

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <p><b>RECEIVED</b></p> <p>Independent Regulatory Review Commission March 5, 2025</p>	
<p><b>(1) Agency:</b></p> <p>Department of Environmental Protection</p>		<p>IRRC Number: 3430</p>	
<p><b>(2) Agency Number: 7</b></p> <p><b>Identification Number: 586</b></p>			
<p><b>(3) PA Code Cite:</b> 25 Pa. Code § 77.564</p>			
<p><b>(4) Short Title:</b> Blast Site Clarification for Noncoal Mining Operations</p>			
<p><b>(5) Agency Contacts (List Telephone Number and Email Address):</b></p> <p>Primary Contact: Laura Griffin, 717-772-3277, laurgriffi@pa.gov          Secondary Contact: High Garst, 717-783-8727, argarst@pa.gov</p>			
<p><b>(6) Type of Rulemaking (check applicable box):</b></p> <p><input type="checkbox"/> Proposed Regulation  <input type="checkbox"/> Final Regulation  <input checked="" type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation  <input type="checkbox"/> Certification by the Governor  <input type="checkbox"/> Certification by the Attorney General</p>	
<p><b>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</b></p> <p>This final-omitted regulation will correct an inconsistency in the use of two defined terms in the Department's noncoal mining regulations by changing one use of the term "blast area" to "blast site." This amendment ensures the language used is consistent with the definition of both terms in the Department's regulations on the storage, handling and use of explosives. This amendment alleviates confusion regarding setbacks for worker and public safety during blasting activity.</p>			
<p><b>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</b></p> <p>This final-omitted regulation is authorized under section 11(a) and (e)(1) of the Noncoal Surface Mining Conservation and Reclamation Act (Act) (52 P.S. § 3311(a) and (e)(1)). Section 11(a) of the Act grants the Board the authority to adopt regulations necessary to carry out the provisions and purposes of the Act and for the health and safety of those persons employed at surface mining operations. Section 11(e)(1) of the Act requires the use of explosives for surface mining to be conducted in accordance with regulations promulgated by the Board. Additionally, section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20) authorizes the Board to adopt rules and regulations necessary for the performance of the work 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.**

The regulation is not mandated by any federal or state law or 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.**

In December 2023, the Department's Bureau of Mining Programs identified an inconsistent use of the term "blast area" in one instance in § 77.564(g)(7) (relating to surface blasting requirements). Section 77.564(g)(7) was promulgated in 1990 and used the term "blast area" throughout the provision. See 20 Pa.B. 1643 (March 17, 1990). Subsequently, the terms "blast area" and "blast site" were defined in Chapter 211 (relating to storage, handling and use of explosives) in 2001. See 31 Pa.B. 3751 (July 14, 2001). As a result, one instance of "blast area" as it is used in § 77.564(g)(7) is inconsistent with those definitions in Chapter 211. As further explained below, in the context of the sentence, the correct term to use is "blast site."

"Blast site" is defined in § 211.101 (relating to definitions) as the specific location where explosive charges are loaded into the blast holes. "Blast area" is defined in § 211.101 as the larger area around the blast site that must be cleared and secured to prevent injury to persons and damage to property. In other words, the "blast area" consists of a buffer zone around the "blast site" to ensure both mine worker and public safety. When explosives are being loaded into drill holes ahead of a "shot" (blast), the blast site plus a buffer zone of 50 feet around the blast site is cleared of all persons and equipment except those necessary to prepare for the blast, as required by § 211.154(b) (relating to preparing the blast). However, the existing language in § 77.564(g)(7) requires "work within a radius of 50 feet of the blast area" to cease, which means the operator must include an extra 50-foot radius in addition to the buffer zone around the blast site.

Under § 77.561(c) (relating to general requirements), blasting operations shall be conducted in compliance with Chapter 211. Likewise, under § 211.103(c) (relating to enforcement), operators are required to comply with Chapter 77 as it relates to the use of explosives.

