

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 209. (Reserved)

(Editor's Note: As part of this final rulemaking, the Board is deleting the text of Chapter 209, which currently appears in 25 Pa. Code pages 209-1--209-23, serial pages (243435) to (243457).)

- §§ 209.1--209.3. (Reserved).
- §§ 209.11--209.13. (Reserved).
- §§ 209.21--209.27. (Reserved).
- §§ 209.31--209.35. (Reserved).
- §§ 209.41--209.47. (Reserved).
- §§ 209.51--209.65. (Reserved).
- §§ 209.71--209.77. (Reserved).
- §§ 209.81--209.87. (Reserved).
- §§ 209.91--209.93. (Reserved).
- §§ 209.101--209.103. (Reserved).
- §§ 209.111--209.115. (Reserved).
- § 209.121. (Reserved).
- § 209.122. (Reserved).
- §§ 209.141--209.145. (Reserved).
- §§ 209.151--209.154. (Reserved).
- §§ 209.161--209.172. (Reserved).
- §§ 209.181--209.187. (Reserved).
- §§ 209.191--209.193. (Reserved).
- §§ 209.201--209.203. (Reserved).

(Editor's Note: The following chapter is new. It has been printed in regular type to enhance readability.)

CHAPTER 209a. SURFACE MINING

Subchap.

A. SURFACE COAL MINES

B. SURFACE NONCOAL MINES

C. MISCELLANEOUS PROVISIONS

Subchapter A. SURFACE COAL MINES

Sec.

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- 209a.10. Auger mining.
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- 209a.12. Miscellaneous.
- 209a.13. Competent person.

§ 209a.1. Applicability.

This subchapter applies to surface mining activities as defined in section 3 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.3).

§ 209a.2. Definitions.

The following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

(1) The meanings for the terms "active workings," "berm" and "roll protection" contained in 30 CFR 77.2(a), (d) and (w) (relating to definitions) are incorporated by reference.

(2) *Competent person*--A person having abilities and experience that fully qualify him to perform the duty to which he is assigned.

§ 209a.3. Surface installations.

The following provisions of 30 CFR Part 77, Subpart C (relating to surface installations) are incorporated by reference:

- (1) Section 77.200 (relating to surface installations; general).

- (2) Section 77.203 (relating to use of material or equipment overhead; safeguards).
- (3) Section 77.204 (relating to openings in surface installations; safeguards).
- (4) Section 77.205 (relating to travelways at surface installations).
- (5) Section 77.206 (relating to ladders; construction; installation and maintenance).
- (6) Section 77.207 (relating to illumination).
- (7) Section 77.208 (relating to storage of materials).
- (8) Section 77.209 (relating to surge and storage piles).
- (9) Section 77.210 (relating to hoisting of materials).

§ 209a.4. Safeguards for mechanical equipment.

The following provisions of 30 CFR Part 77, Subpart E (relating to safeguards for mechanical equipment) are incorporated by reference:

- (1) Section 77.403 (relating to mobile equipment; falling object protective structures (FOPS)).
- (2) Section 77.403-1 (relating to mobile equipment; rollover protective structures (ROPS)).
- (3) Section 77.403-2 (relating to incorporation by reference).
- (4) Section 77.404 (relating to machinery and equipment; operation and maintenance).
- (5) Section 77.405 (relating to performing work from a raised position; safeguards).
- (6) Section 77.409 (relating to shovels, draglines, and tractors).
- (7) Section 77.410 (relating to mobile equipment; automatic warning devices).

§ 209a.5. Electrical equipment general.

The following provisions of 30 CFR Part 77, Subpart F (relating to electrical equipment--general) are incorporated by reference:

- (1) Section 77.500 (relating to electric power circuits and electric equipment; deenergization).
- (2) Section 77.501 (relating to electric distribution circuits and equipment; repair).

§ 209a.6. Trailing cables.

30 CFR 77.604 (relating to protection of trailing cables) is incorporated by reference.

§ 209a.7. Surface high-voltage distribution.

The following provisions of 30 CFR Part 77, Subpart I (relating to surface high-voltage distribution) are incorporated by reference:

- (1) Section 77.807-1 (relating to high-voltage powerlines; clearances above ground).
- (2) Section 77.807-2 (relating to booms and masts; minimum distance from high-voltage lines).
- (3) Section 77.807-3 (relating to movement of equipment; minimum distance from high-voltage lines).

§ 209a.8. Ground control.

