

NOTICE OF FINAL RULEMAKING
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BOARD OF COAL MINE SAFETY
[25 PA CODE CHAPTER 208]
REQUIREMENTS FOR HIGH VOLTAGE CONTINUOUS MINING MACHINES

The Board of Coal Mine Safety (Board) is adding §§ 208.81 – 208.93 (relating to High-Voltage Continuous Mining Machine Standards for Underground Coal Mines) to read as set forth in Annex A. The final rulemaking, with one exception, conforms Pennsylvania regulations to federal regulations, thereby establishing standards for the use of high-voltage continuous mining machines of up to 2,400 volts in underground bituminous coal mines.

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

This notice was given under Board order at its meeting of March 11, 2014.

A. Effective Date

This final rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Joe Sbaffoni, Director Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown PA 15401, (724) 439-7469, jsbaffoni@pa.gov, or Andrew Jenkins, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-9376, andjenkins@pa.gov.

C. Statutory Authority

The final rulemaking is authorized under Sections 106 and 106.1 of the BCMSA, which grant the Board the authority to adopt regulations implementing the BCMSA, including additional safety standards. The Board is authorized 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.

D. Background and Purpose

This final rulemaking will establish electrical safety standards for the installation, use, and maintenance of high-voltage continuous mining machines in underground bituminous coal mines. On April 6, 2010, the federal Mine Safety and Health Administration (MSHA) issued a final rule addressing electrical safety standards for the installation, use, and maintenance of high-voltage

continuous mining machines in underground coal mines (75 Fed. Reg. 17529). MSHA's existing standards did not specifically address high-voltage continuous mining machines because those machines were not available when the federal standards were developed. In order to use high-voltage equipment in underground mines, MSHA required mine operators to submit a Petition for Modification (PFM), as provided for under Section 101(c), of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 811(c). Since 1997, MSHA has granted 52 PFMs to allow mine operators to use high-voltage continuous mining machines. The final rulemaking issued by MSHA includes most of the requirements that were granted in the PFMs and new requirements to enhance safety associated with the operation of continuous mining machines, including provisions to protect against fires, explosions, and shock hazards. The final rulemaking became effective on June 7, 2010 and superseded all PFMs issued prior to the effective date of the rulemaking.

In developing the final rule, MSHA considered the experience of mine operators who had been using high-voltage continuous mining machines in underground coal mines. MSHA also considered the comments, hearing testimony, and its previous experience in reviewing and issuing PFMs in its development of the final rulemaking. The final federal rule codifies requirements at 30 CFR §§ 75.823 – 834, and 1002 that establish mandatory electrical safety standards for the installation of high-voltage continuous mining machines, electrical and mechanical protection of the equipment, handling of trailing cables, and procedures for performing electrical work. In promulgating the rulemaking, MSHA attested that the regulatory requirements are technologically and economically feasible and will reduce the potential for electrical-related accidents, thereby offering greater protection for underground coal miners against electrical shock, cable overheating, fire hazards, unsafe work and repair practices, and back injuries and other sprains caused by handling trailing cables.

On July 7, 2008, the General Assembly enacted the BCMSA. The BCMSA is the first significant update of the Commonwealth of Pennsylvania's underground bituminous coal mine safety laws since 1961 (52 P.S. § 690-103(a)). One of the significant changes made by the BCMSA is the authority to promulgate regulations for mine safety. The General Assembly established the Board to promulgate such regulations. This seven-member board consists of the Secretary of the Department of Environmental Protection (DEP) as Chair, and three members representing the viewpoint of mine workers and three members representing the viewpoint of underground bituminous coal mine operators (52 P.S. § 690-106). The BCMSA contains broad rulemaking authority to adopt regulations that are necessary or appropriate to implement the requirements of the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines (52 P.S. § 690-106.1(a)). Moreover, the Board may promulgate final regulations consistent with federal standards (52 P.S. § 690-106.1(c)).

