

PENNSYLVANIA  
Underground Coal Mine Safety

*25 Pa. Code* Chapter 208 (relating to Underground Coal Mine Safety)

See 41 *Pa. B.* 5959 (Nov. 5, 2011)

Board of Coal Mine Safety Regulation #7-463  
(Independent Regulatory Review Commission #2920)

Comment/Response Document

## Pennsylvania Underground Coal Mine Safety Regulations

On November 5, 2011, the Board of Coal Mine Safety (Board) published notice of a proposed rulemaking concerning amendments to 25 Pa. Code Chapter 208 (relating to underground coal mine safety). See 41 Pa. Bull. 5959 (Nov. 5, 2011). The Board requested comments from all interested parties on the proposed regulations.

In this rulemaking the Board is responding to a letter from a citizen who requested that Automatic External Defibrillators (AED) be placed at coal mines for safety purposes. An AED is a portable device that uses electric shock to restore a stable heart rhythm. The Board agreed that placing AEDs at coal mines would be in the best interests of the safety of miners and other individuals in and about mines.

This regulation requires mine operators to place one AED at a location on the surface in close proximity to the mine entry at the same location where the first aid equipment is stored for the mine, as well as to place one AED at a specific point in each working section of the mine. Emergency medical technicians and emergency medical technician paramedics shall be trained in the proper use of an AED.

The Board received no comments from members of the public regarding the proposed underground coal mine safety regulations during the public comment period. Comments were received from the Independent Regulatory Review Commission (IRRC) on January 4, 2012 pursuant to the Regulatory Review Act, 71. P.S. § 745.1 et seq. In addition, the comments received from the Senate Environmental Resources and Energy Committee and the Independent Regulatory Review Commission (IRRC), if any, are summarized and responses provided. This document summarizes the written comments received during the public comment period, including the period for IRRC to comment, and provides the Board's responses to each comment. An identifying number has been assigned to each commentator. A list of the commentators, including name, affiliation (if any), and city/state/country, can be found below.

<b>ID</b>	<b>Name/Address</b>	<b>Submitted one page summary for distribution to EQB</b>	<b>Provided Testimony</b>	<b>Requested Final Rulemaking following EQB Action</b>
1.	David Sumner Executive Director Independent Regulatory Review Commission (IRRC) 333 Market Street, 14 <sup>th</sup> Floor Harrisburg, PA 17101			

## **General Comments Related to Clarity**

**Comment:** The commentator questioned proposed § 208.70(a), which requires mine operators to locate AEDs “consistent with the Equipment Approval Task Force Guidelines.” IRRRC raised two concerns with the incorporation of these guidelines into the regulation. First, these guidelines can be amended outside of the procedures in the Regulatory Review Act without notice and opportunity for public comment, and could be amended without consideration of the effect on this regulation and compliance by the regulated community. Second, the guidelines as currently written do not provide clear direction regarding the location of AEDs, which is one of the purposes of this section. The commentator recommended deleting the reference to the guidelines from § 208.70(a). (1)

**Response:** The Board agrees with this comment and has amended the final-form regulation accordingly.

**Comment:** The commentator noted that the proposed § 208.70(a)(1) requires an AED to be placed at “a location on the surface of the mine” without further specification. The commentator stated that this requirement is vague because the term “surface of the mine” is too indefinite and could encompass many acres. The commentator raised a similar concern with respect to proposed § 208.70(a)(2) which requires an AED to be placed “on or near each coal producing section.” The commentator found this description to be too vague and indefinite and thus could raise compliance difficulties. The commentator noted the importance for emergency personnel to be able to quickly locate and bring the AED to the victim, and recommended that the proposed regulation be changed to make the required location of AEDs more precise. (1)

**Response:** The Board agrees with this comment and has amended the regulation to establish more precise locations for the AEDs. The Board has coordinated the regulation with the MSHA regulation pertaining to minimum requirements for placement of first aid equipment in 30 CFR § 75.1713-7. Section 208.70(a)(1) has been amended in final-form regulation to require placement of an AED at a location on the mine surface “in close proximity to the mine entry at the same location where the first aid equipment is stored.” This will give precision and consistency to the surface location and enable emergency responders to know where the AED equipment can be found in the event of an emergency. Similarly, § 208.70(a)(2) has been amended in the final regulation to mirror the requirement for first aid equipment locations in 30 CFR § 75.1713-7(a)(3). The amended regulation requires that AEDs be located “At a point in each working section not more than 1,000 feet outby the active working face or faces at the same location where the first aid equipment is stored.” This change will enable an operator to easily comply with the requirement, and emergency personnel to know the location of the AED equipment.

