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(Editor's Note: As part of this proposal, the Board is deleting the existing text of Chapter 209, which currently appears at Pennsylvania Code pages ___ through, serial numbers ___ to ___. The following text is new and is printed in regular type to enhance readability.)

TITLE 25. ENVIRONMENTAL PROTECTION
PART I DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUBPART D. ENVIRONMENTAL HEALTH AND SAFETY
ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY
Chapter 209A Surface Mining
Subchapter A Surface Coal Mines

§209A.1 Applicability.

This Subchapter applies to surface mining activities as defined in Section 3 of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945, P.L. 1198, *as amended*, 52 P.S. §§1396.1-1396.19a.

§209A.2. Definitions.

The following terms when used in this Subchapter shall have the meaning given to them by this section, 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 herein 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.4. Surface Installations.

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

- (1) §77.200 (relating to surface installations; general).
- (2) §77.203 (relating to use of material or equipment overhead; safeguards).
- (3) §77.204 (relating to openings in surface installations; safeguards).
- (4) §77.205 (relating to travelways at surface installations).
- (5) §77.206 (relating to ladders; construction; installation and maintenance).
- (6) §77.207 (relating to illumination).

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- (7) §77.208 (relating to storage of materials).
- (8) §77.209 (relating to surge and storage piles).
- (9) §77.210 (relating to hoisting of materials).

§209A.6. Safeguards for mechanical equipment.

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

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

§209A.7. Electrical equipment general.

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

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

§209A.8. Trailing Cables.

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

§209A.10. Surface high-voltage distribution.

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

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

§209A.12. Ground Control.

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

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

§209A.13. Fire protection.

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

- (1) §77.1102 (relating to warning signs; smoking and open flame).
- (2) §77.1103 (relating to flammable liquids; storage).
- (3) §77.1104 (relating to accumulations of combustibile materials).

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

§209A.17 Auger mining.

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

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

(b) At a minimum, a highwall proposed for auger mining 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 in order 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 ground water, and any other factor that may affect the stability of the highwall.

§209A.18. Loading and haulage.

The following provisions of 30 CFR Part 77 Subpart Q (relating to loading and

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haulage) are incorporated herein by reference:

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

§209A.19. Miscellaneous.

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

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

§209A.24. Competent person.

Any provision of 30 CFR Part 77 incorporated herein 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

§209A.31. Applicability.

This Subchapter applies to surface mining as defined in Section 3 of the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1980 P.L. 1093, No. 219, *as amended*, 52 P.S. §§3301-3326.

§209A.32. Definitions.

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

- (1) competent person.
- (2) face or bank.
- (3) flammable.
- (4) multipurpose dry-chemical fire extinguisher.
- (5) roll protection.
- (6) scaling.
- (7) working place.

§209A.33. Ground control.

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

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

§209A.34. Fire prevention and control.

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

- (1) §56.4100 (relating to smoking and use of open flames).
- (2) §56.4103 (relating to fueling internal combustion engines).

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- (3) §56.4200 (relating to general requirements).
- (4) §56.4230 (relating to self-propelled equipment).

§209A.37 Drilling and rotary jet piercing.

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

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

§209A.39 Loading, Hauling and Dumping.

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

- (1) §56.9000 (relating to definitions).
- (2) §56.9100 (relating to traffic control).
- (3) §56.9101 (relating to operating speeds and control of equipment).
- (4) §56.9202 (relating to loading and hauling large rocks).
- (5) §56.9300 (relating to berms or guardrails).
- (6) §56.9301 (relating to dump site restraints).

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- (7) §56.9303 (relating to construction of ramps and dumping facilities).
- (8) §56.9304 (relating to unstable ground).
- (9) §56.9305 (relating to truck spotters).
- (10) §56.9306 (relating to warning devices for restricted clearances).
- (11) §56.9312 (relating to working around draw holes).
- (12) §56.9313 (relating to roadway maintenance).
- (13) §56.9314 (relating to trimming stockpile and muckpile; faces).
- (14) §56.9315 (relating to dust control).
- (15) §56.9316 (relating to notifying the equipment operator).
- (16) §56.9317 (relating to suspended loads).
- (17) §56.9318 (relating to getting on or off moving equipment).

§209A.42. Electricity.

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

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

§209A.44 Machinery and equipment.

