March 30, 2018

Mine Safety & Health Administration  
201 12th St. S  
Arlington, VA 22202  

RE: Executive Order 13777, Regulatory Reform: Repeal, Replace or Modify  

I am writing on behalf of the Pennsylvania Anthracite Council and its mining and associate members and the Independent Miners and Associates (anthracite deep mines) to provide you with comments on regulatory reform on CFR 30 Mineral Resources in accordance with Executive Order 13777.

Background  

Anthracite, commonly known as hard coal, is the highest form of coal and a naturally high carbon source. With a typical carbon content range of 84% to 92% and a sulfur content of less than 0.7%, anthracite uses range from residential and commercial heating to industrial carbon applications for the manufacturing of steel, graphite, water filtration media and other manufacturing needs.

While most bituminous coal seams lie relatively flat and horizontal, anthracite coal seams occur generally in large basins that have been further affected by numerous faults and folding. Anthracite veins rarely lie flat or maintain a consistent dip, in many instances lying nearly vertical or even overturned. Shear, slip, and thrust faults have formed pinches, displacements, synclines, anticlines, and numerous other nonconformities in the veins that can extend long distances or be very localized, creating a very complex geologic setting. Anthracite surface mines currently mine as deep as 500 feet to access the mineral.

In fact, both Pennsylvania mining law and federal law acknowledges the differences between anthracite and bituminous coal. For example SECTION 529 – ANTHRACITE COAL MINES [30 U.S.C. 1279] states that the Secretary of the Interior to (a) The Secretary is hereby authorized to and shall issue separate regulations according to time schedules established in the Act for anthracite coal surface mines, if such mines are regulated by environmental protection standards of the State in which they are located. Such alternative regulations shall adopt, in each instance, the environmental protection provisions of the State regulatory program in existence on August 3, 1977, in lieu of sections 515 and 516. Provisions of sections 509 and 519 are applicable except for specified bond limits and period of revegetation responsibility. All other provisions of this Act apply and the regulation issued by the Secretary of Interior for each State anthracite regulatory program shall so reflect: Provided, however, That upon amendment of a State’s regulatory program for anthracite mining or regulations thereunder in force in lieu of the above-cited sections of this Act, the Secretary shall issue such additional regulations as necessary to meet the purposes of this Act.
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PAC Comments to Repeal, Replace or Modify
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Because of the basic differences in geology, hydrology and physical and chemical make-up it makes sense that in some cases separate rules regulating safety practices are needed and beneficial for anthracite surface and underground mine operators. The following comments are being submitted to highlight some of those differences as well as point out some portions of the regulations that are out of date and need to be amended to meet today’s modern realities and best practices.

Additionally, we would welcome the opportunity to meet with representatives from MSHA to personally review and discuss our comments and answer any questions or concerns that you may have regarding the comments we are providing.

Thank you for your time and the chance to provide you with our comments. We hope to have an opportunity to meet with you soon to personally discuss our comments and concerns with you.

Sincerely yours,

\[Signature\]
Duane C. Feagley
Executive Director
§ 77.2 Definitions.
For the purpose of this part 77, the term:

We recommend that MSHA establish a clear definition of the various classifications of coal in this section. Currently none exists there.

By creating clearer definitions, MSHA will be better able to separate and create a safer environment for the anthracite industry.

As stated in the background section of our comments, both Pennsylvania and the Federal government recognize the differences between anthracite and bituminous coal including their uses and mining methods.

Chemically, anthracite is far different from bituminous coal. It could be considered as a transition stage between ordinary bituminous coal and graphite, produced by the more or less complete elimination of the volatile constituents of the former, and it is found most abundantly in areas that have been subjected to considerable stresses and pressures, such as the flanks of great mountain range. (Northeastern Pennsylvania).

Unlike bituminous, anthracite is associated with strongly deformed sedimentary rocks that were subjected to higher pressures and temperatures (but short of metamorphic conditions) just as bituminous coal is generally associated with less deformed or flat-lying sedimentary rocks.
§ 77.201–1 Tests for methane; qualified person; use of approved device.

Tests for methane in structures, enclosures, or other facilities, in which coal is handled or stored shall be conducted by a qualified person with a device approved by the Secretary at least once during each operating shift, and immediately prior to any repair work in which welding or an open flame is used, or a spark may be produced.

