

Executive Summary
Chapter 208 Underground Coal Mine Safety
(25 Pa. Code Chapter 208)

This is the first rulemaking undertaken by the Commonwealth of Pennsylvania addressing underground coal mine safety. This rulemaking is authorized by the Bituminous Coal Mine Safety Act (52 P.S. §§ 690-101-690-708) (“Act”). This will be the first rulemaking promulgated by the Board of Coal Mine Safety (Board). This 7-member board consists of the Department of Environmental Protection’s (Department) Secretary as Chair and three members representing the viewpoint of mine workers and the viewpoint of underground bituminous coal mine operators respectively.

The Board proposes to amend the Department’s regulations by establishing new 25 Pa. Code Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A. These regulations establish safety standards relating to belt conveyor flammability, the design, installation and maintenance of mine seals, escapeways, emergency response, and self-contained self-rescue devices. They 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 being incorporated by reference implement some of the requirements established by MSHA in accordance with the Mine Improvement and New Emergency Response (“MINER”) Act of 2006 (MINER Act) (Pub.L. 109-236, June 15, 2006, 120 Stat. 493)(30 U.S.C.A. § 826 and 963-965).

Mine operators must comply with both the MSHA requirements and the Department’s requirements. Incorporating MSHA regulations by reference, rather than by rewriting the safety standards, will enhance mine safety by minimizing the possibility of operators being confused as to the appropriate standards to satisfy. Furthermore, the Department’s regulations will remain consistent with any changes to the MSHA regulations because incorporation by reference includes all future revisions to the incorporated regulation. The Board still maintains its ability to amend current regulations or to adopt new regulations if the Board finds that a referenced MSHA regulation(s) is inappropriate or will reduce the safety of miners.

This rulemaking is more stringent than the MSHA regulations in one aspect. Pursuant to Section 235 (regarding unused and abandoned parts of mines) of BCMSA, 52 P.S. § 690-235, the Department is responsible for ensuring that abandoned parts of mines are adequately sealed. The proposed regulations at Section 201.11(a) codify the Department’s current policy of requiring all seals for unused and abandoned areas to be capable of withstanding a 120-pounds per square inch (psi) pressure wave. MSHA requires a 120-psi seal if the abandoned area’s atmosphere is not inert (capable of sustaining an explosion). 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.

Rather than adopting this two-tier system allowed by the federal regulations, the proposed rulemaking requires the 120-psi standard for all seals. This policy choice is based on the following. The monitoring system only measures the atmosphere at or near the seal. It does

not monitor the atmosphere throughout the abandoned area. Therefore, there is significant uncertainty as to whether the atmosphere throughout the abandoned area is inert. Also, it is the Department's experience that seals breathe and that the atmosphere in an abandoned area does not always remain inert. This creates the risk of having an abandoned area which could have a dangerous explosion and seals installed that will not keep the explosion forces within the sealed area. The purpose of a seal is to keep an explosion within a sealed area and that an explosion will not affect the active mine workings. MSHA's two-tier 50-psi seal will not keep the explosion forces within a sealed area if an explosion should occur. The proposed, more stringent mine seal regulation reduces the possibility that individuals working at the mines will suffer a serious or fatal injury.

Currently there are 38 underground bituminous coal mines in the Commonwealth of Pennsylvania. These mines employ approximately 4,420 persons. These regulations reduce the possibility that individuals working at the mines will suffer a serious or fatal injury due to a mine fire, cave-in, or an inundation of a mine by gas or water. The belt conveyor fire-resistance and mine seal standards reduce the possibility that an explosion or a fire that could cause serious injury and/or loss of life and damage to mine infrastructure.

This rulemaking imposes standards already being imposed by MSHA with the only difference where the proposed regulations would require the operator to use a seal with a strength of 120 psi and the MSHA regulations would allow a seal with a strength of 50 psi.