After learning of the revised MSHA standards concerning high-voltage continuous mining machines in underground coal mines, the Board determined it should promulgate an identical requirement with the exception of provisions concerning the mandatory distance between a spliced high voltage trailing cable and a continuous mining machine. Under BCMSA, at §316(d)(6), spliced trailing cables are prohibited within 50 feet of a continuous mining machine. In contrast, federal requirements at 30 CFR 75.830(b)(1) prohibit the splicing of high-voltage trailing cables within 35 feet of a continuous mining machine. Pennsylvania law provides a more protective standard that enhances miner safety; therefore, the more stringent state requirement is

included in the rulemaking. The Board developed the final rulemaking to, among other things; obtain independent authority necessary to implement the federal regulations.

Revising electrical safety standards for the use, installation and maintenance of high-voltage continuous mining machines plays an important role in enhancing safety protection against fires, explosions and shock hazards in underground bituminous coal mines. In addition, it facilitates the use of advanced equipment designs. By adopting the federal MSHA regulation, with certain exceptions, the Board believes it will enhance DEP's ability to ensure the safety of miners by reducing the potential or severity of fires, explosions and shock hazards in bituminous coal mines and allow DEP to have independent authority to enforce the federal requirement.

E. Summary of Comments and Responses to the Proposed Rulemaking

The Board did not receive any comments from the public or the IRRC on this rulemaking.

F. Summary of Final Regulatory Requirements

The rulemaking adds 25 Pa. Code § 208.81-93 thereby establishing requirements for the use, installation and maintenance of high-voltage continuous mining machines in underground bituminous coal mines as follows:

§ 208.81

Section § 208.81 (relating to Scope) incorporates by reference the federal provisions under 30 CFR 75.823 (relating to the scope), which provide that the standard addresses requirements for the use of high-voltage continuous mining machines of up to 2,400 volts in underground coal mines.

§ 208.82

Section § 208.82 (relating to Electrical Protection) incorporates by reference the federal provisions under 30 CFR 75.824 (relating to electrical protection), which establish the electrical protection requirements for high-voltage continuous mining machines, including requirements associated with the use of an adequate circuit-interrupting device capable of providing short-circuit, overload, ground-fault, and under-voltage protection.

§ 208.83

Section § 208.83 (relating to Power Centers) incorporates by reference the federal provisions under 30 CFR 75.825 (relating to power centers.) The federal provisions set forth the requirements for power centers that supply high-voltage continuous mining machines, including provisions for the disconnecting switches and devices, barriers and covers, interlocks, emergency stop switches, grounding sticks, and caution labels.

§ 208.84

Section § 208.84 (relating to High-Voltage trailing cables) incorporates by reference the federal provisions under 30 CFR 75.826 (relating to high-voltage trailing cables.) The federal regulation defines the requirements that high-voltage trailing cables must meet, including compliance with existing design requirements at 30 CFR 18.35 and the approval requirements of high-voltage continuous mining machines.

§ 208.85

Section § 208.85 (relating to Guarding of trailing cables) incorporates by reference the federal provisions under 30 CFR 75.827 (relating to guarding of trailing cables.) The federal regulation establishes the requirements for guarding trailing cables, including the location where the cables must be guarded, the materials (nonconductive flame-resistant material, or grounded metal) to be used in constructing the guarding, and the requirements applicable to situations when equipment must cross any portion of the cables.

§ 208.86

Section § 208.86 (relating to Trailing cable pulling) incorporates by reference the federal provisions under 30 CFR 75.828 (relating to trailing cable pulling.) The federal regulation establishes the requirements to follow when the trailing cables are to be pulled by any equipment, other than the continuous mining machine.

§ 208.87

Section § 208.87 (relating to Trimming continuous mining machines in and out of the mine and from section to section) incorporates by reference the federal provisions under 30 CFR 75.829 (relating to trimming continuous machines in and out of the mine and from section to section.) The federal regulation includes requirements associated with trimming continuous mining machines in and out of the mine or from one section to another, and testing required prior to trimming.

§ 208.88

Section § 208.88 (relating to Splicing and repair of trailing cables) incorporates by reference the federal provisions under 30 CFR 75.830 (relating to splicing and repair of trailing cables), with the exception of requirements at 30 CFR 75.830 (b)(1). The federal regulation establishes the requirements for performing splices and repairs of trailing cables, and the manner in which the trailing cable must be spliced or repaired to assure that miners are not exposed to shock and burn hazards. Concerning the provisions at 30 CFR 75.830 (b)(1), which require a mandatory distance of 35 feet between a spliced high voltage trailing cable and a continuous mining machine, the Board determined that the federal requirement was not as protective as requirements established under BCMSA. Therefore, at § 208.88(b)(1), requirements are included that are consistent with BCMSA, and that establish that splicing of high-voltage trailing cables within 50 feet of a continuous mining machine is prohibited.