If mine operators are required to comply with an interpretation of § 77.564(g)(7) that applies the definition of "blast area" in § 211.101, it will require them to halt activity across an excessive portion of the mine site whenever explosives are being prepared at the blast site. This interpretation results in a larger disruption of activities at a noncoal mine than necessary to protect mine worker and public safety, which was not intended and is not consistent with the same safety requirements in Chapter 211. There is a substantial public interest served by ensuring that the safety standards for blasting in 25 Pa. Code Chapters 77 and 211 are consistent.

**(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.**

This minor correction is not more stringent than Federal standards.

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

This regulation will not affect Pennsylvania's ability to compete with other states.

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

No, the regulation will not affect other regulations of the Department 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.)**

The draft regulation was discussed at the Aggregate Advisory Board meeting of August 28, 2024.

**(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?**

The amendment will affect approximately 300 noncoal mining operators that conduct blasting at approximately 350 sites. These activities are performed onsite primarily by blasting contractors (30-40) who service mine sites across the Commonwealth. Most blasting contractors and mining operations are small businesses. Noncoal mining operators will benefit from this regulation because they will be required to cease work within a smaller area when explosives are being loaded into drill holes.

**(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.**

The amendment will affect approximately 300 noncoal mining operators that conduct blasting (approximately 350 sites) and their blasting contractors (30-40 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.**

This regulation will not have any financial or economic impacts. The regulation is intended to ensure general safety of the workers and the public. This amendment clarifies a legal inconsistency without minimizing the effective safe boundary for blasting operations. Failure to revise the current regulatory language means that to comply, the operator must shut down a larger than necessary area surrounding each blast site without a reasonable justification. Strict compliance with existing language would make preparing explosives on an active site more difficult, complicated, and time consuming without an obvious benefit.

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

No costs or adverse effects would result from promulgation of this final-omitted rulemaking. The correction of one use of “blast area” to “blast site” ensures the general safety of mine workers and the public by rectifying an inconsistent use of terminology regarding the effective safe boundary for blasting operations. This public safety benefit does not incur costs or adverse effects.

**(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.**

There are no identifiable costs or savings for the regulated community.

**(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.**

There are no identifiable costs or savings for local governments.

**(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.**

There are no identifiable costs or savings for state government.

**(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.**

No legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork are required for implementation of the regulation.

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

No forms are required to implement this regulation.

**(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 forms are required to implement this regulation.

**(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.**

	<b>Current FY 2024-25</b>	<b>FY +1 2025-26</b>	<b>FY +2 2026-27</b>	<b>FY +3 2027-28</b>	<b>FY +4 2028-29</b>	<b>FY +5 2029-30</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Local Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>State Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Savings</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>COSTS:</b>						
<b>Regulated Community</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Local Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>State Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Costs</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Local Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>State Government</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Revenue Losses</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

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

<b>Program</b>	<b>FY -3 2021-22</b>	<b>FY -2 2022-23</b>	<b>FY -1 2023-24</b>	<b>Current FY 2024-25</b>
Noncoal Regulatory Program	\$4,164,000	\$2,417,000	\$837,000	\$3,998,000

**(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.**
- (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.**
- (c) A statement of probable effect on impacted small businesses.**
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.**

There are no identifiable impacts on small businesses.

**(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 because this final-omitted rulemaking corrects an error in terminology.

**(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.**

No alternative regulatory proposals were considered because there are no applicable alternatives.

**(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.

There are no identifiable impacts on small businesses.

**(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.

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

- |   |                       |
|---|-----------------------|
| A. The length of the public comment period:                                 | <u>Not applicable</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>Not applicable</u> |

C. The expected date of delivery of the final-omitted regulation:	<u>Quarter 1, 2025</u>
D. The expected effective date of the final-omitted regulation:	<u>Upon publication in the Pennsylvania Bulletin</u>
E. The expected date by which compliance with the final-omitted regulation will be required:	<u>Upon publication in the Pennsylvania Bulletin</u>
F. The expected date by which required permits, licenses or other approvals must be obtained:	<u>Not applicable</u>
<b>(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.</b>	
<p>The effectiveness of the regulation will be gauged through ongoing interaction with the industry.</p>	

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

**(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

Independent Regulatory  
Review Commission

**March 5, 2025**

DO NOT WRITE IN THIS SPACE

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

By: \_\_\_\_\_  
(Deputy Attorney General)