**Comment:** The commentator recommended that the regulation require that mine operators consult with emergency medical technicians to determine the best placement of AEDs in order to better effectuate the purpose of the regulation. (1)

**Response:** The Board agrees with this comment and has amended the final regulation to add a requirement in § 208.70(a) that mine operators consult with emergency medical technicians

when providing for placement of AEDs in the required locations on the surface and underground at the mine.

**Comment:** The commentator noted that proposed § 208.70(b)(1) and (2) use the term “emergency medical personnel” in prescribing training requirements, but that the regulation is not clear regarding who specifically are “emergency medical personnel.” The current regulations do not include a definition for this term, however, the BCMSA defines the terms “emergency medical technician” and emergency medical technician paramedic” in 52 P.S. § 690-601. The commentator recommends replacing the term “emergency medical personnel” with the statutory terms. (1)

**Response:** The Board agrees with this comment, and has amended the final regulations at § 208.70(b) to replace the term “emergency medical personnel” with the two statutory terms, because that more precisely expresses the intent of the regulation.

**Comment:** The commentator notes that § 208.70(b) requires training in the use of AEDs but in the event the victim is in full cardiac arrest the AED would direct the administration of Cardio Pulmonary Resuscitation (CPR). Since the AED cannot do CPR, this would have to be performed by the rescuer. For this reason, the commentator recommends that the regulation specifically include a requirement for CPR training in addition to training in use of the AED equipment. (1)

**Response:** The Board does not see a need to add a specific requirement for CPR training in this regulation because the annual safety retraining for mine personnel already must include training in CPR; the training in CPR is part of annual mine safety refresher course for mine personnel. Thus, including such a requirement in this regulation would be redundant.

**Comment:** The commentator states two concerns related to proposed § 208.70(c) which addresses maintenance and inspection of AEDs in accordance with the manufacturer’s operational guidelines. (1)

First, the mechanisms may be susceptible to malfunction and deterioration when exposed to dust and moisture found in a mine, and there is clearly a safety concern when placing an electronic device in a mine where a spark could ignite an explosion. The commentator suggests that if the Board believes there is a need for the AEDs to meet specific safety requirements to be used in a mine or that AEDs need to be protected from the elements present in a mine, it would be appropriate to add specific requirements for AEDs to subsection (c).

Second, the commentator notes that the Regulatory Analysis Form states that the regulation will not require any additional recordkeeping or paperwork, and the commentator questions this statement in relation to the requirements in proposed § 208.70(c) for maintenance and inspection. The commentator recommends describing minimum recordkeeping requirements in this section.

**Response:** The Board disagrees with the commentator’s suggestion that placement of AEDs at the mine will necessitate any additional recordkeeping specifically associated with

maintenance and inspection of the AEDs. This equipment will be inspected as a normal part of the pre-shift inspection routine that must be done for underground mines, similar to other equipment used at an underground mining operation. The incorporation of the AED equipment will not generate any additional recordkeeping that is not already being performed in conjunction with routine pre-shift inspections. The Board thus reaffirms its statement in the RAF that the regulation will not require any *additional* recordkeeping or paperwork in order to comply with the requirements related to placement, maintenance and inspection of the AEDs. The Board also believes it is unnecessary to add specific requirements for AEDs to be used in a mine or to assure protection from elements. Underground mining operations are accustomed to adapting or taking special care of equipment used in the mine in order to account for the conditions found there. The AEDs will be incorporated as part of the first-aid materials at underground mines and will receive the same protection from elements, and treatment for safety purposes, as all other equipment used at the underground mine. So long as the AEDS are kept in good working order, the mine operator will assure compliance with this section.