§ 208.89

Section § 208.89 (relating to Electrical work; troubleshooting and testing) incorporates by reference the federal provisions under 30 CFR 75.831 (relating to electrical work; troubleshooting and testing.) The federal provisions concern the requirements for performing electrical work, including troubleshooting and testing.

§ 208.90

Section § 208.90 (relating to Frequency of examinations; recordkeeping) incorporates by reference the federal provisions under 30 CFR 75.832 (frequency of examinations; recordkeeping.) The regulations specify the frequency of testing certain equipment and circuits and the requirements for creating and maintaining adequate records.

§ 208.91

Section § 208.91 (relating to Handling high-voltage trailing cables) incorporates by reference the federal provisions under 30 CFR 75.833 (relating to handling high-voltage trailing cables.) The provisions set forth the requirements for handling energized trailing cables including provisions that prohibit handling energized trailing cables unless high-voltage insulating gloves or insulating cable- handling tools are used.

§ 208.92

Section § 208.92 (relating to Training) incorporates by reference the federal provisions under 30 CFR 75.834 (relating to training.) The federal regulatory provisions require that miners who perform maintenance on high-voltage continuous mining machines be trained in high-voltage safety, testing and repair and maintenance procedures. Training provisions are also included for miners who work in the vicinity of high-voltage continuous mining machines, or who move the high-voltage equipment or cables.

§ 208.93

Section § 208.93 (relating to Installation of electric equipment and conductors; permissibility) incorporates by reference the federal provisions under 30 CFR 75.1002 (relating to installation of electric equipment and conductors; permissibility.) This section addresses requirements for conductors and cables used in or in by the last open crosscut, as well as electrical equipment, conductors and cables used within 150 feet of pillar workings, and allows the use of shielded, high-voltage cables that supply power to permissible continuous mining machines in underground coal mines.

G. Benefits and Costs

Benefits

The final regulation will reduce the potential for electrical-related fatalities and injuries or loss of property when using high-voltage continuous mining machines in underground bituminous coal mine operations in Pennsylvania. The design and work practice requirements included in the rulemaking will result in greater protections for underground bituminous coal mine operators, including measures to reduce electrical shock, cable overheating, fire hazards, unsafe work and repair practices, and back injuries and other sprains caused by handling trailing cables. In addition, the regulation facilitates the use of more advanced equipment designs. The final regulation incorporates, with certain exceptions, the provisions of federal regulations into the state's regulations, thus enhancing the Commonwealth's mine safety program and its reputation for excellence.

Compliance Costs

The final rulemaking will not add any compliance costs to those already existing, as a federal regulation is already in place in this regard. This rulemaking imposes standards that MSHA has already imposed and with which underground bituminous coal mines in PA must comply.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the final regulation and how to comply with it. This will be accomplished through the Department's ongoing compliance assistance program.

Paperwork Requirements

The regulatory revisions will not increase the paperwork that is already generated because of the existing federal regulation that is already in place.

H. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 25, 2013, the Department submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 5819 (October 5, 2013), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees are to be provided with copies of the comments received during the public comment period as well as other documents when requested. No documentation was requested by IRRC or the Committees. No public comments were received.

Under section 5.1(j.2) of the Regulatory Review Act, on _____, 2014, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2014, and approved the final-form regulations.

J. Findings of the Board

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and no comments were submitted.
- (3) These regulations do not enlarge the purpose of the proposal published at 43 Pa.B. 5819 (October 5, 2013).
- (4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

K. Order of the Board

The Board, acting under the authorizing statutes, orders that:

- (1) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapter 208, are amended to read as set forth in Annex A.
- (2) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Chairperson of the Board shall submit this order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.
- (4) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.
- (5) This order shall take effect immediately.

E. Christopher Abruzzo
Chairperson