

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>RECEIVED</p> <p>JUN 16 2022</p> <p>Independent Regulatory Review Commission</p> <p>IRRC Number: 3292</p>
<p>(1) Agency: Department of Environmental Protection</p>		
<p>(2) Agency Number: 7 Identification Number: 558</p>		
<p>(3) PA Code Cite: 25 Pa. Code §§ 208.375—208.376</p>		
<p>(4) Short Title: Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Laura Griffin, 717.783.8727, laurgriffi@pa.gov Secondary Contact: Brian Chalfant, 717.783.8727, bchalfant@pa.gov</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation</p> <p><input checked="" type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This final-form rulemaking amends the smoking prohibition at underground bituminous coal mines to expressly prohibit the use and/or possession of electronic liquid-vaporizing devices, including, but not limited to, electronic cigarettes, and will provide for the imposition of a penalty for violations of the prohibition.</p> <p>This final-form rulemaking also separately distinguishes the prohibition at surface work areas of underground bituminous coal mines from the prohibition in the underground areas of these mines. This addresses a safety hazard that the use and/or possession of these devices present at underground bituminous coal mining operations.</p>		
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The final-form rulemaking is authorized under section 106.1(a) of the Bituminous Coal Mine Safety Act (BCMSA) (52 P.S. § 690-106.1(a)), which grants the Board of Coal Mine Safety (Board) the 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. Section 106.1(f)(2) of the BCMSA (52 P.S. § 690-106.1(f)(2)), further provides that regulations may address any hazards not addressed by existing safety standards. The Department is authorized to assess civil penalties under 52 P.S. § 690-105(16) (relating to Powers and Duties of the Department).</p>		

(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 final-form rulemaking is not mandated by any Federal or State law, court order, or Federal regulation.

(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.

Coal mine fires pose a constant danger to the safety of miners and to their livelihood. Underground mine fires pose an added hazard because of the confined environment with remote exits. The Federal government has enacted safety regulations for underground coal mines that have greatly improved the safety of miners. 30 CFR Part 75. However, mine fires and fire injuries remain serious hazards for all coal mining operations. The combination of an electronic cigarette and a lithium-ion battery is a new and unique hazard. There is no analogy among consumer products to the risk of a severe, acute injury presented by an e-cigarette. Fires or explosions caused by the batteries used in electronic cigarette are uncommon. However, the consequences can be devastating and life-altering for the victims. This is especially a concern in the underground mining environment, where explosions in underground mines are caused by accumulations of flammable gas and/or combustible dust mixed with air in the presence of an ignition source. While much progress has been made in preventing explosion disasters in coal mines, explosions still occur, sometimes producing multiple fatalities. Preventing fires is essential to the health and safety of mine workers.

To protect the health and safety of miners and other individuals, this final-form rulemaking amends the smoking prohibition at underground bituminous coal mines to expressly prohibit the use and/or possession of electronic liquid-vaporizing devices, including, but not limited to, electronic cigarettes, and impose a penalty for violations of the prohibition. By prohibiting the use of and/or possession of electronic liquid vaporizing devices at underground bituminous coal mines, this final-form rulemaking addresses both explosive and distraction hazards these devices present at underground bituminous coal mining operations. This final-form rulemaking also separately distinguishes the prohibition at surface work areas of underground bituminous coal mines from the prohibition inside these mines.

This final-form rulemaking will improve safety by expressly prohibiting the use and/or possession of electronic liquid-vaporizing devices, which present hazards. Miners, their families, mining companies, and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines. Additionally, miners, mine officials, mine operators, and the Department will benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

(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.

The relevant Federal standards do not expressly address the use or possession of electronic liquid-vaporizing devices. Therefore, the two provisions in this final-form rulemaking may be considered more stringent than Federal standards to the extent that the Federal standards do not expressly state whether they prohibit the use and/or possession of these devices.

Section 208.375 amends the existing smoking prohibition at surface work areas of underground bituminous coal mines to expressly prohibit electronic liquid-vaporizing devices and impose a penalty for violations of this section. The existing regulation incorporates the Federal standard under 30 CFR 77.1711. The penalty provided in this final-form rulemaking refers to the penalty imposed under Federal law, so as not to be more stringent. See 30 CFR 100.5(d), which is adopted and incorporated into the Department's regulations by reference. Pursuant to the Federal Civil Penalties Inflation Adjustment Act, the maximum penalty is updated every year to reflect inflation and is currently set at \$342.00 as of January 14, 2021. See 86 FR 2970. However, the penalty is not exclusive of any other enforcement option the Department believes is warranted under the particular circumstances of the violation.

Section 208.376 incorporates the smoking prohibition in underground bituminous coal mines from Section 268(b) of the BCMSA (52 P.S. § 690-268(b)). The final-form regulation expressly prohibits the use and possession of electronic liquid-vaporizing devices and imposes the same penalty for violations as explained above.