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

- (1) §56.14000 (relating to definitions).
- (2) §56.14100 (relating to safety defects; examination, correction and records).

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- (3) §56.14103 (relating to operators stations).
- (4) §56.14105 (relating to procedures during repairs or maintenance).
- (5) §56.14106 (relating to falling object protection).
- (6) §56.14107 (relating to moving machine parts).
- (7) §56.14112 (relating to construction and maintenance of guards).
- (8) §56.14130 (relating to roll-over protective structures (ROPS) and seat belts).
- (9) §56.14131 (relating to seat belts for haulage trucks).
- (10) §56.14132 (relating to horns and backup alarms).
- (11) §56.14200 (relating to warnings prior to starting or moving equipment).
- (12) §56.14204 (relating to machinery lubrication).
- (13) §56.14205 (relating to machinery, equipment, and tools).
- (14) §56.14206 (relating to securing movable parts).
- (15) §56.14207 (relating to parking procedures for unattended equipment).
- (16) §56.14210 (relating to movement of dippers, buckets, loading booms, or suspended loads).
- (17) §56.14211 (relating to blocking equipment in a raised position).

§209A.45. Personal protection.

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

- (1) §56.15001 (relating to first-aid materials).
- (2) §56.15002 (relating to hard hats).
- (3) § 56.15003 (relating to protective footwear).
- (4) §56.15004 (relating to eye protection).
- (5) §56.15005 (relating to safety belts and lines).

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(6) §56.15006 (relating to protective equipment and clothing for hazards and irritants).

(7) § 56.15007 (relating to protective equipment or clothing for welding, cutting, or working with molten metal).

(8) §56.15020 (relating to life jackets and belts).

§209A.46 Materials Storage and Handling.

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

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

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

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

§209A.47. Illumination.

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

§209A.48 Safety programs.

The following provisions of 30 CFR part 56 Subpart Q (relating to Safety programs) are incorporated herein by reference:

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

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

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

§209A.50. Miscellaneous.

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

(1) § 56.20003 (relating to housekeeping).

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

Subchapter C Miscellaneous provisions

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§209A.61. Applicability.

This Subchapter applies to surface mining activities as defined in Section 3 of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945, P.L. 1198, *as amended*, 52 P.S. §§1396.1-1396.19a and to surface mining as defined in Section 3 of the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1980 P.L. 1093, No. 219, *as amended*, 52 P.S. §§3301-3326.

§209A.62. Accident Reporting.

(a) Unless the context clearly indicates otherwise, as used in this Subchapter an accident is an incident that results in:

- (1) A death of an individual at a mine.
- (2) An injury to an individual at a mine which has a reasonable potential to cause death.
- (3) An entrapment of an individual for more than thirty minutes.
- (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 unstable condition at an impoundment, highwall, low wall, pile, or bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area.
- (9) Death or bodily injury to an individual not at the mine.

(b) In the event of an accident occurring at a mine, an operator shall notify the Department no later than within one hour of discovery of the accident.

(c) In the event of an accident occurring at a mine, an operator shall send to the Department a copy of the completed Mine Accident, Injury and Illness Report Form 7000-1 required by 30 CFR § 50.20 (relating to preparation and submission of MSHA Report Form 7000-1--Mine Accident, Injury, and Illness Report)

§209A.63. Alternative standards.

(a) If, as of ____ [the effective date of this amendment], the United States Department of Labor, Mine Safety and Health Administration (“MSHA”) has adopted a

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mine specific modification of a safety and health standard incorporated by reference in this Chapter for a mine in the Commonwealth of Pennsylvania, then that mine specific modified safety and health standard shall be adopted by the Department of Environmental Protection 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, after ____ [the effective date of this amendment], MSHA adopts a mine specific modification of a safety and health standard incorporated by reference in this Chapter for a mine located in the Commonwealth of Pennsylvania, then that mine specific modified safety and health standard shall be adopted by the Department of Environmental Protection 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 approval of the modified safety and health standard.

§ 209A.64. 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 the requirements of 30 CFR parts 50 (relating to notification, investigation, reports and records of accidents); 56 (relating to safety and health standards--surface metal and nonmetal mines; and 77 (relating to mandatory safety standards, surface coal mines and surface work areas of underground coal mines).