We urge MSHA to exempt anthracite operators from this section of the regulation. Methane gas is undetectable in mined anthracite and there is no history of methane violations or hazards in the region.

Methane (CH4), which is sometimes referred to as volatile matter, is a gas formed as part of the process of coal formation. When coal is mined, methane is released from the coal seam and the surrounding disturbed rock strata. Methane can also be released as a result of natural erosion or faulting. In the anthracite coal fields, historical underground mining has allowed the release of low levels of methane that might naturally exist for decades.

Additionally, anthracite typically contains less volatile matter than other coal classifications which can range from 10% to 36% by weight. Because anthracite contains much lower amounts of volatile matter it is far less likely to accumulate in a structure where it is being processed.

In fact, several mining companies in the region report that they have NEVER even detected methane in their prep plants. Also, to the best of our knowledge there has never been a citation issued under 201-1 or 201-2 for an exceedance of methane levels.

The regulations are requiring anthracite operators to test for something that is simply not present at levels that present a risk.

§ 77.202 Dust accumulations in surface installations.

Coal dust in the air of, or in, or on the surfaces of, structures, enclosures, or other facilities shall not be allowed to exist or accumulate in dangerous amounts.

We suggest that this section be deleted because anthracite coal dust is very stable and has a very high ignition temperature. There is negligible fire or explosion hazard associated with anthracite coal dust in an anthracite surface installation.

To the best of our knowledge, there has never been a fire attributed to coal dust. Further, the dust that does accumulate in a prep plant is not 100% coal dust but also includes rock dust.
### § 77.207 Illumination

Illumination sufficient to provide safe working conditions shall be provided in and on all surface structures, paths, walkways, stairways, switch panels, loading and dumping sites, and working areas.

We suggest that this section be deleted or modified because it does not provide specific guidance as to what constitutes a “Illumination sufficient to provide safe working conditions” nor is it specific as to where illumination is required because it includes “working area” which could be deemed to be anywhere on a surface mine. The lack of specificity as to the adequacy of illumination and reasonable defining of areas makes the regulation impossible to prepare for compliance.

### § 77.211 Draw-off tunnels; stockpiling and reclaiming operations; general.

- Tunnels located below stockpiles, surge piles, and coal storage silos shall be ventilated so as to maintain concentrations of methane below 1.0 volume per centum.

- In addition to the tests for methane required by § 77.201 such tests shall also be made before any electric equipment is energized or repaired, unless equipped with a continuous methane monitoring device installed and operated in accordance with the provisions of § 77.211-1. Electric equipment shall not be energized, operated, or repaired until the air contains less than 1.0 volume per centum of methane.

We request that anthracite be exempted from this requirement for the same reasons outlined Section 201.
§ 77.214 Refuse piles; general

- Where new refuse piles are constructed over exposed coal beds the exposed coal shall be covered with clay or other inert material as the piles are constructed.
- A fireproof barrier of clay or inert material shall be constructed between old and new refuse piles.

We request that anthracite mining operations be exempt from this section of the regulations.

With regard to section (b), prior to the enactment of SMCRA, the anthracite region was littered with thousands of acres of abandoned coal refuse banks. They are the result of previous prep plants discarding the processing waste and smaller sizes of coal because they did not have a market for them. 100 years later the market has changed and there is demand for the carbon that currently exists in those long abandoned waste coal piles.

Today, operators using modern equipment can more efficiently reprocess and extract the combustible coal from those piles. As those banks have been re-processed and the usable coal has been removed, the inert reject material, is normally relocated back to the same site. However, because nearly all the combustible carbon material has been removed before being returned to the refuse storage site it is inert with no danger of spontaneous or accidental combustion.

Further, under section (c), we should note that reprocessed refuse should NOT be considered as “new refuse” when returned to the same bank for the same reason we just outlined in section (b). The return of that material will at most have the same carbon content as the existing refuse from which it was extracted. However, it will always result in significantly less carbon because most of it was recovered for sale. Thus rendering the re-mining refuse material inert.
§ 77.215 Refuse piles; construction requirements
(a) Refuse deposited on a pile shall be spread in layers and compacted in such a manner so as to minimize the flow of air through the pile.

