

MINUTES
BOARD OF COAL MINE SAFETY
DEP Cambria Office
September 5, 2017 – 10 a.m. – Ebensburg, PA

VOTING BOARD MEMBERS PRESENT

John Stefanko, DEP, Deputy Secretary for Active and Abandoned Mining Operations
John Gallick, PCA
Joseph Zelanko, PCA
Chuck Shaynak, PCA
Frank Reidelbach, UMWA
Ron Bowersox, UMWA
Jim Sabella, UMWA

DEPARTMENT OF ENVIRONMENTAL PROTECTION STAFF PRESENT

Laura Edinger, DEP Policy Office
David Shetron, DEP Legislative Office
Colvin C. Carson, DEP, Director, Bureau of Mine Safety
Richard Wagner, DEP, Bureau of Mine Safety
Jeffrey Kerch, DEP, Bureau of Mine Safety
Arthur Brower, DEP, Bureau of Mine Safety
Dustin Mowery, DEP, Bureau of Mine Safety
Allison Gaida, DEP, Bureau of Mine Safety

OTHERS PRESENT

Ben Stock, Rosebud Mining
Tanner Lowmaster, Rosebud Mining
Jake Wells, Rosebud Mining
R. Henry Moore, Jackson Kelly/PLLC
Joe Zelanko, Rosebud Mining
Will Dando, PCA

CALL TO ORDER AND APPROVAL OF MINUTES

John Stefanko, DEP Deputy Secretary for Active and Abandoned Mining Operations and Acting Chairman of the Board of Coal Mine Safety called the meeting to order at 10:14 a.m. in the DEP Cambria Office, Conference Room 1A/B in Ebensburg.

Acting Chairman Stefanko asked for introductions around the room. The Board then considered its first item of business, approval of the March 7, 2017, meeting minutes.

John Gallick moved to adopt the minutes to the Board. Ron Bowersox seconded the motion, which was unanimously approved by the Board.

CONSIDERATION OF FINAL RULEMAKING – SENSITIVE GROUND FAULT:

Acting Chairman Stefanko updated the Board. The Board adopted the proposed regulation at the September 13, 2016, meeting. The proposed rule was published on March 18, 2017, opening a 30-day public comment period which ended on April 17, 2017. The Independent Regulatory Review Commission (IRRC) then had a 30-day review period and provided comments on the regulation on May 17, 2017. IRRC's comments were answered in the Order document for this rulemaking. No changes were made to the regulatory language in Annex A from proposed to final.

Acting Chairman Stefanko then asked for questions or comments from the Board.

Ron Bowersox asked who the nine operators of underground bituminous coal mines in Pennsylvania are. Acting Chairman Stefanko said that the names of these operators would be identified and emailed to the Board for their information.

With no further comments,

A motion was made by Chuck Shaynak to adopt the final rulemaking on Sensitive Ground Fault. Ron Bowersox seconded this motion which was unanimously approved by the Board.

Laura Edinger, DEP Policy Office, then outlined the next steps. The final rulemaking will be submitted to the Governor's Office of General Counsel for formal approval and to the Governor's Budget Office for the issuance of a fiscal note. Once both of these offices have signed off, the rulemaking will be submitted to the Pennsylvania House and Senate Environmental Resources and Energy Committees as well as to IRRC. Then IRRC will consider the rulemaking at an upcoming public meeting.

Acting Chairman Stefanko said that Board members will be notified when this rulemaking is placed on the IRRC calendar so members can attend if they wish. After the IRRC approves the regulation, it will be reviewed the Office of Attorney General for 30 days and then published in the Pennsylvania Bulletin as final, possibly late this year/early next year.

Acting Chairman Stefanko showed the Chapter 208 regulation booklet and Federal Reference Guide. He explained that the booklets will be updated and distributed as new regulations are finalized.

UPDATE ON PROPOSED RULEMAKING ON PROXIMITY DETECTION SYSTEMS:

The Board tabled this final rulemaking at its December 2016 meeting, awaiting the resolution of implementation issues with the federal regulation. At the March 7, 2017, Bureau Director Colvin C. Carson informed the Board of a meeting scheduled for March 22, 2017, at the National Institute of Occupational Safety and Health. Director Carson stated that there has been no update as of this date. Therefore, this issue will be tabled until the next meeting.