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  
ENVIRONMENTAL QUALITY BOARD**

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-586

DATE OF ADOPTION November 12, 2024

BY Jessica L Shirley  
TITLE JESSICA SHIRLEY  
ACTING CHAIRPERSON

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

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

BY Philip J. Delmonico

**1 / 17 / 2025**

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-OMITTED RULEMAKING**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD**

**Blast Site Clarification for Noncoal Mining Operations**

**25 Pa. Code Chapter 77**



**FINAL-OMITTED RULEMAKING  
ENVIRONMENTAL QUALITY BOARD  
[25 PA. CODE CH. 77]**

**Blast Site Clarification for Noncoal Mining Operations**

The Environmental Quality Board (Board) amends Chapter 77 (relating to noncoal mining) to read as set forth in Annex A. This final-omitted rulemaking corrects an inconsistency in the use of two defined terms by changing one use of the term “blast area” to “blast site” in § 77.564(g)(7) (relating to surface blasting requirements). The amendment ensures that the language used in the noncoal mining regulations in Chapter 77 is consistent with both terms as defined in § 211.101 (relating to definitions) and used in Chapter 211 (relating to storage, handling and use of explosives).

Notice of proposed rulemaking is omitted under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law (CDL). Section 204(3) of the CDL provides that an agency may omit the notice of proposed rulemaking if the “agency for good cause finds... that the [public notice and comment] procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.”

Here, the final-omitted process is appropriate because the proposed change is minor, uncontroversial, and does not amend current practice because the regulated community is already adhering to the blasting safety regulations in Chapter 211. Public notice and solicitation of public comments are unnecessary and contrary to the public interest because use of incorrect terminology in § 77.564(g)(7) could lead to confusion for Department of Environmental Protection (Department) staff, noncoal mine operators and contractors providing blasting services. Public notice and comment do not alter the need to correct this inconsistency. There is a substantial public interest served by ensuring that the safety standards for blasting in Chapters 77 and 211 are consistent.

This final-omitted rulemaking was adopted by the Board at its meeting of November 12, 2024.

*A. Effective Date*

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

*B. Contact Persons*

For further information contact Sharon Hill, Environmental Program Manager, Bureau of Mining Programs, P.O. Box 8461, Rachel Carson State Office Building, 5th Floor, 400 Market Street, Harrisburg, PA 17105-8461, (717) 787-5015; or Richard Marcil, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, 9th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8504. Persons with a disability may use the Pennsylvania Hamilton Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This final-omitted rulemaking is available on the Department’s website at

<https://www.pa.gov/agencies/dep.html> (select “Public Participation,” then “Environmental Quality Board,” then navigate to the Board meeting of November 12, 2024).

### *C. Statutory Authority*

This final-omitted rulemaking is authorized under section 11(a) and (e)(1) of the Noncoal Surface Mining Conservation and Reclamation Act (act) (52 P.S. § 3311(a) and (e)(1)). Section 11(a) of the act grants the Board the authority to adopt regulations necessary to carry out the provisions and purposes of the act and for the health and safety of those persons employed at surface mining operations. Section 11(e)(1) of the act requires the use of explosives for surface mining to be conducted in accordance with regulations promulgated by the Board. Additionally, section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20) authorizes the Board to adopt rules and regulations necessary for the performance of the work of the Department.

### *D. Background and Purpose*

In December 2023, the Department’s Bureau of Mining Programs identified an inconsistent use of the term “blast area” in one instance in § 77.564(g)(7). Section 77.564(g)(7) was promulgated in 1990 and used the term “blast area” throughout the provision. See 20 Pa.B. 1643 (March 17, 1990). Subsequently, the terms “blast area” and “blast site” were defined in Chapter 211 in 2001. See 31 Pa.B. 3751 (July 14, 2001). As a result, one instance of “blast area” as it is used in § 77.564(g)(7) is inconsistent with those definitions in Chapter 211. In the context of the sentence, the correct term to use is “blast site.”

