

## **EXECUTIVE SUMMARY**

### **PROPOSED RULEMAKING FOR PROHIBITING ELECTRONIC LIQUID-VAPORIZING DEVICES AT UNDERGROUND BITUMINOUS COAL MINES**

The Board of Coal Mine Safety (“Board”) proposes to amend 25 Pa. Code Chapter 208 (relating to underground coal mine safety). These amendments include §§ 208.375-.376 (relating to smoking prohibition at surface work areas and underground areas) to read as set forth in Annex A.

The purposes of the Bituminous Coal Mine Safety Act of 2008 (“BCMSA”), enumerated in section 103(b) (52 P.S. § 690-103(b)), include the establishment and promulgation of improved mandatory standards to protect the health and safety of miners and other individuals in and about mines. In accordance with section 106.1(a) of the BCMSA (52 P.S. § 690-106.1(a)), the Board has the authority 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. Section 106.1(f)(2) (52 P.S. § 690.106.1(f)(2)) further provides that regulations may address any hazards not addressed by existing safety standards.

To protect the health and safety of miners and other individuals, this proposed rulemaking will amend the smoking prohibition at underground bituminous coal mines to expressly prohibit the use and/or possession of electronic liquid-vaporizing devices, such as electronic cigarettes, and impose a penalty for violations of the prohibition. By prohibiting the use of and/or possession of electronic liquid vaporizing devices at underground bituminous coal mines, this proposed rulemaking addresses both explosive and distraction hazards these devices present at underground bituminous coal mining operations. This proposed rulemaking will also separately distinguish the prohibition at surface work areas of underground bituminous coal mines from the prohibition inside these mines. In developing this rulemaking, the Board was aided by the recommendations and advice of the Department and the regulated community. The Board is chaired by the Secretary of the Department of Environmental Protection (“Department”) and consists of three members representing the interests of mine workers and three members representing the interests of underground bituminous coal mine operators.

Miners, their families, mining companies, and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines. Additionally, miners, mine officials, mine operators, and the Department will benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

The Department recommends that this proposed rulemaking be adopted by the Board and published in the *Pennsylvania Bulletin* with a 30-day public comment period.