Because nearly all the combustible carbon has been removed from the coal refuse before it is returned to the refuse storage site, it is inert and not susceptible to combustion. Simply put there is no danger to mine operator or the public at a modern anthracite refuse site.

This is an unnecessary and costly expense to the operator. We request that anthracite refuse sites be exempt from this requirement in the regulations.

§ 77.215 Refuse piles; construction requirements
(h) After October 31, 1975 new refuse piles and additions to existing refuse piles, shall be constructed in compacted layers not exceeding 2 feet in thickness and shall not have any slope exceeding 2 horizontal to 1 vertical (approximately 27°) except that the District Manager may approve construction of a refuse pile in compacted layers exceeding 2 feet in thickness and with slopes exceeding 27 degrees where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained.

We request coal refused used as a beneficial use for the back filling of abandoned strip pits should be exempt from this requirement.

The Commonwealth of Pennsylvania encourages the beneficial use of coal refuse in the reclamation of abandoned strip pits.

In most cases, it is not possible to put equipment into a strip pit where refuse is being used for beneficial use.

Additionally, refuse which is incorporated with active spoil and is being used for backfilling does not pose any hazard of fire.

§ 77.215-1 Refuse piles; Identification
- For existing piles, markers shall be placed before May 1, 1976

This section is outdated and should be removed.

§ 77.215-2 Refuse piles; Reporting Requirements
(a) The proposed location of a new refuse pile shall be reported to and acknowledged in writing by the District Manager prior to the beginning of any work associated with the construction of the refuse pile.
(b) Before May 1, 1976, for existing refuse piles

Section (b) is outdated and should be removed.
§ 77.216 Water, sediment, or slurry impoundments and impounding structures; general

(c) Before May 1, 1976, a plan for the continued use of an existing water, sediment, or slurry impoundment and impounding structure which meets the requirements of paragraph (a) of this section shall be submitted in triplicate to the District Manager for approval.

We suggest that this section be revised to exempt any impoundments that were not in active use after this date from the requirements of this section.

§ 77.216-2

- For existing water, sediment or slurry impounding structures, markers shall be placed before May 1, 1976.

This section is outdated. We recommend it be removed.

§ 77.216-4

(1) A schedule and procedures for examining the impoundment and impounding structure by a designated qualified person;

(2) A schedule and procedures for monitoring any required or approved instrumentation by a designated qualified person;

(3) Procedures for evaluating hazardous conditions;

(4) Procedures for eliminating hazardous conditions;

(5) Procedures for notifying the District Manager;

(6) Procedures for evacuating coal miners from coal mine property which may be affected by the hazardous condition.

(f) Before making any changes or modifications in the program approved in accordance with paragraph (e) of this section, the person owning, operating, or controlling the impoundment shall obtain approval of such changes or modifications from the District Manager.

(g) The qualified person or persons referred

In certain cases, we believe an exemption should exist for these structures.

For example, in the anthracite region many Ponds created by past (pre-act) mining operations have existed in their current state for decades. Many of these sites are no longer in use and show no signs of failure.

Those ponds constructed prior to 1976 and haven’t been used since shall still be inspected by the property owner for damage.
to in paragraphs (a), (b)(4), (c), (e)(1), and (e)(2) of this section shall be trained to recognize specific signs of structural instability and other hazardous conditions by visual observation and, if applicable, to monitor instrumentation.

**§ 77.216-4 Water, sediment or slurry impoundments and impounding structures; reporting requirements; certification**

(7) A certification by a registered professional engineer that all construction, operation, and maintenance was in accordance with the approved plan.

This section is problematic because we are uncertain how an engineer can certify to the operation and maintenance. If required, this section should be certified by the owner or the owner's representative. This section should not be applicable to an impoundment that was pre-existing or not constructed (in a strip pit).

**Subpart K—Ground Control**

**§ 77.1000 Highwalls, pits and spoil banks; plans**

Each operator shall establish and follow a ground control plan for the safe control of all highwalls, pits and spoil banks to be developed after June 30, 1971, which shall be consistent with prudent engineering design and will insure safe working conditions. The mining methods employed by the operator shall be selected to insure highwall and spoil bank stability.

