

PENNSYLVANIA
Underground Coal Mine Safety

25 Pa. Code Chapter 208 (relating to Underground Coal Mine Safety)

See 43 Pa. B. 2587 (May 11, 2013)

Board of Coal Mine Safety Regulation #7481 (Independent Regulatory Review
Commission #3010)

Comment/Response Document

Pennsylvania Underground Coal Mine Safety Regulations

On May 11, 2013, the Board of Coal Mine Safety (Board) published notice of a proposed rulemaking concerning amendments to 25 Pa. Code Chapter 208 (relating to underground coal mine safety). See 43 Pa. B. 2587 (May 11, 2013). The Board requested comments from all interested parties on the proposed regulations.

This final rulemaking package requires that where rock dust is to be applied in underground bituminous coal mines located in this Commonwealth, the incombustible content of the combined coal dust, rock dust, and other dust that is present in a mine's intake and return airways must be not be less than 80 percent.

On September 23, 2010, the federal Mine Safety and Health Administration (MSHA) issued an emergency temporary standard (ETS) under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger that miners in underground bituminous coal mines throughout the country face when accumulations of coal dust are not made inert. 75 FR 57857. MSHA concluded, from investigations of mine explosions and other reports, that immediate action is necessary to protect miners. The Final MSHA Rule retained the requirements of the ETS verbatim to ensure continuous protection for underground bituminous coal miners from grave danger due to hazards of coal dust explosions. 76 FR 35978, June 21, 2011.

After learning of the more stringent MSHA requirements under 30 CFR §§ 75.403 and 403-1 for the maintenance of incombustible content of rock dust, the Board determined that the Commonwealth should incorporate the federal standards into state regulation and provide the Department the necessary independent authority to enforce those standards. Accordingly, on May 11, 2013, the Board proposed these requirements for a 30 day public comment period. 43 Pa.B. 2587. No changes were made to the regulation between the proposed and final rulemaking.

During the public comment period, the Board received a comment from the United Mine Workers of America ("UMWA"), who fully supports the rulemaking. On July 10, 2013, the Independent Regulatory Review Commission (IRRC) provided notice to the Board that it had reviewed the proposed regulation, but had no objections, comments, or recommendations to offer on the regulation. IRRC noted that if the Board delivers the final-form regulation without revisions to the commission, and the standing committees do not take any action on the final rulemaking, the final regulation will be deemed approved by the commission.

This document summarizes the written comments received during the public comment period, including the period for IRRC to comment, and provides the Board's response to the single comment that it received. A list of the commentators, including name, affiliation (if any), and city/state/country, can be found below.

ID	Name/Address	Submitted one page summary for distribution to EQB	Provided Testimony	Requested Final Rulemaking following EQB Action
1.	Mr. Dennis O'Dell Administrator United Mine Workers of America United Mine Workers' Headquarters Triangle, VA 222172-1779			

General Comment

Comment: The UMWA wholeheartedly supported and agreed with the Board's rulemaking with regard to the percentage of incombustible content of rock dust. The UMWA remarked on the advances in technology that have led to a better understanding of the dangers inherent to the incombustible content of modern day rock dust particles. Including data about the number of deaths that occurred because of the absence of the final rock dust regulations, the UMWA explained that it was in complete agreement with the Board's actions of finalizing this regulation, and updating the appropriate safety standards.

Response: The Board agrees with this comment and appreciates the commentator's support of the rulemaking. The Board contains broad rulemaking authority to adopt regulations to either modernize safety standards or adopt new ones. By adopting this federal regulation, the Board will enhance its ability to ensure the safety of miners by reducing the potential or severity of explosions in bituminous coal mines. This final rulemaking seeks to conform Pennsylvania regulations to federal regulations that are already in place.