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

Other states have mine safety statutes or regulations prohibiting smoking and smoking articles, including West Virginia, Ohio, and Kentucky. Of these, only Kentucky expressly prohibits electronic liquid-vaporizing devices. See Section 352.170(3) of the Kentucky Revised Statutes (KRS 352.170(3)) ("... including but not limited to electronic cigarettes, cigars, or any component that heats liquid or other material to produce vapor").

This final-form rulemaking will not affect Pennsylvania's ability to compete with other states. Compliance with this final-form rulemaking does not impose any cost on operators and operators already prohibit their employees from carrying and/or using these devices in all 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, this final-form rulemaking 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 final-form 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 Board developed and drafted this final-form rulemaking with input and advice on the rulemaking from the regulated community. 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 seven underground bituminous coal 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 no small businesses, as that term is defined under Section 3 of the Regulatory Review Act, will be affected by this final-form rulemaking because this final-form rulemaking addresses the individual conduct of miners, mine officials, and other persons in and about mines and not the actual operations of a mine itself, which requires the expenditure of money. 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 seven underground bituminous coal mining companies currently operating in Pennsylvania, four 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.

It is also important to note that all underground mining operations are already subject to the Federal smoking prohibition under 40 CFR 75.1702. Under that provision companies are required to institute a program, approved by the U.S. Labor Secretary, to ensure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters. While this Federal prohibition does not extend to electronic liquid-vaporizing devices, extending this plan to include these devices will not increase costs.

(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?

Approximately seven underground bituminous coal mine companies operate in Pennsylvania. Four of these seven companies are small businesses. This final-form rulemaking will not affect the actual operations of those underground bituminous coal mining companies and is limited to the conduct of certain individuals like miners, mine officials, and other persons in and about mines. This final-form rulemaking will affect individuals in and about mines to the extent that they engage in conduct that presents a safety hazard. It does not impact the actual operations of the mines by requiring operational or equipment requirements.

There are approximately 2,457 individual miners who could theoretically be subject to this final-form rulemaking. In practice, the impact of the rulemaking is expected to be negligible given the rarity of violating smoking safety rules. Over the past 20 years, only 2 miners have had their certifications revoked for a violation related to smoking materials.

(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.

Approximately seven underground bituminous coal mine companies operate in Pennsylvania. Four of these seven companies are small businesses. This final-form rulemaking will not impose any additional operational requirements on underground bituminous coal mining companies because it is limited to prohibit certain individual conduct by miners, mine officials, and other persons in and about mines. There are approximately 2,457 individual miners who will be required to comply with this regulation.

(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.

Smoking, and smoking related activities at underground bituminous coal mine companies are already prohibited under Federal law at 30 CFR 75.1702 and 77.1711. The inclusion of a regulatory prohibition on electronic liquid-vaporizing devices will not have any additional financial, economic, or social impact on the public or regulated community. The potential benefits of the final-form rulemaking include the continued prevention of bodily harm and loss of life at underground bituminous coal mine sites by ensuring the approximately 2,457 individual miners required to comply with this regulation avoid the explosive hazard and distraction hazard that these devices pose.

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

The benefits of this rulemaking include the protection of life and property. The combination of an electronic cigarette and a lithium-ion battery is a new and unique hazard. Fires or explosions caused by the batteries used in electronic cigarette are uncommon. However, the consequences can be devastating and life-altering for the victims. This is especially a concern in the underground mining environment, where explosions in underground mines are caused by accumulations of flammable gas and/or combustible dust mixed with air in the presence of an ignition source.

(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 final-form rulemaking are not anticipated since the approximately 2,457 individual miners in and about mines must already comply with the relevant BCMSA provisions prohibiting smoking and possession of smoking materials. In practice, the impact of the regulation is expected to be negligible given the rarity of violating smoking safety rules. Over the past 20 years, only 2 miners have had their certifications revoked for a violation related to smoking materials.

Moreover, although the final-form rulemaking 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 final-form rulemaking are expected to be negligible because the Commonwealth already conducts mine safety inspections. Nothing in this final-form rulemaking 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 final-form 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 BCMSA requirements.

(22a) Are forms required for implementation of the regulation?

No new forms are required for implementation of the final-form rulemaking.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

No new forms are required for implementation of the final-form rulemaking.

(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.

	Current FY 2021-22	FY +1 2022-23	FY +2 2023-24	FY +3 2024-25	FY +4 2025-26	FY +5 2026-27
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0

REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

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

Program	FY-3 2018-19	FY-2 2019-20	FY-1 2020-21	Current FY 2021-22
Environmental Program Management	\$30,932,000	\$27,920,000	\$32,041,000	\$34,160,000
Environmental Protection Operations	\$93,190,000	\$84,023,000	\$94,202,000	\$98,036,000

(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.