The requirements for a ground control plan are not applied in compliance with the regulations. MSHA does not have authority to approve or deny plans, yet they do. Plans are required to be prepared with prudent engineering design, yet are reviewed and either "acknowledged" or returned with a letter that they are "not acknowledged" by non-engineers.

The regulations, rigid format, and MSHA review are not flexible in recognizing the differences between bituminous and anthracite mining and geology and effects upon the standard safe practices in regards to ground control plans.

**§ 77.1702 Arrangements for emergency medical assistance and transportation for injured persons; reporting requirements; posting requirements**

(a) Each operator of a surface coal mine shall make arrangements with a licensed physician, medical service, medical clinic, or hospital to provide 24-hour emergency medical assistance for any person injured at the mine.

Since the introduction of the modern 911 system, this part of the regulations are obsolete. We recommend that they be removed and revised to meet current medical advances.
(b) Each operator shall make arrangements with an ambulance service, or otherwise provide for 24-hour emergency transportation for any person injured at the mine.

(c) Each operator shall, on or before September 30, 1971, report to the Coal Mine Health and Safety District Manager for the district in which the mine is located the name, title and address of the physician, medical service, medical clinic, hospital, or ambulance service with whom arrangements have been made, or otherwise provided, in accordance with the provisions of paragraphs (a) and (b) of this section.

(d) Each operator shall, within 10 days after any change of the arrangements required to be reported under the provisions of this section, report such changes to the Coal Mine Health and Safety District Manager. If such changes involve a substitution of persons, the operator shall provide the name, title, and address of the person substituted together with the name and address of the medical service, medical clinic, hospital, or ambulance service with which such person or persons are associated.

(e) Each operator shall, immediately after making an arrangement required under the provisions of paragraphs (a) and (b) of this section, or immediately after any change, of such agreement, post at appropriate places at the mine the names, titles, addresses, and telephone numbers of all persons or services currently available under such arrangements to provide medical assistance and transportation at the mine.
<table>
<thead>
<tr>
<th>Section</th>
<th>Text</th>
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<tr>
<td>§ 77.1704 First aid training program; availability of instruction to all miners.</td>
<td>Recommend the date be removed.</td>
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<tr>
<td>On or before December 30, 1971...</td>
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<tr>
<td>§ 77.1705 First aid training program; retraining of supervisory employees; availability to all miners.</td>
<td>Recommend the date be removed.</td>
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<td>Beginning January 1, 1972...</td>
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<td>§ 77.1706 First aid training program; minimum requirements.</td>
<td>We recommend that MSHA amend the regulations to allow for a broader range of training venue to comply with this section of the regulations.</td>
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<tr>
<td>(a) All first aid training programs required under the provisions of §§ 77.1703 and 77.1704 shall include 10 class hours of training in a course of instruction similar to that outlined in “First Aid, A Bureau of Mines Instruction Manual.”</td>
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<td>(b) Refresher first aid training programs required under the provisions of § 77.1705 shall include 5 class hours of refresher training in a course of instruction similar to that outlined in “First Aid, A Bureau of Mines Instruction Manual.”</td>
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<td>§ 77.1708 Safety program; instruction of persons employed at the mine.</td>
<td>Recommend the date be removed</td>
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<tr>
<td>On or before September 30, 1971...</td>
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CFR 30 Subchapter O (Coal Mine Safety and Health)

30 CFR § 71.400
Bathing facilities; change rooms; sanitary flush toilet facilities.

Location of facilities. 30 CFR § 71.402
Minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities.

30 CFR § 71.403
Waiver of surface facilities requirements; posting of waiver.

71.400 through 71.403 should be modified to remove the requirement for bathing facilities. This is really more of an issue for bituminous underground mines.

MSHA does not require such facilities at parts of the mining industry not subject to the coal specific regulations. 71.403 should be modified to allow MSHA to waive the requirements for anthracite surface mine operations on a permanent basis and thus eliminate the requirement for annual approvals.

For more than two decades MSHA has recognized that conditions in the Anthracite region make it highly impractical for many anthracite surface mine operators to provide bath house facilities for its employees. Below is a list of conditions that commonly exist on Anthracite surface mine sites in the region. As a result of these conditions, MSHA has routinely granted a waiver when requested.

