

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

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 proposed rulemaking implements existing Federal regulations, thereby making certain federal provisions independently enforceable by the Commonwealth.

This proposed rulemaking was adopted by the Board at its meeting of _____, 2015.

A. *Effective Date*

This proposed 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*

Sections 106 and 106.1 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106 and 690-106.1) authorize the adoption of regulations to implement the BCMA. The BCMSA further authorizes the Board to promulgate necessary or appropriate regulations to implement the requirements of the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines.

D. *Background and Purpose*

On July 7, 2008, the General Assembly enacted the BCMSA, which was the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. See 52 P. S. § 690-103(a). The BCMSA provides broad authority to promulgate regulations that are necessary or appropriate to implement the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines. See 52 P. S. § 690-106.1(a). Regulations consistent with federal standards may also be promulgated under Section 106.1(c) of the BCMSA. Under section 106 of the BCMSA, the Board 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.

This proposed rulemaking implements existing Federal regulations published on January 15, 2015 that require underground bituminous coal mine operators to equip continuous mining machines, except full-face continuous mining machines, with proximity detection systems. See 30 C.F.R. part 75; 80 Fed. Reg. 2187. 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.

The federal Mine Safety and Health Administration (MSHA) promulgated rules related to proximity detection systems in order to reduce potential for pinning, crushing, or striking accidents.

Adopting these regulations 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, implementing them in Chapter 208 provides the Department with the independent authority to enforce the federal requirements when Commonwealth inspectors observe violations, improving efficiency and increasing Commonwealth autonomy regarding enforcement efforts.

E. Summary of Proposed Regulatory Requirements

Proximity Detection Systems

§ 208.500

Section 208.500 requires operators to install proximity detection systems on certain mobile machines.

§ 208.501

Section 208.501 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

Section 208.502 incorporates by reference 30 CFR § 75.1732(b) (requirements). This provision describes certain technical specifications required in a proximity detection system.

§ 208.503

Section 208.503 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

Section 208.504 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.

F. Benefits, Costs and Compliance

Benefits

The proposed 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 state safety requirements.

Compliance costs

The proposed rulemaking does not add compliance costs since it implements existing Federal regulations with which mining operators in this Commonwealth must already comply.

Paperwork requirements

The proposed rulemaking does not generate additional paperwork because mining operators must comply with the existing Federal regulations that are implemented by this rulemaking.

G. 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 proposed rulemaking has minimal impact on pollution prevention since it is focused on mine safety.

H. Sunset Review

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on _____, 2015, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), the Commission may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Board of Coal Mine Safety. Comments, suggestions or objections must be received by the Board by _____. In addition to the submission of comments, interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by _____. The one-page summary will be distributed to the Board and available publicly prior to the meeting when the final rulemaking will be considered.

Comments including the submission of a one-page summary of comments may be submitted to the Board online, by e-mail, by mail or express mail as follows. If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Comments may be submitted to the Board by accessing eComment at www.ahs.dep.pa.gov/eComment. Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

Written comments should be mailed to the Board of Coal Mine Safety, P. O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Board of Coal Mine Safety, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

JOHN QUIGLEY,
Chairman,
Board of Coal Mine Safety