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Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
Department of Environmental Protection

(2) Agency Number:
Identification Number: #7-482

IRRC Number: 3029

(3) PA Code Cite: 25 Pa Code Chapter 208 Underground Coal Mine Safety

(4) Short Title: Requirements for High-Voltage Continuous Mining Machines

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

Primary Contact: Michele Tate, 717-783-8727; fax: 717-783-8926; mtate@pa.gov; RCSOB 16th Floor, Harrisburg, PA 17105

Secondary Contact: John Stefanko, 717-783-9958; fax: 717-783-8926; jstefanko@pa.gov; RCSOB 16th Floor, Harrisburg, PA 17105

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

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

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

The proposed regulation would establish electrical safety standards for the installation, use, and maintenance of high-voltage continuous mining machines in underground bituminous coal mines, while facilitating the use of advanced equipment designs by creating §§ 208.72 – 208.84 under 25 Pa Code Chapter 208. The proposed new sections, relating to High-voltage continuous mining machine standards for underground bituminous coal mines, incorporate, with one exception, federal Mine Safety and Health Administration (MSHA) requirements set forth at 30 CFR §§ 75.823-834 and 1002. The regulatory requirements are designed to enhance safety standards associated with the operation of continuous mining machines, including provisions to protect against fires, explosions, and shock hazards. The proposed state regulations conform with the federal MSHA requirements, with exception to provisions concerning the mandatory distance between a spliced high voltage trailing cable and a continuous mining machine. Under the Commonwealth's Bituminous Coal Mine Safety Act, 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. Because Pennsylvania law provides a more protective standard that enhances miner safety, the more stringent state requirement is proposed for inclusion in the rulemaking. The Board developed the proposed rulemaking to, among other things, obtain independent authority necessary to implement the federal regulations.

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

The Bituminous Coal Mine Safety Act, (BCMSA), 52 P.S. §§ 690-101 et seq., authorizes the adoption of regulations to implement the BCMSA and to protect the health and safety and welfare of miners and other individuals in and about mines.

(9) 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, court order, or federal regulation. The proposed regulation incorporates by reference, with one exception, the provisions of the federal MSHA requirements.

(10) 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.

As the voltage of electrical equipment has increased, there is a need to assure the design of safe, practical, and efficient underground coal mining equipment that relies on high-voltage. This rule will allow underground bituminous coal mine operators to use advanced equipment designs, which in turn enhance safety protection against fires, explosions and shock hazards. The proposed rulemaking would establish additional electrical safety standards applicable up to 2,400 volts continuous mining machines and circuits.

This proposed regulation is necessary to ensure that the Department has independent regulatory authority to enforce the federal MSHA requirements under 30 CFR §§ 75.823 – 834 and 1002. Moreover, there is a compelling public interest to ensure that miners are safe in the workplace. While estimating an exact number of individuals who will benefit from this proposal is difficult, miners, their families, the mining companies, and society at large will benefit from safe underground mining conditions. It is also difficult to quantify the benefits of a proposed regulation that will significantly reduce workplace injuries and deaths and will also allow for the use of safer and more advanced equipment in underground mine operations.

(11) 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.

Yes. The proposed state regulations conform with the federal MSHA requirements, with exception to provisions concerning the mandatory distance between a spliced high voltage trailing cable and a continuous mining machine. Under the 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. Because Pennsylvania law provides a more protective standard that enhances miner safety, the more stringent state requirement is proposed for inclusion in the rulemaking.

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

The proposed rulemaking conforms to federal MSHA requirements, with one exception, concerning the installation, use, and maintenance of high-voltage continuous mining machines in underground bituminous coal mines. The proposed rulemaking will not disadvantageously affect the Commonwealth in comparison to other states as other states with underground coal mine operations must also comply with federal MSHA regulations. The Board of Coal Mine Safety (Board) is proposing the rulemaking to, among other things, obtain independent authority necessary to implement the federal regulations. The proposed rulemaking will have no impact on Pennsylvania's ability to compete with other states.

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

No. The proposed regulation will not affect any other regulations of the promulgating agency or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This rulemaking was prepared at the direction of the Board, which was established under the BCMSA. The seven member Board consists of the Secretary of Department of Environmental Protection, three members representing mine workers, and three members representing the coal mine operators. 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 Alliance to represent the viewpoint of the coal mine operators. It was through the Board that communication with and solicitation of input from the regulated community in the development and drafting of the proposed regulation was obtained. Three members of the PCA represent the 8 underground bituminous mining companies and affiliates that are currently in operation in Pennsylvania. They participated in the decision of the Board to prepare this regulation. At this point in time, this rulemaking will only apply to those 8 underground bituminous mining companies currently operating in Pennsylvania.