The entire anthracite region is underlain with historic pre-act underground mine workings. A high percentage of the workings are inundated with water (mine pool) that is not of suitable quality for showering.

Additionally, mine pools in the region have infiltrated ground waters making them unusable as potable water sources.

Most Anthracite mining operations are not served by public water or sewer.

Because of the historic deep and surface mining, deposition of spoil and/or refuse on the surface, backfilled/reclaimed areas, steep slopes, soil compaction, etc., many sites do not have sufficient area suitable for on-lot septic systems. The conditions on these sites exist that will not pass a perk test.
Additionally, equipment on surface operations has evolved to the point where environmental cabs limit a miner's exposure to the outside environment. Miners who come to work and operate a loader, dozer, haul truck, backhoe, hydraulic excavator or dragline usually leave their shift almost as clean as when they started.

Miners who work as mechanics or in the breakers normally use their union clothing allowance for a uniform service. In a number of other cases, non-union operators also provide uniform service for their mining employees. At the end of the shift, they remove their coveralls, place them in a designated bin and just wash their hands before driving home.

Further, non-coal surface mine operators are not subject to bathing facility requirements even though they are subject to the same risks as anthracite.
§ 50.10 Immediate notification.

The operator shall immediately contact MSHA at once without delay and within 15 minutes at the toll-free number, 1-800-746-1553, once the operator knows or should know that an accident has occurred involving:

(a) A death of an individual at the mine;
(b) An injury of an individual at the mine which has a reasonable potential to cause death;
(c) An entrapment of an individual at the mine which has a reasonable potential to cause death; or
(d) Any other accident.

[74 FR 68919, Dec. 29, 2009]

We suggest that this section be amended to add additional time to notify MSHA in the event of an accident or injury.

We suggest that a hotline be established where an operator can call and at a minimum report the mine ID number and nature of the accident.

In most cases, fifteen minutes is not enough time for a responsible party to process and respond to an emergency situation and report it to MSHA. The 15 minute time frame adds even more stress and pressure to an already stressful situation.

Further, in many cases small operators may not have enough staffing present to provide any necessary emergency treatment and meet the MSHA 15 minute notification.

While we do recognize the need to alert MSHA to serious accidents and injury, this notification requirement is arbitrary and does not add any measurable safety to a serious accident. Rather, it sets the mine operator up for punitive actions on the part of the Department.

(a) Each operator shall maintain at the mine office a supply of MSHA Mine Accident, Injury, and Illness Report Form 7000-1. These may be obtained from the MSHA District Office. Each operator shall report each accident, occupational injury, or occupational illness at the mine. The principal officer in charge of health and safety at the mine or the supervisor of the mine area in which an accident or occupational injury occurs, or an occupational illness may have originated, shall complete or review the form in accordance with the instructions and criteria in §§ 50.20-1 through 50.20-7. If an occupational illness is diagnosed as being one of those listed in § 50.20-6(b)(7), the operator must report it under this part. The operator shall mail completed forms to MSHA within ten working days after an accident or occupational injury occurs or an occupational illness is diagnosed. When an accident specified in § 50.10 occurs, which does not involve an occupational injury, sections A, B, and items 5 through 12 of section C of Form 7000-1 shall be completed and mailed to MSHA in accordance with the instructions in § 50.20-1 and criteria contained in §§ 50.20-4 through 50.20-6.

(b) Each operator shall report each occupational injury or occupational illness on one set of forms. If more than one miner is injured in the same accident or is affected simultaneously with the same occupational illness, an operator shall complete a separate set of forms for each miner affected. To the extent that the form is not self-explanatory, an operator shall complete the form in accordance with the instructions in § 50.20-1 and criteria contained in §§ 50.20-2 through 50.20-7.


Suggest that the Department simplify reporting requirement. If a miner is put on restricted duty or lost time is reportable. Otherwise it is not reportable.
50.30 Preparation and submission of MSHA Form 7000-2 - Quarterly Employment and Coal Production Report.

