

# Regulatory Analysis Form

(Completed by Promulgating Agency)



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Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency:

Department of Environmental Protection

(2) Agency Number:

Identification Number: #7-463

IRRC Number: 2920

(3) Short Title:

Requirements for Automated External Defibrillators (AED)

(4) PA Code Cite:

25 Pa. Code Chapter 208 Underground Coal Mine Safety

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

**Primary Contact:**

Michele Tate, 783-8727; fax: 783-8926; [mtate@sate.pa.us](mailto:mtate@sate.pa.us); RCSOB 16<sup>th</sup> Fl., Harrisburg, PA 17105

**Secondary Contact:**

Patricia Allan, 783-8727; fax: 783-8926; [pmallan@state.pa.us](mailto:pmallan@state.pa.us); RCSOB 16<sup>th</sup> Fl., Harrisburg, PA 17105

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

**Board of Coal Mine Safety**

P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301), e-mail [RegComments@state.pa.us](mailto:RegComments@state.pa.us)

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

☒ Proposed Regulation

☐ Final Regulation

☐ Final Omitted Regulation

☐ Emergency Certification Regulation;

## Regulatory Analysis Form

- ☐ Certification by the Governor  
☐ Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking package would require the placement of Automated External Defibrillators (AED) at various areas of an underground mine operations. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The Board agreed that this rulemaking would be in the best interests of the miners' safety. The Board is responding to a letter from a citizen, who requested that AEDs be placed at coal mines for miners' safety.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: Fall 2010
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Spring 2011
- D. The expected effective date of the final-form regulation: Spring 2011
- E. The date by which compliance with the final-form regulation will be required: Spring 2011
- F. The date by which required permits, licenses or other approvals must be obtained: Spring 2011

(10) Provide the schedule for continual review of the regulation.

The Board will review on an ongoing basis the need for regulations implementing the Bituminous Coal Mine Safety Act.

## **SECTION II: STATEMENT OF NEED**

(11) State the statutory authority for the regulation. Include specific statutory citation.

- Sections 106, 106.1 and 106.2 of the Bituminous Coal Mine Safety Act (52 P.S. §§ 690-106, 106.1, and 106.2) (BCMSA) which authorizes the adoption of regulations implementing the BCMSA including additional safety standards. The Board is directed to consider adopting

## Regulatory Analysis Form

regulations implementing the MSHA MINER Act regulations.

- Section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17), which authorizes the department to prevent the occurrence of a nuisance.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is not mandated by any federal or state law or court order, or federal regulation

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed rulemaking package would require the placement of Automated External Defibrillator (AED) at various areas of underground mine operations. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The use of the AEDs by trained individuals will help save the lives of miners who may suffer from a heart attack while working underground. Most of the miners who work underground may be several miles away from a mine opening. Because of the dangerous conditions and the strenuous activities miners encounter, safety is a priority. AEDs are another tool that miners will have available to save a life. The Board agreed that this would be in the best interests of the miners' safety. The Board is responding to a letter from a citizen, who requested that AEDs be placed at coal mines for miners' safety.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific studies were relied upon.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

There are 36 mines operating in Pennsylvania. The proposed rulemaking would require them to install and maintain Automated External Defibrillators. Industry representatives have been supportive of the efforts to develop the proposed standards.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Currently there are 36 underground bituminous coal mines in the Commonwealth of Pennsylvania. These mines employ approximately 4,420 persons (not all of whom work underground).

## Regulatory Analysis Form

### SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The estimated cost for an AED unit is \$1,500. Each mine site would be required to maintain one unit on the surface of the facility and on or near each coal producing section. These locations were recommended by representatives from industry and miner workers. The cost to the regulated community would be one unit on the surface and the average mine has 3 working sections. So the estimated cost to industry would \$6,000 per a mine. The minimum cost per a mine would be approximately \$3,000. The average maintenance per a unit is \$100 per a year. A mine operator would incur an average maintenance cost of \$400 per a year.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This question is not applicable because local governments do not engage in underground bituminous coal mining.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