The Board has determined that no small businesses, as that term is defined under Section 3 of the Regulatory Review Act, will be affected by this proposal. According to the Small Business Size Regulations under 13 CFR Part 121, for NAICS Code 212112 (bituminous coal underground mining) a small business is one that employs fewer than 500 persons. The Board determined that this rulemaking would only apply to the current 8 underground bituminous mining companies operating in Pennsylvania, all of which employ more than 500 persons. The Board made this determination by reviewing its own internal data and publicly available data from the companies. As a result, this rulemaking would not impact small businesses.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Currently there are 40 bituminous underground mines operating in Pennsylvania that are owned by 8 underground bituminous mining companies. There are currently no small businesses, persons or entities operating underground bituminous mining companies in Pennsylvania. Consequently, the regulation will not apply to small businesses, nor any other persons or businesses other than the 8 underground bituminous mining companies currently operating in Pennsylvania. There is no opposition from the underground coal industry as representatives of the industry participated in the decision-making process that led to the Board's interest in preparing this regulation. Moreover, the coal industry already has to comply with the federal MSHA regulations regarding the installation, use, and maintenance of high-voltage continuous mining machines in underground coal mines.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

Currently there are 40 underground bituminous coal mines operating in Pennsylvania that are owned by 8 underground bituminous mining companies. These companies collectively employ approximately 5,300 persons, not all of whom work underground. All underground coal mine companies must already comply with the federal MSHA regulations concerning the installation, use, and maintenance of high-voltage continuous mining machines in underground coal mines. Therefore, this proposed rulemaking will not impose additional regulatory requirements on bituminous coal mine operations in Pennsylvania that these companies are not currently required to comply.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Regulations concerning the installation, use, and maintenance of high-voltage continuous mining machines in underground coal mines were already promulgated by MSHA. Therefore, owners and operators of underground bituminous coal mines in Pennsylvania already have to comply with the federal regulation in this regard. As a result, the proposed rulemaking will not have any additional financial, economic or social impact on the public or regulated community. The potential benefits of the proposed rulemaking, including the prevention of bodily harm and loss of life or property, are incalculable.

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

There will be no additional costs and adverse effects associated with this rulemaking as its sole purpose is to conform Pennsylvania regulations, with certain exceptions, to federal requirements. Assuring that the Pennsylvania regulation conforms to federal requirements will not have any additional financial, economic or social impact on any entity or individual, and the potential benefit of preventing bodily harm and loss of life or property is incalculable.

(19) 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.

Costs and/or savings as the result of the implementation of this rulemaking are not anticipated as the proposal includes, with certain exceptions, federal MSHA provisions for which the regulated community is currently required to comply. MSHA previously estimated that mine operators that used high-voltage continuous mining machines with 20 to 500 employees have yearly net costs of approximately \$45,200 when complying with the federal regulation. Mine operators with more than 500 employees pay significantly less, as they have a net cost of \$9,425. Nonetheless, given that the proposed state regulation would merely provide the Board with the independent authority to implement the regulation, mine operators would not incur any additional costs.

In addition, although the regulation is intended to protect miners, it can also prevent property loss and therefore prevent additional expenses to the regulated community. Explosions, fires, and electrocution hazards can result in high costs for a mine operator, as it typically takes an operator a minimum of two months to resume operations after an explosion and other similar events. This could lead to expenses for the mine operator totaling approximately \$2 to \$7 million, as a result of the following: lost wages, lost production capacity, payment for services associated with mine rescue operations, and other related expenses. In addition, underground bituminous coal mine operators will be able to use high-voltage continuous mining equipment with more advanced equipment designs, thereby increasing the likelihood of cost savings for the operator.

(20) Provide a specific estimate of the costs and/or savings to the **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.

(21) Provide a specific estimate of the costs and/or savings to the **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 government does not engage in underground bituminous coal mining.

(22) For each of the groups and entities identified in items (19)-(21) above, 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, additional reporting, recordkeeping, or other paperwork other than that which is already being performed on a routine basis as required under federal MSHA requirements.

(23) 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.

