

MINUTES
BOARD OF COAL MINE SAFETY
September 9, 2009 - Uniontown, PA

BOARD MEMBERS

J. Scott Roberts, Alternate for Chairman John Hanger, DEP Secretary
Ron Bowersox, United Mine Workers of America
James Sabella, United Mine Workers of America
Frank Reidelbach, United Mine Workers of America
Stanko Popich, TJS Mining
Albert Aloia, CONSOL Energy, Inc.

DEPARTMENT STAFF PRESENT

Joseph Sbaaffoni, Director, Bureau of Mine Safety
R. Henry Moore, Pennsylvania Coal Association
Daniel Lapato, Executive Policy Specialist, Policy Office
Marc Roda, Attorney, Office of Chief Counsel
Allison Gaida, Administrative Officer, Bureau of Mine Safety

CALL TO ORDER AND APPROVAL OF MINUTES

Deputy Secretary for Mineral Resources Management Scott Roberts, alternate for Chairman John Hanger, called the meeting to order at 10:00 a.m. in the Bureau of Mine Safety conference room, Fayette County Health Center, 100 New Salem Road, Uniontown, PA. Role call was made. All members of the Board except John Gallick were present and a quorum existed.

The Board considered its first item of business -- the June 3, 2009, meeting minutes. A correction will need to be made to existing minutes to include John Gallick as a Board member present at the last meeting. With no other corrections or amendments, Scott Roberts called for a motion to adopt the minutes of the June 3, 2009, meeting.

Jim Sabella moved to adopt the minutes. Stan Popich seconded the motion, which was unanimously approved by the Board.

Analysis of Regulations Prioritized at June 3 Meeting:

The Board was provided with MSHA regulations implementing the Miner Act. Bureau of Mine Safety Director Joseph Sbaaffoni identified issues with adopting MSHA regulations implementing the Miner Act that was prepared by Regulatory Counsel Marc Roda.

Scott then opened the floor for discussion.

Sections 75.335, 75.337, and 75.339 – Seals

Stan Popich raised the issue of oversized entries. He requested receiving the proposal at least two weeks prior to the next meeting so that he can distribute to companies for feedback and invite people to come to the next meeting.

Joe Sbaaffoni said that the inspectors should have the ability to enforce the MSHA certification approval for seals if an operator is not following if MSHA isn't there and a DEP inspector is.

Ron Bowersox requested that the miners' representative get a copy of the plan referred to in Section 75.337(f), Construction and repair of seals, welding, cutting, and soldering.

Scott Roberts explained that the action set before the Board is that, if you agree with these issues proposed, the next step would be to vote saying you are authorizing us to go to the next step to write the regulations. Internal processes must be followed when drafting regulations that include getting approval from Governor's Office. A draft will be provided prior to the next meeting for publication for comments in *Pennsylvania Bulletin*. Board members, as well as the public, can comment during that time.

**Ron Bowersox made motion for the Department to proceed with drafting of a proposed regulation that would adopt Sections 75.335, 75.337, and 75.339 by reference with specific items discussed.
Stan Popich seconded this motion.**

Sections 75.1108 and 75.1731 - Conveyor Belts

Stan Popick and Albert Aloia brought up the motion that Albert had made at the last meeting accepting the final Federal rule on belt flammability standards. Scott Roberts explained that, though this motion was approved by the Board at the last meeting, after reviewing the regulations, two issues were identified by the Department that needed addressed.

Albert Aloia made a proposal to modify the motion made at the last meeting to deal with these two issues. Jim Sabella seconded the motion.

Sections 75.1501 through 75.1508 – Emergency Response

Scott Roberts stated that the Board's vote from the last meeting was recognized, but, upon reflection, the Department felt there was another alternative to consider.

Discussion was held on responsible person and refuge chambers.

Stan Popich made a motion to direct DEP to draft a proposed rulemaking to adopt 75.1501 through 75.1508, by reference, with modifications to responsible persons and refuge chambers as

discussed. Ron Bowersox seconded this motion. All were in favor and the motion carried.

Scott Roberts told the Board that they will receive draft regulations, executive summary of regulations, and preamble drafted in the way it would be published in *Pennsylvania Bulletin* at least two weeks prior to the December 9 meeting. The Board will also be provided with a copy of federal regulations redlining differences prepared by Marc Roda.

Automated External Defibrillation (AED) Presentation by Cardiac Science:

Scott Roberts welcomed representatives Marc Savino and Valerie Joseph from Cardiac Science Corporation who gave a presentation on the PowerHeart G3 Plus AED and provided information and answered questions from the Board members on the use of the unit, survival rate, liability issues, and safety checks. A short demonstration of the AED unit was also given. The presentation by Cardiac Science was informative for the Board members.

Discussion on Deployment of AEDs in Mines:

Ron Bowersox believes AEDs should be at all mines. Stan Popich and Albert Aloia stated they would also like to hear feedback from mine operators who do not have AEDs in their mines and the reasoning behind it. Stan Popich offered to contact companies in his area to get their opinion of AEDs in bituminous coal mines.

Scott Roberts stated that a decision should be made at the next meeting as to whether the Board will move forward on rulemaking requiring AEDs at mines.

Petition Process Procedure:

Dan Lapato explained the Department's petition process to Board members on how an issue may be submitted to the Board from a member or the public.

DEP will draft the Petition Process Procedure in more official language and present at the next meeting for adoption. It will be sent to Board prior to the meeting for review.

DEP Presentation Rulemaking and Policy Development:

Dan Lapato distributed a handout on the Department's rulemaking and policy development. The difference between regulations and policy was explained, including technical guidance documents (TGD). The safest way to stay in compliance is to follow a TGD.

Scott Roberts explained that rules are enforceable and there is no legal obligation to comply with a policy/TGD. A discussion was held on the current TGD on Accident Reporting Requirements and whether it is enforceable or not. Secretary John Hanger wants safety-related issues to use the Interim Final Policy process which is how the Accident Reporting TGD is being handled.

NEW BUSINESS

2010 Meeting Dates

The Board decided to hold quarterly meetings again 2010. Dates will be scheduled by the Bureau so they can be provided to the Policy Office to meet Sunshine Act deadline. Meetings are tentatively scheduled for Uniontown, but the location will be confirmed at the December 9 meeting.

ADJOURNMENT:

With no further business to discuss, Scott Roberts called for a motion to adjourn the meeting.

Frank Reidelbach moved to adjourn the meeting. Ron Bowersox seconded this motion.

The official meeting adjourned at 1:31 p.m.