This question is not applicable because state agencies do not engage in underground bituminous coal mining.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

|                            | Current FY<br>Year | FY +1<br>Year | FY +2<br>Year | FY +3<br>Year | FY +4<br>Year | FY +5<br>Year |
|----------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| <b>SAVINGS:</b>            | \$                 | \$            | \$            | \$            | \$            | \$            |
| <b>Regulated Community</b> | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Local Government</b>    | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>State Government</b>    | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Total Savings</b>       | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>COSTS:</b>              |                    |               |               |               |               |               |

## Regulatory Analysis Form

|                             |     |         |       |       |       |       |
|-----------------------------|-----|---------|-------|-------|-------|-------|
| <b>Regulated Community</b>  | N/A | \$6,000 | \$400 | \$400 | \$400 | \$400 |
| <b>Local Government</b>     | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |
| <b>State Government</b>     | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |
| <b>Total Costs</b>          | N/A | \$6,000 | \$400 | \$400 | \$400 | \$400 |
| <b>REVENUE LOSSES:</b>      |     |         |       |       |       |       |
| <b>Regulated Community</b>  | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |
| <b>Local Government</b>     | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |
| <b>State Government</b>     | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |
| <b>Total Revenue Losses</b> | N/A | N/A     | N/A   | N/A   | N/A   | N/A   |

(20a) Provide the past three year expenditure history for programs affected by the regulation.

| <b>Program</b>                                   | <b>FY -3<br/>2007-2008</b> | <b>FY -2<br/>2008-2009</b> | <b>FY -1<br/>2009-2010</b> | <b>Current FY<br/>2010-2011</b> |
|--|----------------------------|----------------------------|----------------------------|---------------------------------|
| Environmental Protection Operations (#160-10381) | \$98,574,000               | \$98,544,000               | \$84,218,000               | \$79,344,000                    |
| Environmental Program Management (#161-10382)    | \$39,685,000               | \$37,664,000               | \$31,100,000               | \$29,357,000                    |

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The proposed rulemaking package would require the placement of Automated External Defibrillators (AED) at various areas of underground mine operations. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The use of the AEDs by trained individuals will help save the lives of miners who may suffer from a heart attack while working underground. Most of the miners who work underground may be several miles away from a mine opening. Because of the dangerous conditions and the strenuous activities miners encounter, safety is a priority. AEDs are another tool that miners will have available to save a life. The Board, which is made up of representatives from miner and mine operators, agreed that this rulemaking would be in the best interests of the miners' safety. The Board is responding to a letter from a citizen, who requested that AEDs be placed at coal mines for miners' safety.

## Regulatory Analysis Form

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

This rulemaking was developed in response to a request from a concerned citizen, who requested that AEDs be placed at coal mines for miners' safety. This rulemaking was prepared at the Board's direction. Three of the members of the Board were nominated by the United Mine Workers of America to represent the viewpoint of miners and three were nominated by the Pennsylvania Coal Association to represent the viewpoint of the coal mine operators.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No other alternative regulatory provisions were considered. The proposed rulemaking was originally suggested by a concerned citizen, proposed as a petition by a representative of the coal mine operators and was endorsed by all seven members of the Board of Coal Mine Safety.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There is no companion federal standard. This rulemaking further enhances Pennsylvania's mine safety standards.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Pennsylvania would be the first state to require AEDs in underground bituminous mines. Due to the overwhelming support from both mine operators and mine workers in addition to the nominal cost of the units, Pennsylvania will continue to be competitive with other states.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This rulemaking does not require any additional accounting or consulting procedures or additional reporting, recordkeeping or other paperwork.

