CABLE STUDY: NEXT STEPS:

John Gallick provided an update to the Board, including PCA's attempts to contact a mining company in Illinois that was identified as having expertise on the use of shielded cables in mining operations. John noted to the Board that he was unsuccessful in speaking with anyone at the company about their experience in using shielded cables.

John Gallick made a motion that the Board request that the Department, on its behalf, write a letter to the Illinois company in question asking for information on that company's experience with shielded cables. Frank Reidelbach seconded the motion, which was unanimously approved by the Board.

Following adoption of the motion, Acting Chairman Stefanko questioned whether the Board wanted to review the letter drafted by the Department before it is mailed to the company. The Board agreed that the Department should have discretion in composing the letter but asked that it be copied on the letter when it is mailed to the company. The Board also noted that if the company would respond to the Department's inquiry, any such response received should be shared with the Board prior to the next meeting. John Gallick said that he would provide Acting Chairman Stefanko with the name and address of the company in question.

Joe Sbaffoni asked the Board if additional companies – beyond the one in Illinois – should be contacted by the Department or Board for information on their use of shielded cables. Stan Popich and John Gallick replied that they were only aware of the two companies referenced in PCA's study. Acting Chairman Stefanko also replied that if DEP would become aware of another company, it would notify the Board.

Jim Sabella asked if anything should be done in the interim while the Board waited for additional information in order to finalize the cable study. John Gallick responded that

obtaining the information from the company in Illinois is necessary before the Board could contemplate options for the Board's action. John noted further that he believes the Board should forgo any action on the subject until the Board's next meeting when hopefully information from the company in Illinois is available. Jim Sabella responded that he was OK with that approach as long as the Board takes action to finalize the study at the next Board meeting. Acting Chairman Stefanko confirmed that action on the cable study would be added as an agenda item for the Board's consideration at its next meeting.

PRIORITIZATION OF FUTURE RULEMAKINGS:

Acting Chairman Stefanko asked the Board to revisit the list of regulations they prioritized at the December 2011 meeting to verify what rulemakings the Board may want to work on next.

John Gallick made a motion to prioritize high-voltage continuous mining machines and preshift examinations as the next two regulations the Board will work on. Jim Sabella seconded this motion, which was unanimously approved by the Board.

A second motion was made by John Gallick to direct DEP to develop draft regulations on the use of high-voltage continuous mining machines for the Board to review and consider at its next meeting. Frank Reidelbach seconded this motion, which was also passed unanimously by the Board.

OTHER BUSINESS:

Stan Popich informed the Board that MSHA recently approved the Strata Worldwide Breathable Air Component that is used in its portable Fresh Air Bay mine refuge chamber. The component meets MSHA's new chamber regulations included in Title 30, Part 7. He also noted that refuge chambers must meet MSHA's criteria and that changes may need to be made to existing chambers by the end of the 2013 in order to meet MSHA's requirements.

PUBLIC COMMENTS:

Acting Chairman Stefanko asked if there were any public comments.

George Ellis inquired about the pending issues before the Board concerning the finalization of the cable study. Acting Chairman Stefanko responded that finalization and action on the study by the board are agenda items for the Board's consideration at its next meeting. He also noted that action on the study should occur by the Board, regardless of whether the Department receives additional information from the company in Illinois. Joe Scaffoni noted that BCMSA requires action by the Board on the cable study. George Ellis commented that MSHA has not established requirements on the use of shielded cables and that any potential action pursuant to the conclusions established in the study would need to be carefully considered by the Board.

ADJOURNMENT:

With no further business to discuss,

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

The Board meeting adjourned at 11:14 a.m. The next Board meeting is scheduled for June 26, 2013, at 10:00 a.m. at the DEP Bureau of Mine Safety Building in Ebensburg.