

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

(1) Agency
Department of Environmental Protection

(2) Agency Number:
Identification Number: 7-526

IRRC Number: 3144

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

(4) Short Title: Proximity Detection Systems

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

Primary Contact: Laura Edinger, 717-783-8727; ledinger@pa.gov
Secondary Contact: Patrick McDonnell, 717-783-8727; pmcdonnell@pa.gov

(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)

This proposed regulation will add provisions to 25 Pa. Code Chapter 208. These additions include §§ 208.500 – 208.504 (relating to proximity detection systems) to read as set forth in Annex A.

This proposed regulation implements existing Federal regulations published on January 15, 2015 that require underground coal mine operators to equip certain mining machines with proximity detection systems. See 30 CFR part 75; 80 Fed. Reg. 2187. Conditions in underground coal mines, including low visibility, limited space, and uneven ground, present hazards that contribute to machine-related accidents that can cause injury or death. Proximity detection systems, which use electronic sensors to detect motion or the location of one object relative to another, can be used to provide warning and stop mining machines before the machine pins, crushes, or strikes a miner.

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

Section 106.1 of The Bituminous Coal Mine Safety Act, (BCMSA), 52 P.S. § 690-106.1 authorizes the adoption of regulations to implement BCMSA and to protect the health, 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 modification regarding the relevant regulatory authority, the provisions of the federal Mine Safety and Health Administration (MSHA) requirements in 30 CFR Part 75.

(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.

This proposed regulation incorporates recently published federal mine safety requirements regarding certain continuous mining machines. As a result of this proposed regulation, the Department will acquire the independent regulatory authority to enforce the federal MSHA requirements under 30 CFR Part 75 related to proximity detection systems, thus ensuring the continued protection of persons working with or around these machines. Moreover, there is a compelling public interest in ensuring that miners are safe in the workplace. While estimating an exact number of individuals who will benefit from this rulemaking is difficult, miners, their families, mining companies, and others will benefit from safe surface areas of underground mines. As a result of this proposed rulemaking, workplace injuries and deaths will likely decline and safer, more advanced equipment at the surface areas of underground mines may be used.

(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.

No, the proposed rulemaking incorporates by reference recently published federal MSHA requirements in 30 CFR Part 75. Because the state regulations incorporate the federal regulations by reference, there are no provisions in the proposed regulation that are more stringent than the federal regulations.

(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 existing federal MSHA requirements in 30 CFR Part 75. Because other states must also comply with the federal MSHA requirements adopted by this proposed rulemaking, Pennsylvania's ability to compete for business with other states will not be weakened.

The Board of Coal Mine Safety (Board) adopts the proposed rulemaking primarily to obtain independent authority to enforce the federal regulations.

(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 does 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 pursuant to BCMSA. The seven member Board is chaired by the Secretary of the Department of Environmental Protection and consists of three members who represent mine workers and three members who represent coal mine operators. Three of the members of the Board were nominated by the United Mine Workers of America (UMWA) to represent miners, and three were nominated by the Pennsylvania Coal Alliance (PCA) to represent coal mine operators.

The development and drafting of this proposed rulemaking was aided by input from the Board which received recommendations and advice on the rulemaking from its constituents. The three members of the Board nominated by the UMWA provided input on the regulations on behalf of mine workers. Likewise, the three representatives on the Board nominated by PCA made recommendations on the regulation on behalf of the nine underground bituminous mining companies and affiliates that currently operate in Pennsylvania. As such, both UMWA and PCA participated in the decision of the Board to prepare this regulation.

The Board has determined that three small businesses, as that term is defined under Section 3 of the Regulatory Review Act, will be affected by this proposed rulemaking. 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 apply to the nine underground bituminous mining companies currently operating in Pennsylvania, three of which employ fewer than 500 persons. The Board made this determination by reviewing its own internal data and publicly available data from the companies.

(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?

There are approximately 40 bituminous underground mines operating in Pennsylvania that are owned by nine underground bituminous mining companies. Three of these nine companies are small businesses. The nine affected companies must already comply with the federal MSHA regulations in 30 CFR Part 75. Therefore, this regulation will have a nominal affect the nine underground bituminous mining companies and there is no opposition to the proposed regulation from the representatives of these companies sitting on the Board.

(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.