## Regulatory Analysis Form

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

# RAF SUPPLEMENTAL PAGE

(This page valid for use through November 1, 2011)

| <b>Regulatory Analysis Form</b><br>(Completed by Promulgating Agency)<br>(All Comments submitted on this regulation will appear on IRRC's website)   |  | <b>INDEPENDENT REGULATORY<br/>REVIEW COMMISSION</b> |  |   |  |   |  |   |  |
|--|--|---|--|---|--|---|--|---|--|
| (1) Agency:<br>Department of Environmental Protection  |  | <b>RECEIVED<br/>IRRC<br/>OCT 27 PM 12:22</b>        |  |   |  |   |  |   |  |
| (2) Agency Number:<br>Identification Number: #7-463  |  |   |  |   |  |   |  |   |  |
| (3) PA Code Cite: 25 <i>Pa Code</i> Chapter 208, Underground Coal Mine Safety  |  | IRRC Number:  |  |   |  |   |  |   |  |
| (4) Short Title: Requirements for Automated External Defibrillators (AED)  |  |   |  |   |  |   |  |   |  |
| (5) Agency Contacts (List Telephone Number and Email Address):<br>Primary Contact: Michele Tate, 717-783-8727, <a href="mailto:mtate@pa.gov">mtate@pa.gov</a> , RCSOB 16 <sup>th</sup> Floor, Harrisburg, PA 17105<br>Secondary Contact: Patricia Allan, 717-783-8727; <a href="mailto:pmallan@state.pa.us">pmallan@state.pa.us</a> , RCSOB 16 <sup>th</sup> Floor, Harrisburg, PA 17105   |  |   |  |   |  |   |  |   |  |
| (6) Type of Rulemaking (check applicable box):<br><table border="0"><tr><td><input checked="" type="checkbox"/> Proposed Regulation</td><td><input type="checkbox"/> Emergency Certification Regulation;</td></tr><tr><td><input type="checkbox"/> Final Regulation</td><td><input type="checkbox"/> Certification by the Governor</td></tr><tr><td><input type="checkbox"/> Final Omitted Regulation</td><td><input type="checkbox"/> Certification by the Attorney General</td></tr></table>   |  |   |  | <input checked="" type="checkbox"/> Proposed Regulation | <input type="checkbox"/> Emergency Certification Regulation; | <input type="checkbox"/> Final Regulation | <input type="checkbox"/> Certification by the Governor | <input type="checkbox"/> Final Omitted Regulation | <input type="checkbox"/> Certification by the Attorney General |
| <input checked="" type="checkbox"/> Proposed Regulation  | <input type="checkbox"/> Emergency Certification Regulation;   |   |  |   |  |   |  |   |  |
| <input type="checkbox"/> Final Regulation  | <input type="checkbox"/> Certification by the Governor         |   |  |   |  |   |  |   |  |
| <input type="checkbox"/> Final Omitted Regulation  | <input type="checkbox"/> Certification by the Attorney General |   |  |   |  |   |  |   |  |
| (7) If data is the basis for this regulation, please provide a description of the data, explain <u>in detail</u> how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.<br><br>No scientific studies or data were used to substantiate the need for this rulemaking. This rulemaking was initiated in response to a letter from a citizen, who requested that Automated External Defibrillators (AEDs) be placed at coal mines for miners' safety. The Board of Coal Mine Safety agreed that placing AEDs at coal mines is in the best interest of the safety of miners in Pennsylvania, where 38 underground bituminous coal mines employ approximately 4,420 people. The use of the AEDs by trained individuals will help save the lives of miners who may suffer from a heart attack while working underground. |  |   |  |   |  |   |  |   |  |





# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
POLICY OFFICE

October 27, 2011

Ms. Fiona Wilmarth, Acting Executive Director  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA 17120

RECEIVED  
IRRC

2011 OCT 27 P 12 22

Re: Proposed Rulemaking – Requirements for Automated External Defibrillators (AEDs)  
(#7-463)

Dear Ms. Wilmarth:

Pursuant to the requirements of Act 60, also known as the Data Quality Act, please find enclosed a supplemental page to the Regulatory Analysis Form for the proposed rulemaking concerning the Requirements for Automated External Defibrillators (AEDs). The enclosed form supplements the proposed rulemaking package, which was delivered to your office on October 26, 2011.

Please contact me at 717-783-8727 or by e-mail at [mtate@pa.gov](mailto:mtate@pa.gov) if you have any questions or need additional information concerning the proposed rulemaking.