“Blast site” is defined in § 211.101 as the specific location where explosive charges are loaded into the blast holes. “Blast area” is defined in § 211.101 as the larger area around the blast site that must be cleared and secured to prevent injury to persons and damage to property. In other words, the “blast area” consists of a buffer zone around the “blast site” to ensure mine worker and public safety. When explosives are being loaded into drill holes ahead of a “shot” (blast), the blast site plus a buffer zone of 50 feet around the blast site is cleared of all persons and equipment except those necessary to prepare for the blast, as required by § 211.154(b) (relating to preparing the blast). However, the existing language in § 77.564(g)(7) requires “work within a radius of 50 feet of the blast area” to cease, which means the operator must include an extra 50-foot radius in addition to the buffer zone around the blast site.

Under § 77.561(c) (relating to general requirements), blasting operations shall be conducted in compliance with Chapter 211. Likewise, under § 211.103(c) (relating to enforcement), operators are required to comply with Chapter 77 as it relates to the use of explosives. If mine operators are required to comply with an interpretation of § 77.564(g)(7) that applies the definition of “blast area” in § 211.101, it will require them to halt activity across an excessive portion of the mine site whenever explosives are being prepared at the blast site. This interpretation results in a larger disruption of activities at a noncoal mine than is necessary to ensure mine worker and public safety, which was not intended and is not consistent with the same safety requirements in Chapter 211.

The Department has notified the noncoal mining operators and blasting contractors of the terminology inconsistency, that the Department is in the process of correcting it and explained

how the regulation should be interpreted in the meantime. The Department discussed the draft regulatory amendment with the Aggregate Advisory Board at its August 28, 2024 meeting.

#### *E. Summary of the Final-Omitted Rulemaking*

##### *§ 77.564. Surface blasting requirements.*

This final-omitted rulemaking amends subsection (g)(7) by correcting one use of the term “blast area” to “blast site.” As explained previously, the amendment corrects terminology to ensure that the language used in the noncoal mining regulations is consistent with the definitions of both terms in the Department’s regulations on storage, handling and use of explosives in § 211.101.

#### *F. Benefits, Costs and Compliance*

##### *Benefits*

This regulation is intended for general safety of the mine workers and the public. This final-omitted rulemaking rectifies an inconsistency but does not lessen the effective safe boundary for blasting operations. The regulated community and Department staff enforcing the blasting regulations will benefit by having clear regulatory language in Chapter 77 that is consistent with the blasting requirements in Chapter 211. This final-omitted rulemaking will clarify the regulatory language to ensure that mine operators are not required to shut down a larger area surrounding each blast site than necessary for worker or public safety.

##### *Compliance costs*

This final-omitted rulemaking is not expected to not have any financial or economic impacts.

##### *Compliance assistance plan*

No formal compliance assistance is necessary for implementation of this final-omitted rulemaking, because the amendment is not substantive. The Department has already notified the impacted entities of the inconsistent language in the regulation and explained how the regulation should be interpreted in the meantime. The Department will incorporate the correction into the training program for licensed blasters and ensure onsite blasting inspectors inform permittees of the amendment.

##### *Paperwork requirements*

This final-omitted rulemaking will not revise paperwork requirements.

#### *G. Pollution Prevention*

This final-omitted rulemaking will not impact pollution prevention efforts of the Department.

#### *H. Sunset Review*

The Board is not establishing a sunset date for this regulation since it is needed for the Department to carry out its statutory authority. The Department will continue to monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

#### *I. Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (RRA) (71 P.S. § 745.5a(c)), on March 5, 2025, the Department submitted a copy of this final-omitted rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the chairpersons of the Environmental Resources and Energy Committee of the Senate and the Environmental and Natural Resource Protection Committee of the House of Representatives. On the same date, the Department submitted a copy of the final-omitted rulemaking to the Office of Attorney General under section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)). A copy of this material is available to the public upon request.

Under section 5.1(j.2) of the RRA, on **DATE**, this final-omitted rulemaking was **(deemed)** approved by the House and Senate Committees. Under section 5.1(e) of the RRA, IRRC met on **DATE**, and approved this final-omitted rulemaking.