Four small businesses operate underground bituminous coal mines in Pennsylvania. The final-form rulemaking is not anticipated to have an adverse operational impact on these businesses.

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

No additional costs will be incurred with respect to reporting, recordkeeping, and other administrative costs required for compliance with the final-form rulemaking because this rulemaking does not require any additional reporting, recordkeeping, or other paperwork other than that which is already being performed on a routine basis as required under BCMSA requirements.

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

This final-form rulemaking is not expected to have any effect on the four small businesses subject to this regulation because this final-form rulemaking addresses the individual conduct of miners, mine officials, and other persons in and about mines and not the operational activities of the mine companies.

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. Four of the seven 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 final-form rulemaking were analyzed only with respect to the penalty of the violation. The basis for the violation, carrying and/or using smoking articles, including liquid vaporizing devices, is based upon similar existing BCMSA authority. Regarding the penalty, the Department analyzed whether a person violating the regulation should receive an automatic suspension rather than a penalty. The Department determined that an automatic suspension would not aid in deterring or enforcing the violation because not all persons at mines have credentials that may be suspended.

It is also important to note that all underground mining operations are already subject to the Federal smoking prohibition under 40 CFR 75.1702. Under that provision companies are required to institute a program, approved by the U.S. Labor Secretary, to ensure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters. While this Federal prohibition does not extend to electronic liquid-vaporizing devices, extending this plan to include these devices will not increase costs.

(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 because the Board was unable to identify any such groups.

(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 on the current statutory provisions under Chapter 208 of the BCMSA, which prohibit smoking and the possession of smoking materials.

(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 performance 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. Four of the seven underground bituminous coal mining companies currently operating in Pennsylvania employ fewer than 500 persons. This final-form rulemaking is not expected to have any effect on the four small businesses subject to the regulation because this proposed rulemaking addresses the

individual conduct of miners, mine officials, and other persons in and about mines, and not that of the operation of those small businesses.

- a) Less stringent compliance and reporting requirements were not considered because this final-form rulemaking does not impose additional compliance or reporting requirements.
- b) Less stringent schedules or deadlines for compliance or reporting requirements were not considered because this final-form rulemaking does not impose any schedules or deadlines for compliance or reporting.
- c) The consolidation or simplification of compliance or reporting requirements for small business was not considered because this final-form rulemaking does not impose any compliance or reporting requirements.
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation was not considered because this final-form rulemaking does not impose design or operational standards.
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation was not considered because this final-form rulemaking does not apply to the businesses' conduct, only that of individuals in and about the mine.

(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.

While this regulation did not rely on any data there are numerous studies detailing the hazards of mine fires and the explosive risks related to electronic liquid-vaporizing devices. Two examples of such studies include - Electronic Cigarette Fires and Explosions in the United States 2009 – 2016, July 2017, U.S. Fire Administration, Federal Emergency Management Agency, available at https://www.usfa.fema.gov/downloads/pdf/publications/electronic_cigarettes.pdf; and Explosion Prevention in United States Coal Mines, Jürgen F. Brune, Kenneth L. Cashdollar and R. Karl Zipf, available at <https://www.cdc.gov/niosh/mining/UserFiles/works/pdfs/epius.pdf>.

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

- | | |
|---|---|
| A. The length of the public comment period: | <u>30 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>None held</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 2, 2022</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication in the
<i>Pennsylvania Bulletin</i></u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Upon publication in the
<i>Pennsylvania Bulletin</i></u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>Not applicable</u> |

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

The Department will continue to closely monitor these regulations for their effectiveness and recommend updates as necessary.

CDL-1

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**Independent Regulatory
Review Commission**

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Attorney General

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

Check if applicable
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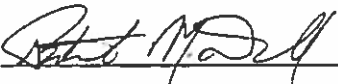
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DEPARTMENT OF ENVIRONMENTAL
PROTECTION
BOARD OF COAL MINE SAFETY

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-558

DATE OF ADOPTION June 15, 2022

BY 

TITLE **PATRICK MCDONNELL
CHAIRPERSON**

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

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

BY 

6/15/2022

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 FINAL RULEMAKING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BOARD OF COAL MINE SAFETY**

Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines

25 Pa. Code Chapter 208

**FINAL-FORM RULEMAKING
BOARD OF COAL MINE SAFETY
[25 PA. CODE CH. 208]**

Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines

The Board of Coal Mine Safety (Board) amends Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A.

This final-form rulemaking was adopted by the Board at its meeting on June 15, 2022.

A. Effective Date

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

B. Contact Persons

For further information, contact Richard Wagner, P.E., Director, Bureau of Mine Safety, P.O. Box 133, New Stanton, PA 15672, (724) 404-3154; or Christopher Minott, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, 9th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105, (717) 787-9372. Persons with a disability may use the Pennsylvania Hamilton Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Advisory Committees," then "Mining," then "Board of Coal Mine Safety" and then navigate to the Board meeting of June 15, 2022).