There are approximately 40 underground bituminous coal mines operating in Pennsylvania that are owned by nine underground bituminous mining companies. Three of these nine companies are small businesses, and these companies collectively employ approximately 5,300 persons. All underground coal mine companies in Pennsylvania must already comply with the federal MSHA regulations in 30 CFR Part 75 that are the subject of this proposed rulemaking. Therefore, this proposed rulemaking will not impose any additional regulatory requirements on the underground bituminous coal mine operators in Pennsylvania.

(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.

The regulations this proposed rulemaking implements have already been promulgated by MSHA. Therefore, the nine owners and operators of underground bituminous coal mines in Pennsylvania already have to comply with the federal regulations in 30 CFR Part 75 that are the subject of this proposed rulemaking. As a result, the rulemaking will not have any additional financial, economic, or social impact on the public or regulated community.

The potential benefits of the proposed rulemaking include the continued prevention of bodily harm and loss of life at underground mine sites. Additionally, this proposed rulemaking makes the existing federal requirements independently enforceable by the Commonwealth.

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

There are no additional costs and adverse effects associated with this proposed rulemaking as its sole purpose is to conform Pennsylvania regulations to federal MSHA requirements in 30 CFR Part 75. Assuring that the Pennsylvania regulation conforms to federal requirements does 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 difficult to quantify.

(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 proposed rulemaking are not anticipated since the regulated community must already comply with the relevant federal MSHA provisions. Moreover, although the proposed regulation is intended to protect miners, it may also minimize unnecessary expenses to the regulated community by reducing the risk of accidents. Worker accidents can result in significant costs to a mine operator since it typically takes an operator time to resume operations after such accidents. This could lead to expenses for the mine operator incurred through lost wages, lost production capacity, payment for services associated with mine rescue operations, and other related expenses.

(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 does not apply 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.

The costs incurred by the state government as a result of this proposed rulemaking are expected to be negligible, as the Commonwealth already conducts mine safety inspections. Nothing in this proposed rulemaking, other than the fact the existing federal requirements will become independently enforceable in the state, will alter current state government practices or costs.

(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 proposed 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 proposed rulemaking. Moreover, since the regulated community already incurs costs to comply with existing federal MSHA requirements, additional compliance costs are not anticipated for the regulated community as a result of this rulemaking. There are, however, potential savings to the regulated industry as a result of this proposed regulation since the protection of underground mine property and workers will likely be enhanced.

	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 2012-13	FY-2 2013-14	FY-1 2014-15	FY 2015-16
Environmental Protection Operations (#160-10381)	\$74,547,000	\$75,184,000	\$84,438,000	\$87,172,000
Environmental Program Management (#161-10382)	\$24,965,000	\$25,733,000	\$28,517,000	\$28,277,000

(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.

Three small businesses operate underground bituminous coal mines in Pennsylvania. The proposed rulemaking is not anticipated to have an adverse impact on these businesses.

- (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 rulemaking since the regulated community must already comply with the relevant federal provisions of 30 CFR Part 75.

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

This proposed rulemaking is not expected to have any effect on the three small businesses subject to this regulation since they must already comply with the existing federal regulations. 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. Three of the nine underground bituminous coal mining companies currently operating in Pennsylvania employ fewer 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 developed to meet the particular needs of affected groups or persons as no groups 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.

(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.

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. Three of the nine underground bituminous coal mining companies currently operating in Pennsylvania employ fewer than 500 persons. This proposed rulemaking is not expected to have any effect on the three small businesses subject to this regulation since they must already comply with the existing federal regulations regarding proximity detection systems.

- a) Less stringent compliance and reporting requirements were not considered because this rulemaking implements existing federal regulations with which the small businesses must already comply.
- b) Less stringent schedules or deadlines for compliance or reporting requirements were not considered because this rulemaking implements existing federal regulations with which the small businesses must already comply.
- c) The consolidation or simplification of compliance or reporting requirements for small business was not considered because this rulemaking implements existing federal regulations with which the small businesses must already comply.
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation was not considered because this rulemaking implements existing federal regulations with which the small businesses must already comply.
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation was not considered because this rulemaking implements existing federal regulations with which the small businesses must already comply.

(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.

Data is not the basis for this regulation. This proposed regulation merely incorporates already effective federal requirements into state law to make those requirements independently enforceable by the Department.

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

- | | |
|---|-----------------|
| A. The date by which the agency must receive public comments: | Quarter 2, 2016 |
| 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: | Quarter 3, 2016 |
| D. The expected effective date of the final-form regulation: | Quarter 4, 2016 |
| E. The date by which compliance with the final-form regulation will be required: | Quarter 4, 2016 |
| F. The date by which required permits, licenses or other approvals must be obtained: | Not Applicable |

(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 a minimum of four times each calendar year.