Sincerely,

Michele L. Tate  
Regulatory Coordinator

Enclosures

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU**

**(Pursuant to Commonwealth Documents Law)**

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DO NOT WRITE IN THIS SPACE

#2920

Copy below is hereby approved as to form and legality.  
Attorney General

By: Angela M. Elliott  
(Deputy Attorney General)

**MAY 13 2011**

DATE OF APPROVAL

☒ Check if applicable.  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-463

DATE OF ADOPTION OCTOBER 26, 2010

BY John Hanger

TITLE JOHN HANGER  
CHAIRMAN

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY: Andrew C. Clark

DATE OF APPROVAL **NOV 1 2010**

(Deputy General Counsel)  
(Chief Counsel - Independent Agency)  
(Strike inapplicable title)

☒ Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

**NOTICE OF PROPOSED RULEMAKING**

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BOARD OF COAL MINE SAFETY

REQUIREMENTS FOR AUTOMATED EXTERNAL DEFIBRILLATORS (AEDs)

25 Pa. Code, Chapter 208

**Notice of Proposed Rulemaking**  
**Department of Environmental Protection**  
**BOARD OF COAL MINE SAFETY**  
**(25 Pa. Code Chapter 208)**  
**(Underground Coal Mine Safety)**

**Preamble**

The Board of Coal Mine Safety (Board) is seeking comments to the proposed amendment to the Department of Environmental Protection's ("Department" or "DEP") regulations at 25 *Pa. Code* Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A. This regulation establishes safety standards relating to Automated External Defibrillators.

This proposal was adopted by the Board at its meeting of October 26, 2010.

**A. Effective Date**

This proposed rulemaking will go into effect 90 days after the final-form publication in the *Pennsylvania Bulletin*.

**B. Contact Persons**

For further information contact Joseph Sbaffoni, Director Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown PA 15401, (724) 439-7469; or Richard Morrison, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP web site (<http://www.depweb.state.pa.us>).

**C. Statutory Authority**

The amendments are proposed under the authority of:

1. Sections 106, 106.1 and 106.2 of the Bituminous Coal Mine Safety Act (52 P.S. §§ 690-106, 106.1, and 106.2) (BCMSA) which authorizes the adoption of regulations implementing the BCMSA including additional safety standards. The Board is directed to consider adopting regulations implementing the MSHA MINER Act regulations.
2. Section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17), which authorizes the department to prevent the occurrence of a nuisance.

#### **D. Background and Purpose**

At the national level, MSHA regulates mine safety under the authority of the Federal Mine Safety and Health Act of 1977 ("Mine Safety Act") 30 U.S.C.A. §§ 801 - 965. The MSHA regulations are found in 30 CFR parts 1 through 199. The operating requirements for underground coal mines are found in 30 CFR Part 75 *supra*.

The Mine Safety Act only pre-empts state laws or regulations that are less stringent than or that conflict with MSHA standards. *See*, Section 955 (regarding state laws) of the Mine Safety Act, 30 U.S.C.A. § 955. Unlike a state's ability under other federal statutes to obtain primacy (primary enforcement authority), a state cannot obtain authority to enforce the Mine Safety Act in that state's jurisdiction. As a result, a number of states maintain an independent underground coal mine safety program with the mine operator being subject to two mine safety programs.

On June 15, 2006, the United States Congress amended the Mine Safety Act by enacting the MINER Act. *See, supra*. The MINER Act addresses safety issues raised by fatal mine accidents at the Sago and Alma Mines in West Virginia, and the Darby Mine in Kentucky. In addition Congress adopted the Consolidated Appropriations Act of 2008 (Pub. L. 110-161, Dec. 26, 2007, 121 Stat. 1844) directing MSHA to adopt new belt conveyor flame-resistance standards. In accordance with these congressional mandates, MSHA has promulgated regulations addressing the flammability of belt conveyors, the strength of seals for abandoned areas, escapeways, refuge alternatives, post-accident breathable air, communications, tracking, and mine rescue teams.