The following provisions of 30 CFR Part 77, Subpart K (relating to ground control) are incorporated by reference:

- (1) Section 77.1001 (relating to stripping; loose material).
- (2) Section 77.1002 (relating to box cuts; spoil material placement).
- (3) Section 77.1003 (relating to benches).
- (4) Section 77.1004 (relating to ground control; inspection and maintenance; general).
- (5) Section 77.1005 (relating to scaling highwalls; general).
- (6) Section 77.1006 (relating to highwalls; men working).
- (7) Section 77.1007 (relating to drilling; general).
- (8) Section 77.1008 (relating to relocation of drills; safeguards).
- (9) Section 77.1009 (relating to drill; operation).

§ 209a.9. Fire protection.

The following provisions of 30 CFR Part 77, Subpart L (relating to fire protection) are incorporated by reference:

- (1) Section 77.1102 (relating to warning signs; smoking and open flame).

- (2) Section 77.1103 (relating to flammable liquids; storage).
- (3) Section 77.1104 (relating to accumulations of combustible materials).
- (4) Section 77.1105 (relating to internal combustion engines; fueling).
- (5) Section 77.1108 (relating to firefighting equipment; requirements; general).
- (6) Section 77.1108-1 (relating to type and capacity of firefighting equipment).
- (7) Section 77.1109 (c)--(e) (relating to quantity and location of firefighting equipment).
- (8) Section 77.1110 (relating to examination and maintenance of firefighting equipment).
- (9) Section 77.1111 (relating to welding, cutting, soldering; use of fire extinguisher).
- (10) Section 77.1112(a) (relating to welding, cutting, or soldering with arc or flame; safeguards).

§ 209a.10. Auger mining.

(a) The following provisions of 30 CFR Part 77, Subpart P (relating to auger mining) are incorporated by reference:

- (1) Section 77.1500 (relating to auger mining; planning).
- (2) Section 77.1501 (relating to auger mining; inspections).
- (3) Section 77.1503 (relating to augering equipment; overhead protection).
- (4) Section 77.1504 (relating to auger equipment; operation).

(b) At a minimum, a highwall proposed for auger mining of bituminous coal shall be benched at the base of each overlying coal seam. In addition, if the height of the highwall, either between two coal seams or to the surface if there is no overlying coal seam, exceeds 60 feet, the highwall shall be benched at no more than 50 feet above the bottom coal seam. Additional benches may be required to ensure the stability of the highwall. The Department **[of Environmental Protection]** may authorize alternative bench locations if the operator demonstrates that the alternative locations are at least as effective at ensuring the highwall stability as otherwise required by this section. In making this demonstration the operator, at a minimum, shall take into account geologic, seasonal and weather conditions; presence of groundwater and other factors that may affect the stability of the highwall.

(c) For auger mining in the anthracite coal fields, if the height of the overburden above the auger area exceeds 60 feet, the overburden shall be benched at no more than 50 feet above the coal seam being augered. Additional benches may be required to ensure the stability of the overburden above the auger area. The Department may authorize alternative bench locations if the operator demonstrates that the alternative locations are at least as effective at ensuring the stability as otherwise required by this section. In making this demonstration the operator, at a minimum, shall take into account geologic, seasonal and weather conditions; presence of groundwater, and other factors that may affect the stability of the overburden above the coal seam being augered.

§ 209a.11. Loading and haulage.

The following provisions of 30 CFR Part 77, Subpart Q (relating to loading and haulage) are incorporated by reference:

- (1) Section 77.1600 (relating to loading and haulage; general).
- (2) Section 77.1605(a), (b), (d), (k) and (l) (relating to loading and haulage equipment; installations).
- (3) Section 77.1607(a)--(u), (x) and (bb)--(ee) (relating to loading and haulage equipment; operation).
- (4) Section 77.1608 (relating to dumping facilities).

§ 209a.12. Miscellaneous.

The following provisions of 30 CFR Part 77, Subpart R (relating to miscellaneous) are incorporated by reference:

- (1) Section 77.1700 (relating to communications in work areas).
- (2) Section 77.1701 (relating to emergency communications; requirements).
- (3) Section 77.1707 (relating to first aid equipment; location; minimum requirements).
- (4) Section 77.1710 (relating to protective clothing; requirements).
- (5) Section 77.1711 (relating to smoking prohibition).
- (6) Section 77.1713 (relating to daily inspection of surface coal mine; certified person; reports of inspection).

§ 209a.13. Competent person.

Any provision of 30 CFR Part 77 incorporated by reference in this subchapter requiring that a duty be carried out by a certified person is amended to require that duty to be carried out by a competent person.

Subchapter B. SURFACE NONCOAL MINES

Sec.