#### *J. Findings of the Board*

The Board finds that:

- (1) The amendment as set forth in Annex A is appropriate to ensure consistency among the Department's surface blasting requirements in Chapters 77 and 211.
- (2) Use of the omission of notice of proposed rulemaking procedure is appropriate because the notice of proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are, in this instance, both unnecessary and contrary to the public interest.
- (3) This amendment is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble and is in the public interest.

#### *K. Order of the Board*

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

- (a) The regulations of the Department, 25 Pa. Code Chapter 77, are amended by amending § 77.564 to read as set forth in Annex A.
- (b) The Acting Chairperson of the Board shall submit this final-omitted rulemaking 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.

(c) The Acting Chairperson of the Board shall submit this final-omitted rulemaking to IRRC and the Environmental Resources and Energy Committee of the Senate and the Environmental and Natural Resource Protection Committee of the House of Representatives as required by the RRA.

(d) The Acting Chairperson of the Board shall certify this final-omitted rulemaking and deposit it with the Legislative Reference Bureau, as required by law.

(e) This final-omitted rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JESSICA SHIRLEY,  
*Acting Chairperson*

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES  
CHAPTER 77. NONCOAL MINING**

**Subchapter I. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS**

**USE OF EXPLOSIVES**

**§ 77.564. Surface blasting requirements.**

\* \* \* \* \*

(g) Blasting requirements are as follows:

\* \* \* \* \*

(7) When explosives are being loaded in drill holes in preparation for a shot, work within a radius of 50 feet of the blast **[area] site**, except for the work being accomplished by the persons engaged in the blasting operation, shall cease, and machinery, other than machinery necessary to the blasting operation, within the confines of this area shall be brought to a complete rest. After inspection of the blast area by the Department, the Department may establish an alternate distance limitation.

\* \* \* \* \*



Pennsylvania  
**Department of  
Environmental Protection**

March 5, 2025

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

Re: Final-Omitted Rulemaking: Blast Site Clarification for Noncoal Mining Operations (#7-586)

Dear Mr. Sumner:

Pursuant to Section 5.1(c) of the Regulatory Review Act (RRA), please find enclosed the Blast Site Clarification for Noncoal Mining Operations final-omitted rulemaking for review by the Independent Regulatory Review Commission (IRRC). The Environmental Quality Board (Board) adopted this rulemaking on November 12, 2024.

This final-omitted rulemaking corrects an inconsistency between the Department of Environmental Protection's (Department) noncoal mining regulations in Chapter 77 and the storage, handling and use of explosives regulations in Chapter 211. The rulemaking amends § 77.564(g)(7) by correcting one use of the term "blast area" to "blast site" to ensure that the language used in the noncoal mining regulations is consistent with the definitions of both terms in the Department's regulations on storage, handling and use of explosives in § 211.101.

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

Please contact me by email at [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov) or by telephone at 717.772.3277 if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Laura E. Griffin".

Laura Griffin  
Regulatory Coordinator

Enclosures

March 5, 2025

**From:** [Marisa Thomas](#)  
**To:** [Griffin, Laura](#); [Franzese, Evan B.](#)  
**Cc:** [Campbell, Laura](#); [Garst, High](#); [Reiley, Robert A.](#); [Nezat, Taylor](#); [Shupe, Hayley](#)  
**Subject:** RE: [EXTERNAL]: Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)  
**Date:** Wednesday, March 5, 2025 9:24:13 AM

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Received.

## Marisa Thomas

Administrative Assistant II

Office of State Representative Brenda Pugh  
120<sup>th</sup> Legislative District  
422 Irvis Office Building  
Harrisburg, PA 17120-2092  
Phone: (717) 787-3798

Office of State Representative Jack Rader  
176<sup>th</sup> Legislative District  
423 Irvis Office Building  
Harrisburg, PA 17120-2176  
Phone: (717) 787-7732

---

**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Wednesday, March 5, 2025 8:48 AM  
**To:** Franzese, Evan B. <EFranzese@pahouse.net>; Marisa Thomas <Mthomas@pahousegop.com>  
**Cc:** Campbell, Laura <laurcampbe@pa.gov>; Garst, High <argarst@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Nezat, Taylor <tnezat@pa.gov>; Shupe, Hayley <HShupe@pahouse.net>  
**Subject:** [EXTERNAL]: Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)  
**Importance:** High

Good morning,

Pursuant to Section 5.1(c) of the Regulatory Review Act, please find attached the Blast Site Clarification for Noncoal Mining Operations final-omitted rulemaking (#7-586) for review by the House Environmental and Natural Resource Protection Committee. The rulemaking documents are attached in a zip folder and the cover letters for Representatives Vitali and Rader are attached separately.