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

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

By: Amy M. Elliott
(Deputy Attorney General)

FEB 08 2016

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. 7-526

DATE OF ADOPTION December 8, 2015

BY John Quigley

TITLE JOHN QUIGLEY
CHAIRMAN

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

BY [Signature]
DATE OF APPROVAL 1/19/16

(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**

Proximity Detection Systems

25 Pa. Code Chapter 208

**NOTICE OF PROPOSED RULEMAKING
BOARD OF COAL MINE SAFETY
25 PA CODE CH. 208
PROXIMITY DETECTION SYSTEMS**

The Board of Coal Mine Safety (Board) amends Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A. The proposed rulemaking implements existing Federal regulations, thereby making certain federal provisions independently enforceable by the Commonwealth.

This proposed rulemaking was adopted by the Board at its meeting of December 8, 2015.

A. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Craig Carson, Acting Director, Bureau of Mine Safety, 131 Broadview Road, New Stanton, PA 15672, (724) 404-3154, or by e-mail to cocarson@pa.gov; or Joseph Iole, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-9376, jirole@pa.gov.

C. Statutory Authority

Sections 106 and 106.1 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106 and 690-106.1) authorize the adoption of regulations to implement the BCMA. The BCMSA further authorizes the Board to promulgate necessary or appropriate regulations to implement the requirements of the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines.

D. Background and Purpose

On July 7, 2008, the General Assembly enacted the BCMSA, which was the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. See 52 P. S. § 690-103(a). The BCMSA provides broad authority 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. See 52 P. S. § 690-106.1(a). Regulations consistent with federal standards may also be promulgated under Section 106.1(c) of the BCMSA. Under section 106 of the BCMSA, the Board consists of three members representing mine workers, three members representing underground bituminous coal mine operators and the Secretary of the Department of Environmental Protection (Department) who serves as the Board's chairperson.

This proposed rulemaking implements existing Federal regulations published on January 15, 2015 that require underground bituminous coal mine operators to equip continuous mining machines, except full-face continuous mining machines, with proximity detection systems. See 30 C.F.R. part 75; 80 Fed. Reg. 2187. Conditions in underground bituminous coal mines, including low visibility, limited space, and uneven ground, present hazards that contribute to machine-related accidents that can cause injury or death. Proximity detection systems, which use electronic sensors to detect motion or the location of one object relative to another, can be used to provide warning and stop mining machines before the machine pins, crushes, or strikes a miner.

The federal Mine Safety and Health Administration (MSHA) promulgated rules related to proximity detection systems in order to reduce potential for pinning, crushing, or striking accidents.

Adopting these regulations ensures that operations at underground bituminous coal mine sites are safely conducted and maintained. Although underground bituminous coal mine operators are already required to comply with these federal regulations, implementing them in Chapter 208 provides the Department with the independent authority to enforce the federal requirements when Commonwealth inspectors observe violations, improving efficiency and increasing Commonwealth autonomy regarding enforcement efforts.

E. Summary of Proposed Regulatory Requirements

Proximity Detection Systems

§ 208.500

Section 208.500 requires operators to install proximity detection systems on certain mobile machines.

§ 208.501

Section 208.501 incorporates by reference 30 CFR § 75.1732(a) (machines covered). This provision describes the types of machines that must be equipped with a proximity detection system and provides the schedule by when certain machines must be in compliance with the rule.

§ 208.502

Section 208.502 incorporates by reference 30 CFR § 75.1732(b) (requirements). This provision describes certain technical specifications required in a proximity detection system.

§ 208.503

Section 208.503 incorporates by reference 30 CFR § 75.1732(c) (system checks). This provision requires a manual inspection of the system at specified intervals, and requires any defects be corrected.

§ 208.504

Section 208.504 incorporates by reference 30 CFR § 75.1732(d) (certifications and records). This provision describes the certifications and records related to a proximity detection system an

operator must maintain, and requires the operator to make such records available for inspection to the regulating authority.

F. Benefits, Costs and Compliance

Benefits

The proposed rulemaking makes certain Federal regulations independently enforceable by the Commonwealth. This improves safety by providing enforcement authority to the Commonwealth and maintaining consistency between Federal and state safety requirements.

Compliance costs

The proposed rulemaking does not add compliance costs since it implements existing Federal regulations with which mining operators in this Commonwealth must already comply.