- 209a.21. Applicability.
- 209a.22. Definitions.
- 209a.23. Ground control.
- 209a.24. Fire prevention and control.
- 209a.25. Drilling and rotary jet piercing.
- 209a.26. Loading, hauling and dumping.
- 209a.27. Electricity.
- 209a.28. Machinery and equipment.
- 209a.29. Personal protection.
- 209a.30. Materials storage and handling.
- 209a.31. Illumination.
- 209a.32. Safety programs.
- 209a.33. Miscellaneous.

§ 209a.21. Applicability.

This subchapter applies to surface mining as defined in section 3 of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3303).

§ 209a.22. Definitions.

The following words and terms, when used in this subchapter, have the meaning given to them in 30 CFR 56.2 (relating to definitions), unless the context clearly indicates otherwise:

- (1) Berm.
- (2) Competent person.
- (3) Face or bank.
- (4) Flammable.
- (5) Mobile equipment.

- (6) Multipurpose dry-chemical fire extinguisher.
- (7) Roll protection.
- (8) Scaling.
- (9) Working place.

§ 209a.23. Ground control.

The following provisions of 30 CFR Part 56, Subpart B (relating to ground control) are incorporated by reference:

- (1) Section 56.3000 (relating to definitions) in so far as it defines "travelway."
- (2) Section 56.3130 (relating to wall, bank, and slope stability).
- (3) Section 56.3131 (relating to pit or quarry wall perimeter).
- (4) Section 56.3200 (relating to correction of hazardous conditions).
- (5) Section 56.3201 (relating to location for performing scaling).
- (6) Section 56.3401 (relating to examination of ground conditions).
- (7) Section 56.3430 (relating to activity between machinery or equipment and the highwall or bank).

§ 209a.24. Fire prevention and control.

The following provisions of 30 CFR Part 56, Subpart C (relating to fire prevention and control) are incorporated by reference:

- (1) Section 56.4100 (relating to smoking and use of open flames).
- (2) Section 56.4103 (relating to fueling internal combustion engines).
- (3) Section 56.4200 (relating to general requirements).
- (4) Section 56.4230 (relating to self-propelled equipment).

§ 209a.25. Drilling and rotary jet piercing.

The following provisions of 30 CFR Part 56, Subpart F (relating to drilling and rotary jet piercing) are incorporated by reference:

- (1) Section 56.7002 (relating to equipment defects).
- (2) Section 56.7003 (relating to drill area inspection).
- (3) Section 56.7004 (relating to drill mast).
- (4) Section 56.7005 (relating to augers and drill stems).
- (5) Section 56.7008 (relating to moving the drill).
- (6) Section 56.7009 (relating to drill helpers).
- (7) Section 56.7012 (relating to tending drills in operation).
- (8) Section 56.7051 (relating to loose objects on the mast or drill platform).
- (9) Section 56.7052 (relating to drilling positions).
- (10) Section 56.7055 (relating to intersecting holes).

§ 209a.26. Loading, hauling and dumping.

The following provisions of 30 CFR Part 56, Subpart H (relating to loading, hauling, and dumping) are incorporated by reference:

- (1) Section 56.9100 (relating to traffic control).
- (2) Section 56.9101 (relating to operating speeds and control of equipment).
- (3) Section 56.9202 (relating to loading and hauling large rocks).
- (4) Section 56.9300 (relating to berms or guardrails).
- (5) Section 56.9301 (relating to dump site restraints).
- (6) Section 56.9303 (relating to construction of ramps and dumping facilities).
- (7) Section 56.9304 (relating to unstable ground).
- (8) Section 56.9305 (relating to truck spotters).
- (9) Section 56.9306 (relating to warning devices for restricted clearances).
- (10) Section 56.9312 (relating to working around drawholes).
- (11) Section 56.9313 (relating to roadway maintenance).

- (12) Section 56.9314 (relating to trimming stockpile and muckpile faces).
- (13) Section 56.9315 (relating to dust control).
- (14) Section 56.9316 (relating to notifying the equipment operator).
- (15) Section 56.9317 (relating to suspended loads).
- (16) Section 56.9318 (relating to getting on or off moving equipment).

§ 209a.27. Electricity.

The following provisions of 30 CFR Part 56, Subpart K (relating to electricity) are incorporated by reference:

- (1) Section 56.12005 (relating to protection of power conductors from mobile equipment).
- (2) Section 56.12016 (relating to work on electrically-powered equipment).
- (3) Section 56.12071 (relating to movement or operation of equipment near high-voltage power lines).

§ 209a.28. Machinery and equipment.

