

Comments of the Independent Regulatory Review Commission



Board of Coal Mine Safety Regulation #7-488 (IRRC #3067)

Standards for Surface Facilities

October 2, 2014

We submit for your consideration the following comments on the proposed rulemaking published in the August 2, 2014 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Board of Coal Mine Safety (Board) to respond to all comments received from us or any other source.

1. Section 208.108. Training programs. – Clarity and lack of ambiguity.

The Board states that the provisions of 30 CFR 77.107 (relating to training programs) are “incorporated by reference, with the *exception* that [the Mine Safety and Health Administration within the United States Department of Labor (MSHA)] will approve the training program.” [Emphasis added.] Since the regulated community must comply with 30 CFR 77.107, which requires that the Secretary of the Interior approve training programs, the proposed language is not an *exception*, but rather an *additional* requirement. We recommend that the Board clarify its intent to require that training programs be approved by MSHA in addition to the existing Federal provisions.

This comment applies similarly to Sections 208.391 (relating to slopes and shafts; approval of plans) and 208.406 (relating to explosives and blasting; general).

2. Section 208.364. Transportation of persons; overcrowding. – Clarity and lack of ambiguity; Need for the regulation.

This provision incorporates by reference the provisions of 30 CFR 77.1604 (relating to transportation of persons; overcrowding) with “the *exception* of the following *modification* . . .” [Emphasis added.] The Board then provides for a Subsection (a), which is printed in its entirety, making it unclear as to what has been modified from the language in Subsection (a) of the CFR. Similar to Comment 1, we have concerns that this is not an *exception* since the regulated community must comply with the existing 30 CFR 77.1604. If the Board intends to modify the provisions of 30 CFR 77.1604, this should be clearly stated as an additional requirement.

We note that the Board’s modification changed the description of the work area, and ask the Board to explain the need for modifying the language in Subsection (a) of 30 CFR 77.1604.