C. Statutory Authority

This final-form rulemaking is authorized under section 106.1(a) of the Bituminous Coal Mine Safety Act (BCMSA) (52 P.S. § 690-106.1(a)), which grants the Board the 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. Section 106.1(f)(2) of the BCMSA further provides that regulations may address any hazards not addressed by existing safety standards. This final-form rulemaking imposes a civil penalty. The Department is authorized to assess civil penalties under 52 P.S. § 690-105(16), regarding powers and duties of the Department.

D. Background and Purpose

On July 7, 2008, the BCMSA was enacted, which was the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. Section 106 of BCMSA (52 P.S. § 690-106) establishes the Board, which consists of three members representing mine workers, three members representing underground bituminous coal mine operators and the Secretary of the Department of Environmental Protection who serves as the Board's chairperson.

The purposes of the BCMSA, enumerated under section 103(b) (52 P.S. § 690-103(b)), include the establishment and promulgation of improved mandatory standards to protect the health and safety of miners and other individuals in and about mines. To protect the health and safety of miners and other individuals, this final-form rulemaking amends the smoking prohibition at underground bituminous coal mines to expressly prohibit the use or possession, or both, of electronic liquid-vaporizing devices, including electronic cigarettes, and impose a penalty for violations of the prohibition. By prohibiting the use of or possession, or both, of electronic liquid vaporizing devices at underground bituminous coal mines, this final-form rulemaking addresses both explosive and distraction hazards these devices present at underground bituminous coal mining operations.

Coal mine fires pose a constant danger to the safety of miners and to their livelihood. Underground mine fires pose an added hazard because of the confined environment with remote exits. The Federal government has enacted safety regulations for underground coal mines that has greatly improved the safety of miners. See 30 CFR Part 75 (relating to mandatory safety standards—underground coal mines). However, mine fires and fire injuries remain serious hazards for all coal mining operations. The combination of an electronic cigarette and a lithium-ion battery is a new and unique hazard. There is no analogy among consumer products to the risk of a severe, acute injury presented by an e-cigarette. Fires or explosions caused by the batteries used in electronic cigarette are uncommon. However, the consequences can be devastating and life-altering for the victims. This is especially a concern in the underground mining environment, where explosions in underground mines are caused by accumulations of flammable gas or combustible dust, or both, mixed with air in the presence of an ignition source. While much progress has been made in preventing explosion disasters in coal mines, explosions still occur, sometimes producing multiple fatalities. Preventing fires is essential to the health and safety of mine workers.

Miners, their families, mining companies and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines. Additionally, miners, mine officials, mine operators and the Department will benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

The BCMSA authorizes the Department to interview individuals at a mine site, investigate them, and conduct inspections of their property to ensure compliance with the act. See 52 P.S. § 690-105(1)—(2). Specifically for smoking-related items, the BCMSA also allows an operator to search individuals in a mine or about to enter a mine, including their clothing and material belongings, for smoking-related items. See 52 P.S. § 690-268(b). Additionally, federal regulations require all operators to have a Mine Safety and Health Administration (MSHA) approved program to insure persons entering underground mines do not carry in smoking materials, matches, or lighters. See 30 CFR 75.1702 (relating to smoking; prohibition). An operator's MSHA approved plan would dictate the frequency of searches and other procedures that would uncover smoking-related items. If an operator finds a smoking-related article at a surface work area, they are not required under the BCMSA to report it to the Department. The Department would become involved in a situation where the violation was reported by an operator, forwarded to the Department as a tip through the MSHA hotline for anonymous tips, or uncovered by a Department inspector. The Department would conduct a follow-up investigation

as appropriate, which may include an inspection of the operator's smoke search and violation log kept pursuant to an MSHA approved smoking safety plan, or interviews with the operator and its employees.

When a search or investigation results in evidence that an individual had smoking-related items at or around an underground mine site, the BCMSA's statutory enforcement provisions currently provide the Department limited options. For a mine operator or mine official, the Department may issue an administrative penalty. *See* 52 P.S. § 690-503 (regarding administrative penalties). Section 690-503 does not apply to other employees at a mine site who are not mine operators or officials. The Department may also decertify an individual for failure to comply with provisions of, or regulations promulgated under, the BCMSA. *See* 52 P.S. § 690-510(b). This is the typical sanction for individuals who engage in conduct, such as bringing combustible material into an underground mine, that puts mine workers at significant risk. However, this sanction cannot be utilized for individuals who do not yet have a certification, such as apprentice miners. Additionally, in some circumstances, initiating a decertification action for violating a smoking, or smoking-related, provision would be unduly harsh and punitive.