The Commonwealth of Pennsylvania has been regulating safety at underground bituminous coal mines since 1889. *See*, Act of May 9, 1889 (P.L. 154, No.171), entitled an act to provide for the recovery of the bodies of workmen. 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. *See*, Section 103(a) (regarding findings and purpose: findings) of the BCMSA, 52 P.S. § 690-103(a).

One of the significant changes made by the BCMSA is authority to promulgate regulations for mine safety. The General Assembly established the Board of Coal Mine Safety to promulgate the regulations. This 7-member board consists of the DEP's Secretary as Chair and three members representing the view point of mine workers and the viewpoint of underground bituminous coal mine operators respectively. *See*, Section 106 (regarding board of coal mine safety) of the BCMSA, 52 P.S. § 690 - 106.

A significant problem with the pre-existing law is that its safety standards were becoming outdated. *See* section 103 *supra*. There was no effective mechanism to modify existing standards or to adopt new safety standards to address changes in technology or other hazards.

To rectify this problem the BCMSA contains broad rulemaking authority to adopt regulations to either modernize safety standards in the BCMSA or adopt new safety standards not contained in the BCMSA. *See*, section 106 *supra*. The Board was directed to start

considering whether to adopt federal mine safety standards not in the BCMSA. *See*, section 106.1 (regarding rulemaking) of the BCMSA, 52 P.S. §§ 690-106.1. Of particular concern is the adoption of regulations implementing safety standards established by the MINER Act regulations. *See* Section 106.1 (h) *supra*.

## **E. Summary of Regulatory Requirements**

### **Section 208.70 Automated External Defibrillators (AED)**

The Board is responding to a letter from a citizen, Karen J. Hampton of Fairview, Pennsylvania, who requested that AEDs be placed at coal mines for miners' safety. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The Board agreed that placing AEDs at coal mines would be in the best interests of the miners' safety.

This regulation will require mine operators to place one AED at a surface location of each mine as well as a one AED at each coal producing section of each mine. Emergency medical personnel must be trained in the proper use of AED.

## **F. Benefits, Costs and Compliance**

### **Benefits**

The intent of this regulation is to ensure that an AED is available should a miner have a heart attack while on the job. Trained emergency management personnel may be able to save miners' lives with the use of an AED at the mine rather than waiting for an ambulance to arrive. Since the 38 underground bituminous coal mines in Pennsylvania employ approximately 4,420 people, this regulation protects all mine workers.

### **Compliance Costs**

Each mine owner will be required to purchase the requisite number of AEDs.

## **G. Sunset Review**

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

## **H. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on October 26, 2011, to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed

regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

## **I. Public Comments**

Written Comments - Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Board of Coal Mine Safety, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16<sup>th</sup> Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by December 5, 2011. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by December 5, 2011. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments - Comments may be submitted electronically to the Board at [RegComments@pa.gov](mailto:RegComments@pa.gov) and must also be received by the Board by December 5, 2011. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within two working days, the comments should be retransmitted to ensure receipt.

BY:

MICHAEL KRANCER  
Chairman  
Board of Coal Mine Safety

## Annex A

# TITLE 25. ENVIRONMENTAL PROTECTION

## PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

#### ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

#### CHAPTER 208. Underground Coal Mine Safety

### GENERAL PROVISIONS

*(Editor's Note: The following text is new and is printed in regular type to enhance readability.)*

#### 208.1 Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

"Automated External Defibrillator or AED" - A portable device that uses electric shock to restore a stable heart rhythm to an individual in cardiac arrest.

\* \* \* \* \*

#### 208.70. Automated External Defibrillators or AED

(a) *Location:* Each mine operator shall provide for use in an emergency one AED at the following locations, consistent with the Equipment Approval Task Force guidelines:

- (1) At a location on the surface of the mine.
- (2) On or near each coal producing section.

(b) *Training:*

- (1) Emergency medical personnel at the mine shall complete training in the use of an automated external defibrillator. The mine operator may include the required AED training in its continuing education plan for such personnel. Training in the use of the AED for emergency medical personnel shall be provided in accordance with the standards of the American Heart Association, the American National Red Cross, or through an equivalent course of instruction approved by the Pennsylvania Department of Health.
- (2) Mine personnel, other than emergency medical personnel, shall receive yearly training in the operation of the AED. Such training may be provided as part of the annual refresher training provided under 30 C.F.R. 48.8(c).