(a) Each operator of a mine in which an individual worked during any day of a calendar quarter shall complete a MSHA Form 7000-2 in accordance with the instructions and criteria in § 50.30-1 and submit the original to the MSHA Office of Injury and Employment Information, P.O. Box 25367, Denver Federal Center, Denver, Colo. 80225, within 15 days after the end of each calendar quarter. These forms may be obtained from the MSHA District Office. Each operator shall retain an operator's copy at the mine office nearest the mine for 5 years after the submission date. You may also submit reports by facsimile, 888-231-5515. To file electronically, follow the instructions on MSHA Internet site, http://www.msha.gov. For assistance in electronic filing, contact the MSHA help desk at 877-778-6055.

(b) Each operator of a coal mine in which an individual worked during any day of a calendar quarter shall report coal production on Form 7000-2.


Recommend that operators who produce more than 10,000 tons short tons or who work 5,000+ hours should be exempt from Quarterly Reporting.

Reason: This is duplicate reporting. Operators in this category already file a U.S. Department of Energy EIA-7A Report.
§ 100.3 Determination of penalty amount; regular assessment.

(a) General.

(1) Except as provided in § 100.5(e), the operator of any mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of the Mine Act, as amended, shall be assessed a civil penalty of not more than $69,417. Each occurrence of a violation of a mandatory safety or health standard may constitute a separate offense. The amount of the proposed civil penalty shall be based on the criteria set forth in sections 105(b) and 110(i) of the Mine Act.

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We suggest removing the criteria for determining penalty about size of business, work hours, etc.

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§ 100.4 Unwarrantable failure and immediate notification.

(a) The minimum penalty for any citation or order issued under section 104(d)(1) of the Mine Act shall be $2,314.

(b) The minimum penalty for any order issued under section 104(d)(2) of the Mine Act shall be $4,627.

(c) The penalty for failure to provide timely notification to the Secretary under section 103(j) of the Mine Act will be not less than $5,785 and not more than $69,417 for the following accidents:

(1) The death of an individual at the mine, or

(2) An injury or entrapment of an individual at the mine, which has a reasonable potential to cause death.


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We believe that this section should be removed entirely unless miners can also be cited and held accountable as well.
§ 100.6 Procedures for review of citations and orders; procedures for assessment of civil penalties and conferences.

(a) All parties shall be afforded the opportunity to review with MSHA each citation and order issued during an inspection. It is within the sole discretion of MSHA to grant a request for a conference and to determine the nature of the conference.

(b) Upon notice by MSHA, all parties will have 10 days within which to submit additional information or request a safety and health conference with the District Manager or designee. A conference request may include a request to be notified of, and to participate in, a conference initiated by another party. A conference request must be in writing and must include a brief statement of the reason why each citation or order should be conferenced.

(c) When a conference is conducted, the parties may submit any additional relevant information relating to the violation, either prior to or at the conference. To expedite the conference, the official assigned to the case may contact the parties to discuss the issues involved prior to the conference.

(d) MSHA will consider all relevant information submitted in a timely manner by the parties with respect to the violation. When the facts warrant a finding that no violation occurred, the citation or order will be vacated. Upon conclusion of the conference, or expiration of the conference request period, all citations that are abated and all orders will be promptly referred to MSHA’s Office of Assessments. The Office of Assessments will use the citations, orders, and inspector’s evaluation as the basis for determining the appropriate amount of a proposed penalty.

We believe that the regulations should impose a time deadline on MSHA to hear appeals/conferences. “A timely manner” is not specific enough and subject to interpretation.

The regulations impose strict time limits on coal mine operators. We believe that MSHA should also be held accountable to a definite time limit.
### §77.503-1 Electric conductors.

Electric conductors shall be sufficient in size to meet the minimum current carrying capacity provided for in the National Electric Code, 1968. All trailing cables shall meet the minimum requirements for ampacity provided in the standards of the Insulated Power Cable Engineers Association—National Electric Manufacturers Association in effect when such cables are purchased.

First published in 1897, the NEC is updated and published every three years with the 2017 edition being the most current. Most states adopt the most recent edition within a couple of years of its publication. As with any "uniform" code, a few jurisdictions regularly omit or modify some sections, or add their own requirements (sometimes based upon earlier versions of the NEC, or locally accepted practices). However, the NEC is the least amended model code, even with it setting minimum standards. No court has faulted anyone for using the latest version of the NEC, even when the local code was not updated.

The NEC is not a national law, it is prepared by the NFPA and is generally followed by most states but they also have the right to make their own laws, which can differ from the NEC.