To remedy the Department's currently limited options to appropriately penalize the use or possession of e-cigarettes, this rulemaking, promulgated under the Department's statutory authority to assess civil penalties and the Board's authority to promulgate regulations to improve mine worker safety, gives the Department additional regulatory authority to assess a civil monetary penalty. Under this rulemaking, the Department may assess a civil penalty for the regulatory maximum amount for each violation, which is currently \$342. This amount is the maximum civil penalty available under Federal law. The civil penalty provides the Department with flexibility to punish smoking safety standard violations where decertification may not be appropriate. As an action taken by the Department, the penalty would be appealable to the Environmental Hearing Board.

This final-form rulemaking also separately distinguishes the prohibition at surface work areas of underground bituminous coal mines from the prohibition inside these mines.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

This final-form rulemaking amends the existing smoking prohibition at § 208.375 (relating to smoking prohibition), which applies at surface work areas of underground bituminous coal mines and adds an additional section, § 208.376 (relating to smoking prohibition: underground areas).

§ 208.375. Smoking prohibition: surface work areas

Subsection (a) retains the existing smoking prohibition at surface work areas of underground bituminous coal mines, which incorporates the Federal regulation at 30 CFR 77.1711 (relating to smoking prohibition). No changes were made to this subsection from proposed to final-form rulemaking.

Subsection (b) expressly prohibits electronic liquid-vaporizing devices and authorizes the imposition of a penalty for violations of this section. The penalty refers to the penalty imposed under Federal law, so as not to be more stringent. *See* 30 CFR 100.5(d) (relating to

determination of penalty amount; special assessment), which is adopted and incorporated herein by reference. Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C.A. §§ 2461—2467), the maximum penalty is updated every year to reflect inflation and is currently set at \$342, as of January 14, 2021. See 86 FR 2970 (January 14, 2021). The penalty is not exclusive of any other enforcement option the Department determines is warranted under the particular circumstances of the violation. The Department will review whether to pursue other enforcement actions, in addition to levying a civil penalty, on a case by case basis as warranted by the particular facts giving rise to the violation.

Subsection (b) has changed from the proposed rulemaking. The Board has determined that violating a smoking, or smoking-related, prohibition is severe enough of an offense that no circumstances would warrant deviating from the relatively small Federal maximum civil penalty. See 30 CFR 100.5(d). Therefore, the Board has opted to promulgate the final-form regulation without discretion to reduce the civil penalty from the Federal maximum amount.

§ 208.376. Smoking prohibition: underground areas

Subsections (a)—(c) are based on the existing provisions of the smoking prohibition in underground bituminous coal mines from section 268(b) of the BCMSA (52 P.S. § 690-268(b)) and add clarification that this prohibition applies to the use and possession of electronic liquid-vaporizing devices. Subsection (a) prohibits smoking or the use of an open flame, subsection (b) prohibits the possession of smoking materials and subsection (c) authorizes operators to search any individual entering the mine. No changes were made to these subsections from proposed to final-form rulemaking.

Subsection (d) authorizes the imposition of a penalty for violations of this section. Just as in § 208.375, described previously, the penalty refers to the penalty imposed under Federal law, so as not to be more stringent. See 30 CFR 100.5(d). Under the Federal Civil Penalties Inflation Adjustment Act of 1990, the maximum penalty is updated every year to reflect inflation and is currently set at \$342 as of January 14, 2021. See 86 FR 2970. The penalty is not exclusive of any other enforcement option the Department determines is warranted under the particular circumstances of the violation. The Department will review whether to pursue other enforcement actions, in addition to levying a civil penalty, on a case by case basis as warranted by the particular facts giving rise to the violation.

Subsection (d) has changed from the proposed rulemaking. At the suggestion of the Independent Regulatory Review Commission (IRRC), the list of prohibited items in subsection (d) was changed to a reference to “the items identified in subsection (b)” to improve clarity. Prior to the change, the lists in subsection (b) and subsection (d) were slightly different, which could have caused confusion for the regulated community. Additionally, a change was made to require the maximum allowable penalty under 30 CFR 100.5(d) for violating smoking-related mandatory safety standards, for the same reasons this change was made in § 208.375.

F. Summary of Comments and Responses on the Proposed Rulemaking

The proposed rulemaking was adopted by the Board at its meeting on September 1, 2020 and was published at 51 Pa.B. 1316 (March 13, 2021). No public hearings were held. The 30-day public comment period closed on April 12, 2021.

The Board received one public comment from the American Lung Association (ALA) and comments from IRRC. The ALA comment was in support of the proposed regulation. IRRC had three comments. A summary of IRRC's comments are as follows:

1. IRRC commented that the Department should explain its statutory authority to assess a civil penalty beyond the enforcement remedies listed in Chapter 5 of the BCMSA (relating to Enforcement and Remedies). IRRC also noted two additional concerns. First, the process to determine whether an individual has violated the section was not explained. Second, §§ 208.375(b)(2) and 208.376(d)(2) did not explain when the Department would or would not implement other remedies available to it.