(c) Such AEDs must be maintained and inspected according to manufacturer's operational guidelines.

(d) The provisions of 42 Pa. C.S. § 8331.2 (relating to Good Samaritan civil immunity for use of an AED) shall apply to miners who render care with an AED.



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
POLICY OFFICE

October 26, 2011

Ms. Fiona Wilmarth, Acting Executive Director  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA 17120

Re: Proposed Rulemaking – Requirements for Automated External Defibrillators (AEDs)  
(#7-463)

Dear Ms. Wilmarth:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission (Commission). The proposal is scheduled for publication in the *Pennsylvania Bulletin* on November 5, 2011, with a 30-day public comment period. The Board of Coal Mine Safety (Board) adopted this proposal on October 26, 2010.

The proposed rulemaking was developed in response to a request by a concerned citizen and has been prepared at the Board's direction. The proposed rulemaking would require the placement of an Automated External Defibrillator (AED) at various areas of an underground mine operation. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The proposed rulemaking would require that each mine site maintain one AED on the surface of the facility and on or near each coal producing section. These locations were recommended by representatives from industry and mine workers. The use of the AEDs by trained individuals will help save the lives of miners who may suffer from a heart attack while working underground. The proposed rulemaking is overwhelmingly supported by both mine operators and mine workers. Currently there are 38 underground bituminous coal mines in Pennsylvania. These mines employ approximately 4,420 persons. These regulations reduce the possibility that individuals working at the mines will suffer a serious or fatal heart attack. If the proposal is promulgated, Pennsylvania would be the first state to require AEDs in underground bituminous mines.

The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(d) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions made by the Commission, as well as the Committees and public commentators, prior to final adoption of this rulemaking.

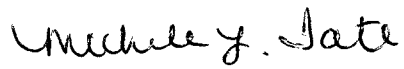


Ms. Fiona Wilmarth, Acting Executive Director - 2 -

October 26, 2011

Please contact me at the number above if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Michele L. Tate".

Michele L. Tate  
Regulatory Coordinator

Enclosures



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF POLICY

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
THE REGULATORY REVIEW ACT

I.D. NUMBER: 7- 463

SUBJECT: Requirements for Automated External Defibrillators (AEDs)

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- ☒ Proposed Regulation
- ☐ Final Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking Omitted
- ☐ 120-day Emergency Certification of the Attorney General
- ☐ 120-day Emergency Certification of the Governor
- ☐ Delivery of Tolled Regulation
- a. ☐ With Revisions      b. ☐ Without Revisions

#2920

RECEIVED  
OCT 26 P 2 10

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

10/26/11

*J. Guyer*

Majority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Rep. Hutchinson

10-26-11

*D. Newton*

Minority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY

10-26-11

*D. Castell*

Majority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Senator Mary Jo White

10/26/11

*Yamir*

Minority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY  
Senator Yudichak

10/26/11

*Sen. F. L...*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

10-26-11

*Marya Garces*

LEGISLATIVE REFERENCE BUREAU (for Proposed only)



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF POLICY

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO  
THE REGULATORY REVIEW ACT

I.D. NUMBER: 7- 463

SUBJECT: Requirements for Automated External Defibrillators - Supplemental

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

RAF

TYPE OF REGULATION

- ☒ Proposed Regulation
- ☐ Final Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking Omitted
- ☐ 120-day Emergency Certification of the Attorney General
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- a. ☐ With Revisions                      b. ☐ Without Revisions

RECEIVED  
DEC 21 12 22 PM

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

10/27/11 [Signature]

Majority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY

10-27-11 [Signature]

Minority Chair, HOUSE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY

10-27-11 [Signature]

Majority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY

10-27-11 [Signature]

Minority Chair, SENATE COMMITTEE ON  
ENVIRONMENTAL RESOURCES & ENERGY

10-27-11 [Signature]

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)