The following provisions of 30 CFR Part 56, Subpart M (relating to machinery and equipment) are incorporated by reference:

- (1) Section 56.14000 (relating to definitions).
- (2) Section 56.14100 (relating to safety defects; examination, correction and records).
- (3) Section 56.14103 (relating to operators stations).
- (4) Section 56.14105 (relating to procedures during repairs or maintenance).
- (5) Section 56.14106 (relating to falling object protection).
- (6) Section 56.14107 (relating to moving machine parts).
- (7) Section 56.14112 (relating to construction and maintenance of guards).
- (8) Section 56.14130 (relating to roll-over protective structures (ROPS) and seat belts).
- (9) Section 56.14131 (relating to seat belts for haulage trucks).

- (10) Section 56.14132 (relating to horns and backup alarms).
- (11) Section 56.14200 (relating to warnings prior to starting or moving equipment).
- (12) Section 56.14204 (relating to machinery lubrication).
- (13) Section 56.14205 (relating to machinery, equipment, and tools).
- (14) Section 56.14206 (relating to securing movable parts).
- (15) Section 56.14207 (relating to parking procedures for unattended equipment).
- (16) Section 56.14210 (relating to movement of dippers, buckets, loading booms, or suspended loads).
- (17) Section 56.14211 (relating to blocking equipment in a raised position).

§ 209a.29. Personal protection.

The following provisions of 30 CFR Part 56, Subpart N (relating to personal protection) are incorporated by reference:

- (1) Section 56.15001 (relating to first-aid materials).
- (2) Section 56.15002 (relating to hard hats).
- (3) Section 56.15003 (relating to protective footwear).
- (4) Section 56.15004 (relating to eye protection).
- (5) Section 56.15005 (relating to safety belts and lines).
- (6) Section 56.15006 (relating to protective equipment and clothing for hazards and irritants).
- (7) Section 56.15007 (relating to protective equipment or clothing for welding, cutting, or working with molten metal).
- (8) Section 56.15020 (relating to life jackets and belts).

§ 209a.30. Materials storage and handling.

The following provisions of 30 CFR Part 56, Subpart O (relating to materials storage and handling) are incorporated by reference:

- (1) Section 56.16007 (relating to taglines, hitches, and slings).

(2) Section 56.16009 (relating to suspended loads).

(3) Section 56.16010 (relating to dropping materials from overhead).

§ 209a.31. Illumination.

The provisions of 30 CFR 56.17001 (relating to illumination of surface working areas) are incorporated by reference.

§ 209a.32. Safety programs.

The following provisions of 30 CFR Part 56, Subpart Q (relating to safety programs) are incorporated by reference:

(1) Section 56.18002 (relating to examination of working places).

(2) Section 56.18013 (relating to emergency communications system).

(3) Section 56.18020 (relating to working alone).

§ 209a.33. Miscellaneous.

The following provisions of 30 CFR Part 56, Subpart S (relating to miscellaneous) are incorporated by reference:

(1) Section 56.20003 (relating to housekeeping).

(2) Section 56.20011 (relating to barricades and warning signs).

Subchapter C. MISCELLANEOUS PROVISIONS

Sec.

209a.41. Applicability.

209a.42. Accident reporting.

209a.43. Alternative standards.

209a.44. Access to records.

§ 209a.41. Applicability.

This subchapter applies to surface mining activities as defined in section 3 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.3) and to surface mining as defined in section 3 of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3303).

§ 209a.42. Accident reporting.

(a) Unless the context clearly indicates otherwise, as used in this subchapter, an accident is an incident that results in one or more of the following:

(1) A death of an individual at a mine.

(2) An injury to AN INDIVIDUAL AT A MINE WHICH HAS REASONABLE POTENTIAL TO CAUSE DEATH. [a miner which occurs at a mine for which medical treatment is administered, or which results in loss of consciousness, inability to perform all job duties on any day after an injury, temporary assignment to other duties or transfer to another job.]

(3) An entrapment of an individual for more than 30 minutes OR WHICH HAS A REASONABLE POTENTIAL TO CAUSE DEATH.

(4) An unplanned inundation of a mine by a liquid or gas.

(5) An unplanned ignition or explosion of gas or dust.

(6) An unplanned mine fire not extinguished within 30 minutes of discovery.

(7) An unplanned ignition or explosion of a blasting agent or an explosive.

(8)[A failure of an impoundment, highwall, low wall, pile or bank or, an] AN unstable condition at an impoundment, [highwall, low wall, pile or] REFUSE PILE, OR CULM bank which requires emergency action to prevent failure, or which causes individuals to evacuate an area OR FAILURE OF AN IMPOUNDMENT, REFUSE PILE, OR CULM BANK.