2. IRRC noted that, for clarity, subsections (b) and (d) of § 208.376, which both state smoking-related articles that may not be carried into mines, should be revised to contain identical lists or explain why such a revision should not take place.

3. IRRC commented that the number of individuals affected by the regulation should be included in the RAF submitted with the final-form regulation. IRRC also asked the Board to estimate the cost to the regulated community and provide the number of individuals who have been decertified for violating existing smoking prohibitions.

In response to IRRC's first comment, the Department has included in Section D of the Preamble to this final-form rulemaking a more detailed description of its statutory authority to assess civil penalties and how the civil penalties in this final-form rulemaking would be assessed. In response to IRRC's second comment, the list in subsection (d) of § 208.376 was modified to reference the list of items in subsection (b) to improve consistency. In response to IRRC's third comment, the RAF was updated to include the number of individuals affected by this regulation and an accounting of individuals who have been decertified for violating existing smoking prohibitions.

G. Benefits, Costs and Compliance

Benefits

This final-form rulemaking will improve safety by expressly prohibiting the use or possession, or both, of electronic liquid-vaporizing devices, which present safety hazards, under the existing prohibitions against smoking and possession of smoking materials. The safety of miners in the workplace is a compelling public interest. All miners, their families, mining companies and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines, such as explosive hazards and distraction hazards. Additionally, miners, mine officials, mine

operators and the Department benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

Compliance costs

This final-form rulemaking does not create any compliance costs and therefore does not minimize compliance costs. Because this final-form rulemaking prohibits the use or possession of certain items by persons at underground bituminous coal mines, the only requirement to comply is that persons not use or possess these items, which they can do at no cost.

Paperwork requirements

This final-form rulemaking does not generate additional paperwork because mining operators must comply with the existing statute and regulation.

H. 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 final-form rulemaking has minimal impact on pollution prevention since it is focused on mine safety.

I. Sunset Review

The Board is not proposing a sunset date for these regulations, since they are needed for the Department to carry out its statutory authority. The Department will continue to review these regulations for their effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 25, 2021, the Department submitted a copy of this rulemaking, published at 51 Pa.B. 1316 (March 13, 2021), to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees, for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, the final-form rulemaking was deemed approved by the House and Senate Committees. Under

section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

K. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 51 Pa.B. 1316 (March 13, 2021).

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 25 Pa. Code Chapter 208, are amended as set forth in Annex A.

(2) The Chairperson of the Board shall submit this final-form regulation to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(3) The Chairperson of the Board shall submit this final-form regulation to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(4) The Chairperson of the Board shall certify this final-form regulation and deposit them with the Legislative Reference Bureau, as required by law.

(5) This final-form regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson
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

MISCELLANEOUS

§ 208.375. Smoking prohibition: surface work areas.

(a) The provisions of 30 CFR 77.1711 (relating to smoking prohibition) are incorporated by reference.

(b) An individual who violates the mandatory safety standards relating to smoking, including the use of electronic liquid-vaporizing devices or e-cigarettes, shall be subject to a civil penalty assessed by the Department, which penalty:

(1) ~~May not~~ SHALL be ~~more than~~ the maximum civil penalty provided under 30 CFR 100.5(d) (relating to determination of penalty amount; special assessment) ADOPTED AND INCORPORATED BY REFERENCE for each occurrence of this violation.

(2) May not preclude the Department from exercising any other remedy available to it.

§ 208.376. Smoking prohibition: underground areas.

(a) An individual may not smoke or use an open flame in any underground bituminous coal mine.

(b) An individual may not at any time enter a mine with or carry into the mine any smoking or smoker related articles, matches, pipes, cigars, cigarettes, electronic liquid-vaporizing devices, including e-cigarettes, or any device for making flames or fire not approved under section 350 of the act (52 P.S. § 690-350).

(c) In all mines the operator may search or cause to be searched any individual, including the individual's clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent an individual from taking or carrying into the mine any of the articles prohibited by this section.

(d) An individual who violates the mandatory safety standards relating to smoking or the use or carrying of ~~smoking materials, including electronic liquid-vaporizing devices, including e-cigarettes, matches or lighters~~ THE ITEMS IDENTIFIED IN SUBSECTION (b), shall be subject to a civil penalty assessed by the Department that:

(1) ~~May not~~ SHALL be more than the maximum civil penalty provided under 30 CFR 100.5(d) (relating to determination of penalty amount; special assessment) ADOPTED AND INCORPORATED BY REFERENCE for each occurrence of this violation.