In places the CFR 30, Section 77 has what I would consider to be proper reference to the NEC, as below:

In places the CFR 30, Section 77 has what we would consider to be proper reference to the NEC, as below:

### §77.516 Electric wiring and equipment; installation and maintenance.

In addition to the requirements of §§77.503 and 77.506, all wiring and electrical equipment installed after June 30, 1971, shall meet the requirements of the National Electric Code in effect at the time of installation.
§ 71.206 Quarterly sampling; designated work positions.

(a) Each operator shall take one valid representative sample from the DWP during each quarterly period. The quarterly periods are:

January 1-March 31
April 1-June 30
July 1-September 30
October 1-December 31.

We Recommend that this portion of the regulation be amended to allow for a rolling calendar sampling period.

This part of the regulation puts an undue burden on small operators who often must keep a costly piece of equipment out of commission until the start of the next quarterly testing period. An operator may only use a piece of equipment for two weeks out of a year but from one quarter into another.

If a piece of equipment that is a DWP is moved from one job to another (same operator) during a quarter, it should still only need to be sampled once for the quarter.

§ 71.207 Respirable dust samples; transmission by operator.

(c) A person certified in sampling shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person who actually performed the required examinations under § 71.205(b) of this part during the sampling shift and shall include that person's MSHA Individual Identification Number (MIIN). Respirable dust samples with data cards not properly completed may be voided by MSHA.

We request that MSHA make an effort to work with the operator in the event of "minor" missing information that may occur by a certified person.

Since the sample cassette and control cassette are a matched set, have them made with only one card to fill out.

Errors can and will occur despite all of our best efforts.
§ 71.209 Status change reports.

(a) If there is a change in operational status that affects the respirable dust sampling requirements of this part, the operator shall report the change in operational status of the mine or DWP to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing or electronically within 3 working days after the status change has occurred.

(b) Each specific operational status is defined as follows:

(1) Underground mine:
   
   (i) Producing - has at least one mechanized mining unit producing material.
   
   (ii) Nonproducing - no material is being produced.
   
   (iii) Abandoned - the work of all miners has been terminated and production activity has ceased.

(2) Surface mine:
   
   (i) Producing - normal activity is occurring and coal is being produced or processed or other material or equipment is being handled or moved.
   
   (ii) Nonproducing - normal activity is not occurring and coal is not being produced or processed, and other material or equipment is not being handled or moved.
   
   (iii) Abandoned - the work of all miners has been terminated and all activity has ceased.

(3) DWP:
   
   (i) Producing - normal activity is occurring.
   
   (ii) Nonproducing - normal activity is not occurring.
   
   (iii) Abandoned - the dust generating source has been withdrawn and activity has ceased.

Add (iv) Intermittent use – DWP is used sparingly. Allow it to be kept on active status but can report “Not used during the quarter, therefore not sampled.”

We request that the regulations be amended to be integrated with a quarterly system we suggested in CRF 71.206 to track change reports.

We further request that the time frame for reporting be increased from three days to seven days. Three days is inadequate to comply.
§ 77.216-3 Water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements.

(e) Before May 1, 1976, the person owning, operating, or controlling a water, sediment, or slurry impoundment which meets the requirements of § 77.216(a) shall adopt a program for carrying out the requirements of paragraphs (a) and (b) of this section. The program shall be submitted for approval to the District Manager. The program shall include as a minimum.

This section is out dated. We recommend it be removed.
We request that MSHA separate anthracite mining from bituminous underground mining in the 30 CFR Regulations. In its place, we recommend that MSHA adopt Pennsylvania Deep Mine Safety Regulations which have separate safety regulations for anthracite deep mines.

According to the U.S. Department of Labor, Office of Inspector General, in their findings of March 31, 2006, Report Number 05-06-003-06-01, “We believe, however, that MSHA has not fully addressed the possibility that current regulations do not adequately reflect the operating methods and conditions unique to anthracite mining.”

Currently, there are only seven (7) anthracite deep mines in operation in the region. Further, MSHA District 2 has taken over the operation responsibility for District 1, we think it makes sense for MSHA to pass mine safety responsibility to PA DEP Deep Mine Safety.