(9) A COAL OR ROCK OUTBURST THAT CAUSES WITHDRAWAL OF MINERS OR WHICH DISRUPTS REGULAR MINING ACTIVITY FOR MORE THAN ONE HOUR. [Death or bodily injury to an individual not at the mine.]

(10) AN EVENT AT A MINE WHICH CAUSES DEATH OR BODILY INJURY TO AN INDIVIDUAL NOT AT THE MINE AT THE TIME THE EVENT OCCURS.

(b) [In the event of] IF an accident OCCURS [occurring at a mine], an operator shall [notify] CONTACT the [Department] DEPARTMENT'S DISTRICT MINING OFFICE WITH JURISDICTION FOR THE MINE [no later than] within [1] ONE hour of discovery of the accident. IF AN OPERATOR CANNOT MAKE CONTACT WITH THE APPROPRIATE DISTRICT MINING OFFICE, IT SHALL

**CONTACT THE DEPARTMENT'S 24 HOUR EMERGENCY NUMBER
WITHIN ONE HOUR OF THE ACCIDENT.**

c) ~~[In the event of]~~ **THE OPERATOR OF A MINE AT WHICH** an accident **OCCURS** ~~[occurring at a mine, an operator]~~ shall ~~[send to the Department a copy]~~ **MAIL COPIES** of the completed **MSHA ACCIDENT REPORTING FORMS TO THE DEPARTMENT'S DISTRICT MINING OFFICE WITH JURISDICTION FOR THE MINE. THESE COPIES ARE IN ADDITION TO ANY ACCIDENT REPORTING FORMS SENT TO MSHA AND SHALL BE MAILED TO THE DEPARTMENT WITHIN 10 WORKING DAYS AFTER THE ACCIDENT OCCURS.** ~~[Mine Accident, Injury and Illness Report Form 7000-1 required by 30 CFR 50.20 (relating to preparation and submission of Report Form 7000-1--Mine Accident, Injury, and Illness Report).]~~

§ 209a.43. Alternative standards.

(a) If, as of _____ (*Editor's Note: The blank refers to the effective date of adoption of this rulemaking*), the United States Department of Labor, Mine Safety and Health Administration (MSHA) has adopted a mine specific modification of a safety and health standard incorporated by reference in this chapter for a mine in this Commonwealth, that mine specific modified safety and health standard will be adopted by the Department if the operator submits to the Department's District Mining Office with jurisdiction for the mine a copy of MSHA's adoption of the modification.

(b) IF, AS OF _____ (EDITOR'S NOTE: THE BLANK REFERS TO THE EFFECTIVE DATE OF ADOPTION OF THIS RULEMAKING), AN OPERATOR HAS SUBMITTED TO MSHA, BUT MSHA HAS NOT YET ADOPTED, A PETITION FOR A MINE SPECIFIC MODIFICATION OF A SAFETY AND HEALTH STANDARD INCORPORATED BY REFERENCE IN THIS CHAPTER FOR A MINE IN THIS COMMONWEALTH, THAT MINE SPECIFIC MODIFIED SAFETY AND HEALTH STANDARD WILL BE ADOPTED BY THE DEPARTMENT IF THE OPERATOR SUBMITS TO THE DEPARTMENT'S DISTRICT MINING OFFICE WITH JURISDICTION FOR THE MINE A COPY OF MSHA'S APPROVAL OF THE MODIFICATION.

(c)[b] If, after _____ (*Editor's Note: The blank refers to the effective date of adoption of this rulemaking*), **AN OPERATOR SUBMITS A PETITION FOR** ~~[MSHA adopts]~~ a mine specific modification of a safety and health standard incorporated by reference in this chapter for a mine located in this Commonwealth, that mine specific modified safety and health standard will be adopted by the Department **UPON MSHA'S ADOPTION OF THE MODIFICATION** if the operator:

- (1) Provides the Department's District Mining Office with jurisdiction for the mine with a copy of the petition and a copy of all supporting materials submitted to MSHA, upon submission to MSHA.
- (2) Submits to the Department's District Mining Office with jurisdiction for the mine a copy of ~~[the MSHA]~~ MSHA'S approval of the MODIFICATION ~~[modified safety and health standard]~~.

§ 209a.44. Access to records.

The Department shall have access to review and copy all maps, plans, notifications, reports, training records, program descriptions or other materials prepared to comply with 30 CFR Parts 50, 56 and 77 (relating to notification, investigation, reports and records of accidents, injuries, illnesses, employment, and coal production in mines; safety and health standards--surface metal and nonmetal mines; and mandatory safety standards, surface coal mines and surface work areas of underground coal mines).