(2) May not preclude the Department from exercising any other remedy available to it.



pennsylvania

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

COMMENT AND RESPONSE DOCUMENT

Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines

25 Pa. Code Chapter 208
51 Pa.B. 1316 (March 13, 2021)
Board of Coal Mine Safety Rulemaking #7-558
Independent Regulatory Review Commission #3292

COMMENTATORS ON THE PROPOSED RULEMAKING

1. Molly Pisciotano, Advocacy Director, Pennsylvania
American Lung Association
810 River Ave.
Pittsburgh, PA 15212
2. Independent Regulatory Review Commission (IRRC)

COMMENTS AND RESPONSES

1. **Comment:** American Lung Association in Pennsylvania (ALA) writes in support of the proposed rulemaking. The ALA notes that, given the dangerous health effects and potential hazards associated with e-cigarettes and other electronic liquid-vaporizing devices, it's crucial that the health, safety and welfare of miners and other individuals is protected by prohibiting these devices in coal mines.

Response: The Department acknowledges the comment and thanks the commentator for their support.

2. **Comment:** IRRC comments that the Department should explain its statutory authority to assess a civil penalty beyond the enforcement remedies listed in Chapter 5 of the Act (relating to Enforcement and Remedies). IRRC also notes two additional concerns. First, the process to determine whether an individual has violated § 208.375 is not explained. Second, § 208.375(b)(2) and § 208.376(d)(2) do not explain when the Department would or would not implement other remedies available to it.

Response: The administrative penalty provision in Chapter 5 applies to mine officials and operators. *See* 52 P.S. § 690-503(b) (relating to penalties for mine officials and operator liability). Separate from this authority, Chapter 1 of the Bituminous Coal Mine Safety Act (BCMSA) notes that the Department has the power under the act to “assess civil penalties.” 52 P.S. § 690-105(16). Unlike the administrative penalty contemplated in Chapter 5 of the BCMSA, the civil penalty promulgated with this rulemaking would apply to individuals beyond mine officials and operators. The authority to promulgate this civil penalty originates in the rulemaking and civil penalty authorities located in Section 105 of the BCMSA, not Chapter 5. The Preamble has been updated to clarify the Department’s statutory authority to promulgate the civil penalty in question.

As to IRRC’s concern regarding the process for determining a violation, the BCMSA allows an operator to search any individual, including clothing and material belongings, who is in a mine or about to enter a mine, for smoking items. 52 P.S. § 690-268(b). Federal regulations require all operators to have a Mine Safety and Health Administration (MSHA) approved

program to insure persons entering underground mines do not carry in smoking materials, matches, or lighters. *See* 30 CFR 75.1702. An operator's MSHA approved plan would dictate the frequency of searches and other procedures that would uncover an e-cigarette or other smoking articles. Additionally, the BCMSA allows Department inspectors to conduct investigations and interviews of individuals at a mine and make inspections of private property as necessary to determine compliance with the Act. 52 P.S. § 690-105. Either provision could produce evidence, either physical evidence through a search or an admission through an interview, that an individual has violated this section. If an operator finds an e-cigarette or other smoking article at a surface work area, they are not required under the BCMSA to report it to the Department. The Department would become involved in a situation where the violation was reported by an operator, forwarded to the Department as a tip through the MSHA hotline for anonymous tips, or uncovered by a Department inspector. The Department would conduct a follow-up investigation as appropriate, which may include an inspection of the operator's smoke search and violation log kept pursuant to an MSHA approved smoking safety plan, or interviews with the operator and its employees. When satisfied a violation has occurred, the Department would assess the penalty. As an action taken by the Department, the penalty would be appealable to the Environmental Hearing Board.

As to IRRC's concern regarding other remedies, the Department directs IRRC to the enforcement remedies listed in Chapter 5. These remedies remain available to the Department should the particular circumstances of a smoking or e-cigarette violation warrant further action in addition to levying a civil penalty. Mere possession of an e-cigarette in the surface area surrounding an underground mine may not warrant any additional action by the Department. Actively smoking an e-cigarette in an underground mine, in contrast, may warrant seeking a decertification action in addition to levying a civil penalty.

3. **Comment:** IRRC notes that, for clarity, subsections (b) and (d) of § 208.376, which both state smoking-related articles that may not be carried into mines, should be revised to contain identical lists or explain why such a revision should not take place.

Response: The Department agrees with IRRC's suggestion. Section 208.376(d) has been revised to reference the articles listed in subsection (b), instead of containing its own list of prohibited items.

4. **Comment:** IRRC comments that the number of individuals affected by the regulation should be included in the RAF submitted with the final-form regulation. IRRC also asks the Board to estimate the cost to the regulated community and provide the number of individuals who have been decertified for violating existing smoking prohibitions.

Response: Section 15 of the RAF has been updated to include information on the number of individuals who have been decertified for violating existing smoking safety prohibition. The Department does not anticipate any additional quantifiable cost from this regulation to the regulated community so has left its answer to section 19 of the RAF unchanged.