Neither local nor state government is engaged in underground bituminous coal mining operations; therefore, costs and/or savings are not anticipated as a result of this rulemaking. Moreover, since the regulated community already incurs costs associated with compliance of the federal MSHA requirements, additional compliance costs are not anticipated to be incurred by the regulated community as a result of this rulemaking. There are, however, potential cost savings the regulated industry may receive from this regulation, as it is anticipated it will enhance underground mine work safety, including greater protection for miners from electrical shock, cable overheating, fire hazards, back injuries and other sprains caused by handling trailing cables. Explosions, fires, and electrocution hazards can result in high costs for a mine operator, as it typically takes an operator a minimum of two months to resume operations after an explosion. This could lead to expenses for the mine operator totaling approximately \$2 to \$7 million, as a result of the following: lost wages, lost production capacity, payment for services associated with mine rescue operations, and other related expenses.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Environmental Protection Operations (#160-10381)	\$84,218,000	\$78,021,000	\$77,359,000	\$74,547,000

Environmental Program Management (#160-10381)	\$31,100,000	\$28,881,000	\$27,755,000	\$24,965,000
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(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

The proposed rulemaking will not have any adverse effect on small businesses as all of the underground bituminous coal mining companies that would be impacted by the proposal employ more than 500 persons.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

There will be no additional costs incurred with respect to reporting, recordkeeping and other administrative costs required for compliance with the proposed regulations as the regulated community already has to comply with federal provisions enforced by MSHA for the installation, use, and maintenance of high-voltage continuous mining machines in underground coal mines.

- (c) A statement of probable effect on impacted small businesses.

Effects on small businesses, as a result of this proposed rulemaking, are not anticipated because currently no small businesses engage in underground coal mining operations in Pennsylvania. According to the Small Business Size Regulations under 13 CFR Part 121, for NAICS Code 212112 (bituminous coal underground mining) a small business is one that employs fewer than 500 persons. All 8 underground bituminous coal mining companies in Pennsylvania that are currently in operation employ more than 500 persons..

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Alternative methods for achieving the purpose of the proposed rulemaking were not analyzed as the proposed rulemaking is based upon federal MSHA requirements that are already in place.

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

No special provisions were required to be developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers since none of these entities were identified to be impacted.

(26) 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.

Alternative regulatory provisions were not considered because this rulemaking is based upon an existing federal MSHA rulemaking that is already in place. This proposed rulemaking will assure that Pennsylvania regulations conform to the federal regulations, with one exception.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There will not be any adverse impact on small businesses as a result of this rulemaking, as no small businesses currently engage in underground bituminous coal mining operations in Pennsylvania. According to the Small Business Size Regulations under 13 CFR Part 121, for NAICS Code 212112 (bituminous coal underground mining) a small business is one that employs fewer than 500 persons. All 8 underground bituminous coal mining companies in Pennsylvania that are currently in operation employ more than 500 persons and therefore would not be considered a small business.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail 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.

MSHA's former standards did not address high-voltage continuous mining machines because those machines were not available when the federal standards were developed. MSHA previously required mine operators to submit a Petition for Modification (PFM) in order to use high-voltage equipment in underground mines, 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.

In developing its rulemaking, in 2004, MSHA held four public hearings to provide interested parties with the opportunity to comment (69 Fed. Reg. 51787.) Based on the review of all comments and testimony, MSHA re-proposed provisions related to the types of trailing cables that could be used with high-voltage continuous mining machines, and the types of cable handling equipment that must be used when handling energized high-voltage trailing cables (71 Fed. Reg. 15359, March 28, 2006.) In developing the final rule, MSHA considered the comments, hearing testimony, and the PFMs it had

previously granted. The final rule included most of the requirements that were included in the PFMs that MSHA had previously granted.

On April 6, 2010, MSHA issued a final rule revising 30 CFR Part 75 to establish mandatory electrical safety standards for the proper installation of high-voltage continuous mining machines, electrical and mechanical protection of the equipment, handling of trailing cables, and procedures for performing electrical work (75 Fed. Reg. 17529). These safety standards included new provisions, as well as most of the provisions contained in the formerly granted PFMs. The rule also superseded all PFMs granted prior to the effective date of the rulemaking and eliminated the need for mine operators to file for a PFM to use high-voltage continuous mining machines with voltage up to 2,400 volts. The rule became effective on June 7, 2010.

MSHA believed that the requirements of the final rule were necessary to continue to protect underground bituminous coal miners from grave danger, and to allow for the use of high-voltage continuous mining machines. These regulations were codified at 30 CFR §§ 75.823-834 and 1002.

The Board reviewed the MSHA data and concurred with MSHA's conclusions, with the exception of 30 CRF 75.830 (b)(1), which is not incorporated by reference in the proposed regulations because the federal regulation is less stringent than provisions provided under Pennsylvania law. As a result, the Board has adopted MSHA's findings as its own.