A copy of the transmittal sheet is attached for your records – the House and Senate Committee chairs are receiving the rulemaking electronically.

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



RECEIVED

Independent Regulatory  
Review Commission

March 5, 2025

Thank you,  
Laura

**Laura Griffin** | Regulatory Coordinator  
Department of Environmental Protection | Policy Office  
Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17101  
Phone: 717.772.3277 | Fax: 717.783.8926  
(she/her/hers) | [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov)  
[www.dep.pa.gov](http://www.dep.pa.gov)

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March 5, 2025

**From:** [Franzese, Evan B.](#)  
**To:** [Griffin, Laura](#); [Marisa Thomas](#)  
**Cc:** [Campbell, Laura](#); [Garst, High](#); [Reiley, Robert A.](#); [Nezat, Taylor](#); [Shupe, Hayley](#)  
**Subject:** Re: Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)  
**Date:** Wednesday, March 5, 2025 8:53:49 AM

---

Received thank you!

**Evan Franzese-Peterson**

Executive Director | House Environmental Resources & Energy Committee (D)  
Representative Greg Vitali  
Pennsylvania House of Representatives  
P: 717-787-7647  
F: 717-780-4780

---

**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Wednesday, March 5, 2025 8:47:55 AM  
**To:** Franzese, Evan B. <EFranzese@pahouse.net>; mthomas@pahousegop.com  
<Mthomas@pahousegop.com>  
**Cc:** Campbell, Laura <laurcampbe@pa.gov>; Garst, High <argarst@pa.gov>; Reiley, Robert A.  
<rreiley@pa.gov>; Nezat, Taylor <tnezat@pa.gov>; Shupe, Hayley <HShupe@pahouse.net>  
**Subject:** Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining  
Operations (7-586)

Good morning,

Pursuant to Section 5.1(c) of the Regulatory Review Act, please find attached the Blast Site Clarification for Noncoal Mining Operations final-omitted rulemaking (#7-586) for review by the House Environmental and Natural Resource Protection Committee. The rulemaking documents are attached in a zip folder and the cover letters for Representatives Vitali and Rader are attached separately.

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

Thank you,  
Laura

**Laura Griffin** | Regulatory Coordinator  
Department of Environmental Protection | Policy Office  
Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17101  
Phone: 717.772.3277 | Fax: 717.783.8926  
(she/her/hers) | [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov)  
[www.dep.pa.gov](http://www.dep.pa.gov)

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Independent Regulatory  
Review Commission

March 5, 2025

**From:** [Elliott, Amy M.](#)  
**To:** [Abelson, Addie](#); [Trotter, Carolyn](#)  
**Cc:** [GC, Regulations](#)  
**Subject:** RE: [ EXTERNAL ] Final-Omitted Regulation #7-586: Blast Site Clarification for Noncoal Mining Operations  
**Date:** Wednesday, March 5, 2025 9:27:47 AM

---

Receipt acknowledged.

Amy M. Elliott  
Chief Deputy Attorney General  
Legal Review Section  
717-783-6316 (w)  
717-941-0523 (c)  
[aelliott@attorneygeneral.gov](mailto:aelliott@attorneygeneral.gov)

---

**From:** Abelson, Addie <[adabelson@pa.gov](mailto:adabelson@pa.gov)>  
**Sent:** Wednesday, March 5, 2025 8:53 AM  
**To:** Elliott, Amy M. <[aelliott@attorneygeneral.gov](mailto:aelliott@attorneygeneral.gov)>; Trotter, Carolyn <[ctrotter@attorneygeneral.gov](mailto:ctrotter@attorneygeneral.gov)>  
**Cc:** GC, Regulations <[RA-GCREGULATIONS@pa.gov](mailto:RA-GCREGULATIONS@pa.gov)>  
**Subject:** [ EXTERNAL ] Final-Omitted Regulation #7-586: Blast Site Clarification for Noncoal Mining Operations  
**Importance:** High

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Amy:

Attached please find a final-omitted rulemaking from DEP for your review. **Please respond to this email with an acknowledgement of receipt so that DEP can provide IRRC with proof of delivery.** Thank you for your review.