The PA DEP has been regulating and inspecting anthracite deep mines along with MSHA and enforcing the same regulations. The DEP has the experienced personnel (5 years or more experience with certified Miners and Miners Foreman Papers) in anthracite.

DEP Deep Mine inspectors have the knowledge and skill for the job. So there would be no negative impact on miner’s safety.

Additionally, by allowing the PA DEP to take primacy on anthracite deep mine inspections, the Department will also save money for the taxpayers.
<table>
<thead>
<tr>
<th>2006 Miners Act</th>
<th>We recommend that MSHA eliminate anthracite from the 2006 miner’s act. It only pertains to bituminous mining.</th>
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</thead>
<tbody>
<tr>
<td>§ 75.1600-1 Communication facilities; main portals; installation requirements.</td>
<td>We recommend that MSHA return to using the tag and board system for anthracite underground. This system has worked for the industry for more than 150 years. During that time that time, there has never been a single reported accident involving not knowing the location of miners who were working underground. Anthracite underground mines typically have only six (6) to ten (10) miners operating underground at one time. We believe it is important for MSHA to look at the past history in anthracite underground involving mining incidents to see that no problems have occurred with the Tag and Board system.</td>
</tr>
<tr>
<td>30 CFR 75.1714-2 - Self-rescue devices; use and location requirements.</td>
<td>We suggest MSHA eliminates the outdated SCSR devises. This is an unnecessary requirement because anthracite miners can exit a mine in less than 20 minutes.</td>
</tr>
<tr>
<td>30 CFR 75.381 – Escape ways; anthracite mines.</td>
<td>Anthracite underground development does not need the Safe House because another escape way can be driven to the surface cheaper and safer than the Safe House if the 2000’ distance is to be exceeded. Because of the nature of anthracite mines, miners can exit from the deepest part of the mine to the outside in less than 20 minutes.</td>
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</table>
| **CFR 75.370 and 75.389 Ventilation Bleeding System** | We request that MSHA eliminate the Ventilation Bleeding System for anthracite deep mines. The system does not work and is not safe on anthracite veins that are pitching/dipping at 45 to 90 degree angles.

Ventilation systems in anthracite are drastically different than bituminous ventilation because of these steeply dipping veins. Please revise the Rescue Chamber (Safe House) procedures on anthracite ventilation on “gob areas” by accepting more applicable “Bleeder Elevation Points” which monitor the gravity of the air in the robbed areas. |
| **CFR 30 75.335 Cement Block Seals** | We suggest that MSHA Eliminate the Concrete cement block seals from anthracite underground. The existing concrete seal does not work. It is ineffective and expensive. Concrete seals are simply not functional in anthracite in the same way they are in a bituminous deep mine.

The construction of the concrete seal is not safe in getting materials up a 75 degree pitch some 300’ and have it hold in place is all but impossible.

Miners cannot install the concrete seal effectively on a coal seam that is pitching (dipping) at 55 to 90 degrees from the vertical and have it hold in place effectively.

Additionally, the weight of these seals create a safety hazard to mine operators trying to bring the material up the pitch 100 to 300 feet.

Wood seals are easier and safer to work with and have been proven safe for over 150 year of mining in the region. We are not aware of any known accidents or fatalities from the failure at a wood seal in an anthracite deep mine. |
<table>
<thead>
<tr>
<th>CFR 30 75.404 Dust Collection Sampling System</th>
<th>We suggest that dust sampling only be required at the working face. Anthracite is not a gassy volatile coal in other areas of the mine.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CFR 30 77.216-2 Water, sediment, or slurry impoundments and impounding structures; minimum plan requirements; changes or modifications; certification.</td>
<td>MSHA evaluates existing impoundments and makes a determination of the hazard level of the impoundment without any input from the operator or a registered engineer on behalf of the operator. MSHA provides no formal means by which an operator can contest a determination of a hazard level that they believe to be incorrect. MSHA routinely requires information and calculations for an impoundment certification that are not required by Section 77.216-2, are not supported by fact, are not relative to the specific conditions of the impoundment, and in some cases are contradictory to the requirements of the Section. The regulations were developed and instituted with no conception or consideration of the types of impoundments we have in the anthracite region in mined out pits but, more specifically, where some or all of the impounding area is within a mine pool.</td>
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</tbody>
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