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

- | | |
|---|------------------------------|
| A. The date by which the agency must receive public comments: | 3 rd Quarter 2013 |
| B. The date or dates on which public meetings or hearings will be held: | Not applicable |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | 2 nd Quarter 2014 |
| D. The expected effective date of the final-form regulation: | 2 nd Quarter 2014 |
| E. The date by which compliance with the final-form regulation will be required: | 2 nd Quarter 2014 |
| F. The date by which required permits, licenses or other approvals must be obtained: | 2 nd Quarter 2014 |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board is committed to ensuring the health and safety of all persons in the underground bituminous coal mine industry. As a result, the Board periodically reviews all regulations within this industry to ensure their continued effectiveness. This periodic review occurs at all Board meetings. The Board meets at a minimum of four times each calendar year as may be necessary.

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

By: Amy M. Elliott
(Deputy Attorney General)

SEP 18 2013

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
BOARD OF COAL MINE SAFETY

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-482

DATE OF ADOPTION JUNE 26, 2013

BY E. Christopher Abruzzo
TITLE E. CHRISTOPHER ABRUZZO
ACTING CHAIRMAN

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

By: [Signature]

JUL 25 2013
DATE OF APPROVAL

(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 High-Voltage Continuous Mining Machines

25 Pa. Code Chapter 208

**PROPOSED RULEMAKING
BOARD OF COAL MINE SAFETY
25 PA CODE CHAPTER 208**

PREAMBLE

The Board of Coal Mine Safety (Board) is proposing to add §§ 208.72 – 208.84 (relating to High-Voltage Continuous Mining Machine Standards for Underground Coal Mines) to read as set forth in Annex A. The proposed 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) authorizes the adoption of regulations implementing 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 is given under Board order at its meeting of June 26, 2013.

A. Effective Date

This proposed 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 Susana Cortina de Cárdenas, 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) 787-7060, scortina@pa.gov.

C. Statutory Authority

The proposed 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 proposed rulemaking would 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). Previously, MSHA's 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 the 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. Because Pennsylvania law

provides a more protective standard that enhances miner safety, the more stringent state requirement is proposed for inclusion in the rulemaking. The Board developed the proposed 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 proposing to adopt 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 Proposed Regulatory Requirements

The rulemaking proposes the addition of *25 Pa. Code* § 208.72 - 84 thereby establishing requirements for the use, installation and maintenance of high-voltage continuous mining machines in underground bituminous coal mines as follows:

§ 208.72

Proposed § 208.72 (relating to Scope) would incorporate 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.

§ 208.73

Proposed § 208.73 (relating to Electrical Protection) would incorporate 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.

§ 208.74

Proposed § 208.74 (relating to Power Centers) would incorporate 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.

§ 208.75

Proposed § 208.75 (relating to High-Voltage trailing cables) would incorporate 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.

§ 208.76

Proposed § 208.76 (relating to Guarding of trailing cables) would incorporate 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) the guarding must be constructed from, and the requirements when equipment must cross any portion of the cables.

§ 208.77

Proposed § 208.77 (relating to Trailing cable pulling) would incorporate by reference the federal provisions under 30 CFR 75.828 (relating to trailing cable pulling.) The federal regulation establishes the requirements to be followed when the trailing cables are to be pulled by any equipment other than the continuous mining machine.

§ 208.78

Proposed § 208.78 (relating to Trimming continuous mining machines in and out of the mine and from section to section) would incorporate 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.

§ 208.79

Proposed § 208.79 (relating to Splicing and repair of trailing cables) would incorporate 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 § 208.79(b)(1), requirements are proposed that are consistent with BCMSA and establish that splicing of high-voltage trailing cables within 50 feet of a continuous mining machine is prohibited.

§ 208.80

Proposed § 208.80 (relating to Electrical work; troubleshooting and testing) would incorporate 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.

§ 208.81

Proposed § 208.81 (relating to Frequency of examinations; recordkeeping) would incorporate 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.

§ 208.82

Proposed § 208.82 (relating to Handling high-voltage trailing cables) would incorporate 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.

§ 208.83

Proposed § 208.83 (relating to Training) would incorporate 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.

§ 208.84

Proposed § 208.84 (relating to Installation of electric equipment and conductors; permissibility) would incorporate 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.

F. Benefits and Costs

Benefits

The proposed 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 proposed 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 proposed 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 upon 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 proposed 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.