Warm regards,



**Addie A. Abelson**  
Deputy General Counsel  
Office of General Counsel  
30 N. 3<sup>rd</sup> Street, Suite 200  
Harrisburg, PA 17101  
Phone: (717) 214-9535

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March 5, 2025

**From:** [Eyster, Emily](#)  
**To:** [Griffin, Laura](#); [Osenbach, Matt](#)  
**Cc:** [Campbell, Laura](#); [Reiley, Robert A.](#); [Garst, High](#); [Nezat, Taylor](#); [Troutman, Nick](#)  
**Subject:** Re: Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)  
**Date:** Wednesday, March 5, 2025 9:01:33 AM

---

Good Morning Laura!

Received. Thanks.

Emily Eyster

Executive Director, Senate Environmental Resources and Energy Committee

Legislative Director, Office of Senator Carolyn T. Comitta

Cell: (717) 756-4702

Phone: (717) 787-5709

[www.pasenate.comitta.com](http://www.pasenate.comitta.com)

---

**From:** Griffin, Laura <laurgriffi@pa.gov>  
**Sent:** Wednesday, March 5, 2025 8:48:16 AM  
**To:** Osenbach, Matt <mosenbach@pasenate.gov>; Eyster, Emily <Emily.Eyster@pasenate.com>  
**Cc:** Campbell, Laura <laurcampbe@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Garst, High <argarst@pa.gov>; Nezat, Taylor <tnezat@pa.gov>; Troutman, Nick <ntroutman@pasenate.gov>  
**Subject:** Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)

**EXTERNAL EMAIL**

---

Good morning,

Pursuant to Section 5.1(c) of the Regulatory Review Act, please find attached the Blast Site Clarification for Noncoal Mining Operations final-omitted rulemaking (#7-586) for review by the Senate Environmental Resources and Energy Committee. The rulemaking documents are attached in a zip folder and the cover letters for Senators Yaw and Comitta are attached separately.

A copy of the transmittal sheet is attached for your records – the House and Senate Committee chairs are receiving the rulemaking electronically.

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

Thank you,  
Laura

**Laura Griffin** | Regulatory Coordinator  
Department of Environmental Protection | Policy Office  
Rachel Carson State Office Building

March 5, 2025

**From:** [Osenbach, Matt](#)  
**To:** [Griffin, Laura](#)  
**Cc:** [Eyster, Emily](#); [Campbell, Laura](#); [Reiley, Robert A.](#); [Garst, High](#); [Nezat, Taylor](#); [Troutman, Nick](#)  
**Subject:** Re: Delivery of Final-Omitted Rulemaking - Blast Site Clarification for Noncoal Mining Operations (7-586)  
**Date:** Wednesday, March 5, 2025 9:04:20 AM

---

Good morning!

Message received.

Thanks Laura!

Matt Osenbach  
**Director, Environmental Resources & Energy Committee**  
**Office of State Senator Gene Yaw (R-23)**  
362 Main Capitol Building, Senate Box 203023  
Harrisburg, PA 17120  
T: (717) 787-3280  
F: (717) 772-0575  
[www.SenatorGeneYaw.com](http://www.SenatorGeneYaw.com)



On Mar 5, 2025, at 8:49 AM, Griffin, Laura <laurgriffi@pa.gov> wrote:

**CAUTION : External Email**

Good morning,

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

Thank you,  
Laura

**Laura Griffin** | Regulatory Coordinator  
Department of Environmental Protection | Policy Office  
Rachel Carson State Office Building  
400 Market Street | Harrisburg, PA 17101  
Phone: 717.772.3277 | Fax: 717.783.8926  
(she/her/hers) | [laurgriffi@pa.gov](mailto:laurgriffi@pa.gov)