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Proposed Rulemaking: Handling and Use of Explosives ROCK WORK INC, 1257 Dekalb Pike, Blue Bell PA 19422

Objection to Section 211.101, Definition and the inclusion of "Nuisance". This proposed regulation lacks clarity, feasibility, and reasonableness and should be deleted. Nuisance is typically defined as annoyance or inconvenience, not a hazard. All of the effects of blasting could be considered an annoyance or inconvenience. For example, stopping traffic for a blast could be considered an inconvenience or annoyance for those motorists stuck in traffic.

Objection to Section 211.151, (b) Blasting shall be conducted in a manner that does not cause a nuisance and should be deleted. This proposed regulation lacks clarity, feasibility, and reasonableness. The use of explosives and the "nuisances" created are already regulated (vibration, noise, dust, etc.), so this vague ambiguous regulation with the strange use of "nuisance" should be eliminated.

Objection to Section 211.101, Flyrock, (ii). This proposed regulation lacks clarity, feasibility, and reasonableness and should be deleted. The proposed definition of Flyrock is defined as overburden, stone, clay, or other material....which travels onto property neither owned nor leased by the permittee or its customer. In construction blasting, unlike mining, nearly all blasts take place on property not owned nor leased by the permittee or its customer. For example, if you are blasting a pipeline for the pipeline contractor installing the pipeline, you are blasting on land not owned nor leased by the permittee or its customer. Furthermore, this regulation does not take into account blasting in Public Right of ways, Temporary easements, etc. Essentially, as written, every construction blast could meet the definition of Flyrock. Eliminate entire section.

Objection to Section 211.115, Magazine access within 4 hours. This proposed regulation lacks clarity, feasibility, and reasonableness, there is no data to support the regulation, and a less costly or less intrusive alternative method of achieving the goal has not been considered impacting small businesses. This proposed requirement is more stringent than existing federal requirements and puts small businesses at a complete disadvantage as people are not normally at the magazine site all day or in the area. If a blaster is on a partially loaded shot, he cannot return to the magazine until the shot is safely detonated. Small businesses lack fulltime magazine keepers onsite all day.

Objection to Section 211.133 (a) (12) This proposed regulation lacks clarity, feasibility, and reasonableness, there is no data to support the regulation, and a less costly or less intrusive alternative method of achieving the goal has not been considered impacting small businesses. **(The state is already enforcing this new regulation)**. This single item alone has increased the time to complete some blast reports by two hours. The accuracy being asked by the state to complete the reports at times is not attainable and could potentially force the industry to falsify blast reports since a range of weights is no longer acceptable. There is fear that blasters may start designing and loading blasts not to better break the rock, but to streamline the voluminous amounts of paperwork required to complete blast reports. Because of this, the protection of the public health, safety, and welfare could worsen.

Objection to Section 211.133 (a) (14) This proposed regulation lacks clarity, feasibility, and reasonableness. Gassed emulsions have variable densities which are always changing in the borehole up to the point of detonation. The exact product density, for these types of explosives is unknown. Again, another scenario forcing industry to falsify blast reports by asking for something that is unknown since a range is no longer acceptable.

Objection to Section 211.133 (a) (18) This proposed regulation lacks clarity, feasibility, and reasonableness. It should be one or the other, not both. It is very common for GPS units not to be accurate, especially in wooded areas where homes are typically found. Other neighboring States discourage the use of GPS for measuring distance on construction sites because of accuracy issues.

Objection to Section 211.33 (a) (26) This proposed regulation lacks clarity, feasibility, and reasonableness. Furthermore, the reviewer questions the agency's statutory authority of this proposed regulation as the department is requesting drill logs for holes not even loaded with explosives as written on page 9 as part of the summary of proposed regulatory requirements.

Objection to Section 211.155 (7) This proposed regulation lacks clarity, feasibility, and reasonableness as this requirement is in direct conflict already existing federal laws by OSHA (section 1910) and MSHA (30 CFR). Both OSHA and MSHA regulate the use of explosives, including signs. The proposed regulation is confusing and different than existing federal laws making compliance with state law a federal violation.

In the regulatory Analysis Form, completed by the Department of Environmental Protection, the department failed to mention the many proposed provisions that are more stringent than federal standards. Actually, the department doesn't even acknowledge nor mention Federal OSHA or MSHA regulations, relating to the use of explosives. As required, the department failed to identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations. With such critical information missing, how could the independent regulatory Commission effectively review the proposed rulemaking?

Submitted by Matthew Ryan, PA Resident, PA Licensed Blaster, and President of a Small Business,

