

EXECUTIVE SUMMARY

Final-Omitted Rulemaking Blast Site Clarification for Noncoal Mining Operations 25 Pa. Code Chapter 77

Purpose of this Final-Omitted Rulemaking

The Environmental Quality Board (Board) will correct an inconsistency between the noncoal mining regulations in Chapter 77 and the storage, handling and use of explosives regulations in Chapter 211. Noncoal mine operators are required to conduct blasting operations with explosives in compliance with these two chapters. This final-omitted rulemaking corrects an inconsistency in use of defined terms while maintaining an effective safe boundary for blasting operations.

Summary of the Final-Omitted Rulemaking

In December 2023, the Department of Environmental Protection's (Department) Bureau of Mining Programs identified an inconsistent use of the term "blast area" in one instance of the surface blasting requirements in § 77.564(g)(7). Section 77.564(g)(7) was promulgated in 1990 and used the term "blast area" throughout the provision. Subsequently, the terms "blast area" and "blast site" were defined in the Chapter 211 regulations on explosives in 2001. As a result, one instance of "blast area" as it is used in § 77.564(g)(7) is inconsistent with the definitions in Chapter 211. In the context of the sentence, the correct term to use is "blast site."

"Blast site" is defined in § 211.101 as the specific location where explosive charges are loaded into the blast holes. "Blast area" is defined in § 211.101 as the larger area around the blast site that must be cleared and secured to prevent injury to persons and damage to property. In other words, the "blast area" consists of a buffer zone around the "blast site" to ensure mine worker and public safety. When explosives are being loaded into drill holes ahead of a "shot" (blast), the blast site plus a buffer zone of 50 feet around the blast site is cleared of all persons and equipment except those necessary to prepare for the blast, as required by § 211.154(b). However, the existing language in § 77.564(g)(7) requires "work within a radius of 50 feet of the blast area" to cease, which means the operator must include an extra 50-foot radius in addition to the buffer zone around the blast site. This interpretation results in a larger disruption of activities at a noncoal mine than is necessary to ensure mine worker and public safety, which was not intended and is not consistent with the same safety requirements in Chapter 211. This final-omitted rulemaking will correct this inconsistency.

Affected Parties

This final-omitted rulemaking will affect approximately 300 noncoal mining operators that conduct blasting (at approximately 350 sites). These activities are performed onsite by around 30-40 blasting contractors who service mine sites across the Commonwealth.

Advisory Groups

The Department discussed the draft regulatory amendment with the Aggregate Advisory Board at its August 28, 2024 meeting.

Public Comments

Notice of proposed rulemaking is omitted under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law (CDL). Section 204(3) of the CDL provides that an agency may omit the notice of proposed rulemaking if the “agency for good cause finds... that the [public notice and comment] procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.”

Public notice and solicitation of public comments are unnecessary and contrary to the public interest because use of incorrect terminology in § 77.564(g)(7) could lead to confusion for Department staff, noncoal mine operators and blasting contractors. There is a substantial public interest served by ensuring that the safety standards for blasting in 25 Pa. Code Chapters 77 and 211 are consistent.

Recommendation

The Department is recommending the adoption of this final-omitted rulemaking.