G. 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.

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 September 25, 2013, 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, 16th 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 on or before November 4, 2013. 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 the Board on or before November 4, 2013. 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 and must also be received by the Board on or before November 4, 2013. 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:

E. Christopher Abruzzo
Acting Chairman

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**

**HIGH-VOLTAGE CONTINUOUS MINING MACHINE STANDARDS FOR
UNDERGROUND COAL MINES**

(Editor's note: These sections are new and printed in regular type to enhance readability).

§ 208.72. Scope.

The provisions of 30 CFR 75.823 (relating to the scope) are incorporated by reference.

§ 208.73. Electrical Protection.

The provisions of 30 CFR 75.824 (relating to electrical protection) are incorporated by reference.

§ 208.74. Power Centers.

The provisions of 30 CFR 75.825 (relating to power centers) are incorporated by reference.

§ 208.75. High-Voltage trailing cables.

The provisions of 30 CFR 75.826 (relating to high-voltage trailing cables) are incorporated by reference.

§ 208.76. Guarding of trailing cables.

The provisions of 30 CFR 75.827 (relating to guarding of trailing cables) are incorporated by reference.

§ 208.77. Trailing cable pulling.

The provisions of 30 CFR 75.828 (relating to trailing cable pulling) are incorporated by reference.

§ 208.78. Trimming continuous mining machines in and out of the mine and from section to section.

The provisions of 30 CFR 75.829 (relating to trimming continuous machines in and out

of the mine and from section to section) are incorporated by reference.

§ 208.79. Splicing and repair of trailing cables.

(a) The provisions of 30 CFR 75.830(a) (relating to splices and repairs) are incorporated by reference.

(b) Splicing limitations

(1) Splicing of the high-voltage trailing cable within 50 feet of the continuous mining machine is prohibited.

(2) The provisions of 30 CFR 75.830(b)(2) are incorporated by reference.

§ 208.80. Electrical work; troubleshooting and testing.

The provisions of 30 CFR 75.831 (relating to electrical work; troubleshooting and testing) are incorporated by reference.

§ 208.81. Frequency of examinations; recordkeeping.

The provisions of 30 CFR 75.832 (frequency of examinations; recordkeeping) are incorporated by reference.

§ 208.82. Handling high-voltage trailing cables.

The provisions of 30 CFR 75.833 (relating to handling high-voltage trailing cables) are incorporated by reference.

§ 208.83. Training.

The provisions of 30 CFR 75.834 (relating to training) are incorporated by reference.

§ 208.84. Installation of electric equipment and conductors; permissibility.

The provisions of 30 CFR 75.1002 (relating to installation of electric equipment and conductors; permissibility) are incorporated by reference.



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION
POLICY OFFICE

September 25, 2013

David Sumner
Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17120

Re: Proposed Rulemaking: Requirements for High-Voltage Continuous Mining Machines (#7-482)

Dear Mr. Sumner:

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. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on October 5, 2013, with a 30-day public comment period. The Board of Coal Mine Safety (Board) adopted this proposal on June 26, 2013.

The enclosed rulemaking was initiated by the Board to address underground coal mine safety under the authority of the Bituminous Coal Mine Safety Act. By this proposed rulemaking, the Board proposes to amend the Department of Environmental Protection's (Department) regulations by adding sections 208.72 – 208.84 (relating to High-Voltage Continuous Mining Machine Standards for Underground Coal Mines) to 25 *Pa Code* Chapter 208. The proposed rulemaking incorporates, with one exception, federal MSHA electrical safety standards for the installation, use, and maintenance of high-voltage continuous mining machines in underground bituminous coal mines as well as design requirements for approval of these mining machines. The Board believes promulgation of this proposed rulemaking will facilitate the use of more advanced equipment designs, while at the same time provide greater protection for miners from electrical shock, cable overheating, fire hazards, back injuries and other sprains caused by handling trailing cables. The proposed rulemaking is supported by both mine operators and mine workers.

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

Mr. David Sumner, Executive Director

- 2 -

September 25, 2013

Please contact me at 717.783.8727 or by e-mail at mtate@pa.gov 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



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO
THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-482

SUBJECT: Requirements for High-Voltage continuous mining machines

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 Tolloed Regulation
 - a. With Revisions
 - b. Without Revisions

2013 SEP 25 PM 4:03

RECEIVED
IRRC

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9-25-13	<i>Ron Miller</i>	Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Rep. Ron Miller
9-25-13	<i>Greg Vitali</i>	Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Rep. Greg Vitali
9-25-13	<i>Gene Yaw</i>	Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Senator Gene Yaw
9/25/2013	<i>John Judichak</i>	Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Senator John Judichak
9/25/2013	<i>Courne Bryant</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
9/25/13	<i>K Cooper</i>	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