Acting Chairman Stefanko explained that regulations have a 'life'. The deadline to submit final regulation on this issue to IRRC is April 18, 2018. After that date, the rulemaking is considered withdrawn and the Board would need to begin the rulemaking process again for this regulation.

Acting Chairman Stefanko informed the Board that he will be attending the Interstate Mining Compact Commission (IMCC) this fall. A meeting is customarily held with MSHA at the end of the IMCC meeting, which he sees as an opportunity to discuss this regulation.

UPDATE AND DISCUSSION ON REPORTABLE ACCIDENTS:

At the last meeting, the Board received a report from the Subcommittee on Reportable Accidents. The subcommittee had only had the opportunity to meet once prior to the March meeting and were planning to schedule another meeting. Acting Chairman Stefanko invited the subcommittee to report on the outcome of other meetings that were scheduled since we last met.

Bureau Director Carson stated that a meeting was held at New Stanton, and changing some items, particularly #15-#17, were discussed. However, Director Carson believes DEP's position is to leave things as they are.

Acting Chairman Stefanko then opened this up to the Board for discussion. Ron Bowersox agreed that there should be no changes. Chuck Shaynak reminded the Board that the PCA had submitted a proposal. Acting Chairman Stefanko asked if the subcommittee would like to hold another meeting or submit an alternate proposal. PCA requested clarification on the intent of #17 as written, stating that the current wording is very vague.

The DEP will consult with Mary Martha Trushel and provide clarification to the Board on item #17. Bureau of Mine Safety Director Carson will then schedule a meeting with subcommittee to review. Acting Chairman Stefanko suggested inviting Mary Martha Trushel to the subcommittee meeting.

UPDATE AND DISCUSSION ON EMT/EMR LEGISLATIVE PROPOSAL:

The Board discussed this legislative proposal at its March meeting. At that time, language had been drafted but the bill had not yet been introduced. The Board approved a motion to draft a letter in support of the bill. The letter would be submitted to DEP and to the Board for review prior to finalization. He invited Will Dando from the PCA to provide an update on this legislation.

Mr. Dando explained that the bill was introduced as House Bill 1341. The original bill was introduced with the language that the Board had agreed to. The House Environmental Resources and Energy Committee held a hearing in mid-June on the bill. It was amended in the House Committee to also include the option to use advanced EMTs. That opens all levels of certification under paramedic to be recognized underground. An advanced EMT would be a step above an EMT, but not as advanced as a paramedic. On June 26, 2017, the full House of Representatives voted 196-0 in favor of the bill. The legislation is now in the Senate. PCA will continue to advocate that they move the bill, and Mr. Dando is hopeful that this year it will go to Governor's Office for signature. The three additional courses are included in this bill. There were no changes to what the Board proposed except for the option of using an advanced EMT at the operator's choice.

OTHER BUSINESS:

Acting Chairman Stefanko asked if there were any other issues the Board would like to consider. He instructed Allison Gaida to send a reminder email to the Board prior to the next meeting requesting new items for potential discussion for the Board to consider.

Bureau of Mine Safety Director Carson requested that the Board review and discuss the following sections of the Pennsylvania Bituminous Mining Law pertaining to miner certification:

Section 205. Qualifications for certification as miners.

(2) No individual shall be qualified to take the examination unless the individual produces evidence of having had not less than one year's experience in bituminous coal mines.

Section 202. Qualification for certification.

(a)(ii) For each certification category in subparagraph (i), a minimum of two years' experience must have been in a working section.

Director Carson explained that 138 miners have come to PA mines from WV mines bringing with them a different mining culture which includes some habits that run counter to operations in PA. He would like to see Section 205(2) changed to include one year of experience in a 'Pennsylvania' bituminous coal mine before they can test and Section 202 (a)(ii) to include a minimum of one year of experience in a 'Pennsylvania' working section.

Acting Chairman Stefanko stated that this topic will be included on the next agenda as a discussion item.

PUBLIC COMMENTS:

Acting Chairman Stefanko asked the members of the public in attendance if they would like to provide any other comments. None were voiced.

ADJOURNMENT:

With no further business to discuss,

Frank Reidelbach made a motion to adjourn the meeting. Joseph Zelanko seconded this motion, which was unanimously approved by the Board.

The meeting adjourned at 10:45 a.m. The next Board meeting will be held on December 5, 2017, at 10 a.m. at the DEP Cambria Office in Ebensburg.