June 16, 2022

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

Re: Final Rulemaking: Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines (#7-558 / IRRC # 3292)

Dear Mr. Sumner:

Pursuant to Section 5.1(a) of the Regulatory Review Act (RRA), please find enclosed the Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines final-form rulemaking for review by the Independent Regulatory Review Commission (IRRC). The Board of Coal Mine Safety (Board) adopted this rulemaking on June 15, 2022.

The Board adopted the proposed rulemaking at its meeting on September 1, 2020. On March 13, 2021, the proposed rulemaking was published in the *Pennsylvania Bulletin* at 51 Pa.B. 1316, for a 30-day public comment period. The public comment period closed on April 12, 2020. The Department received one written comment. The Board provided the Environmental Resources and Energy Committees and IRRC with copies of all comments received in compliance with Section 5(c) of the RRA.

The Department will provide assistance as necessary to facilitate IRRC's review of the enclosed rulemaking under Section 5.1(e) of the Regulatory Review Act.

Please contact me by e-mail at laurgriffi@pa.gov or by telephone at 717.772.3277 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Laura E. Griffin". The signature is written in a cursive style.

Laura Griffin
Regulatory Coordinator

Enclosures

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

I.D. NUMBER: 7-558

SUBJECT: Prohibiting Electronic Liquid-Vaporizing Devices at ^{Underground Bituminous} Coal Mines

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION, Board of Coal Mine Safety

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

RECEIVED

JUN 16 2022

Independent Regulatory
 Review Commission

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

6/16/22 Pam Neysand

Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

Representative Daryl Metcalfe

6/16/22 [Signature]

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

Representative Greg Vitali

6/16/22 electronic submittal

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

Senator Gene Yaw

6/16/22 electronic submittal

Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

Senator Carolyn Comitta

INDEPENDENT REGULATORY REVIEW COMMISSION

David Summer

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

Kathy Cooper

From: Eyster, Emily <Emily.Eyster@pasenate.com>
Sent: Thursday, June 16, 2022 10:09 AM
To: Griffin, Laura; Troutman, Nick
Cc: Chalfant, Brian; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael
Subject: Re: Delivery of Final Rulemaking - Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines (7-558)

Received. Thank you Laura!

Emily Eyster
Legislative Director, Office of Senator Carolyn T. Comitta
Executive Director, Senate Environmental Resources and Energy Committee
Cell: [\(717\) 756-4702](tel:(717)756-4702)
Phone: [\(717\) 787-5709](tel:(717)787-5709)
www.pasenatorcomitta.com

RECEIVED

JUN 16 2022

Independent Regulatory
Review Commission

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Thursday, June 16, 2022 10:03:54 AM
To: Eyster, Emily <Emily.Eyster@pasenate.com>; Troutman, Nick <ntroutman@pasen.gov>
Cc: Chalfant, Brian <bchalfant@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; Hartman, Michael <michael.hartman@pasenate.com>
Subject: Delivery of Final Rulemaking - Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines (7-558)

■ EXTERNAL EMAIL ■

Good morning,

Pursuant to Section 5.1(a) of the Regulatory Review Act, please find attached the Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines final rulemaking (#7-558) for review by the Senate Environmental Resources and Energy Committee.

Also attached is the transmittal sheet showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,
Laura

Laura Griffin | Regulatory Coordinator

she/her/hers

Department of Environmental Protection | Policy Office
Rachel Carson State Office Building
400 Market Street | Harrisburg, PA
Phone: 717.772.3277 | Fax: 717.783.8926
Email: laurgriffi@pa.gov
www.dep.pa.gov

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Kathy Cooper

From: Troutman, Nick <ntroutman@pasen.gov>
Sent: Thursday, June 16, 2022 11:06 AM
To: Griffin, Laura; Eyster, Emily
Cc: Chalfant, Brian; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael
Subject: RE: Delivery of Final Rulemaking - Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines (7-558)

RECEIVED

JUN 16 2022

Received by Chairman Yaw. Thanks Laura

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Thursday, June 16, 2022 10:04 AM
To: Eyster, Emily <Emily.Eyster@pasenate.com>; Troutman, Nick <ntroutman@pasen.gov>
Cc: Chalfant, Brian <bchalfant@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; michael.hartman@pasenate.com
Subject: Delivery of Final Rulemaking - Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines (7-558)
Importance: High

Independent Regulatory
Review Commission

Ⓢ CAUTION : External Email Ⓢ

Good morning,

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Also attached is the transmittal sheet showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,
Laura

Laura Griffin | Regulatory Coordinator
she/her/hers
Department of Environmental Protection | Policy Office
Rachel Carson State Office Building
400 Market Street | Harrisburg, PA
Phone: 717.772.3277 | Fax: 717.783.8926
Email: laurgriffi@pa.gov
www.dep.pa.gov

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