Paperwork requirements

The proposed rulemaking does not generate additional paperwork because mining operators must comply with the existing Federal regulations that are implemented by this rulemaking.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) establishes a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposed rulemaking has minimal impact on pollution prevention since it is focused on mine safety.

H. Sunset Review

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 9, 2016, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)), the Commission 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 of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Board of Coal Mine Safety. Comments, suggestions or objections must be received by the Board by April 18, 2016. In addition to the submission of comments, 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 by April 18, 2016. The one-page summary will be distributed to the Board and available publicly prior to the meeting when the final rulemaking will be considered.

Comments including the submission of a one-page summary of comments may be submitted to the Board online, by e-mail, by mail or express mail as follows. If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Comments may be submitted to the Board by accessing eComment at www.ahs.dep.pa.gov/eComment. Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

Written comments should be mailed to the Board of Coal Mine Safety, P. O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Board of Coal Mine Safety, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

JOHN QUIGLEY,
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

PROXIMITY DETECTION SYSTEMS

§ 208.500. Proximity Detection Systems

Operators must install proximity detection systems on certain mobile machines.

§ 208.501. Machines Covered

The provisions of 30 CFR § 75.1732(a) (relating to proximity detection systems; machines covered) are incorporated by reference.

§ 208.502. Requirements

The provisions of 30 CFR § 75.1732(b) (relating to proximity detection systems; requirements) are incorporated by reference.

§ 208.503. System Checks

The provisions of 30 CFR § 75.1732(c) (relating to proximity detection systems; system checks) are incorporated by reference.

§ 208.504. Certifications and Records

The provisions of 30 CFR § 75.1732(d) (relating to proximity detection systems; certifications and records) are incorporated by reference, **with the following alteration to subsection (d)(5):**

Retain records for at least one year and make them available for inspection by authorized representatives of the Department and representatives of miners.

March 9, 2016

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

Re: Proposed Rulemaking: Proximity Detection Systems (#7-526)

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 (Commission). This proposal is scheduled for publication in the *Pennsylvania Bulletin* on March 19, 2016 with a 30-day public comment period. The Board of Coal Mine Safety (Board) adopted this proposal on December 8, 2015.

The enclosed rulemaking proposes to add regulatory provisions to *25 Pa Code*, Chapter 208. These proposed additions include §§ 208.500 – 208.504 (relating to proximity detection systems) to read as set forth in Annex A. This rulemaking proposes to incorporate existing federal regulations, thereby making the federal regulations independently enforceable by the Commonwealth.

Currently in Pennsylvania, safety requirements involving the use of proximity detection systems on continuous mining machines at underground bituminous coal mines are implemented pursuant to recently published federal Mine Safety and Health Administration (MSHA) regulations. As such, there is no state basis for enforcing these federal regulations. This proposed rulemaking addresses this gap in the state regulatory scheme. These proposed requirements ensure that continuous mining machines at underground bituminous coal mines are safely operated and maintained in order to reduce the risk of accidents and injuries. Such regulations benefit persons in and about mine sites and mine operators.

There are nine operators of underground bituminous coal mines in Pennsylvania that will be subject to this proposed rulemaking, and three of those operators are small businesses. However, the rulemaking is not expected to affect the nine operators because the rulemaking only proposes to implement existing federal regulations with which the operators must already comply.

The development and drafting of this rulemaking was aided by input from the Board which received recommendations and advice on the rulemaking from its constituents. The Board is chaired by the Secretary of the Department of Environmental Protection and consists of three

March 9, 2016

members representing the interests of mine workers and three members representing the interests of underground bituminous coal mine operators. ◦

The Department will provide the Commission with the assistance required to facilitate a thorough review of this 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 made by the Commission, as well as the Committees and public commentators, prior to final adoption of this rulemaking.

Please contact me by e-mail at ledinger@pa.gov or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Laura Edinger". The signature is fluid and cursive, with the first name "Laura" being more prominent than the last name "Edinger".

Laura Edinger
Regulatory Coordinator

Enclosures



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

I.D. NUMBER: 7-526 Proximity Detection Systems

SUBJECT:

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

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3/9/16 Lenni K Kelle

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
Representative Greg Vitali

3/9/16 Patti Conway

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
Senator Gene Yaw

3/9/16 Ken Z

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

3/9/16 D Cooper

INDEPENDENT REGULATORY REVIEW COMMISSION
David Sumner

ATTORNEY GENERAL (for Final Omitted only)

3/9/16 Courne Inant

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

