

FOR DISCUSSION PURPOSES ONLY

DRAFT ANNEX A – Amending “Smoking Prohibition” to include statutory language, add specific prohibition of electronic cigarettes, and provide for penalty

§ 208.375. Smoking prohibition: Surface Work Areas of Underground Coal Mines.

(a) The provisions of 30 CFR 77.1711 (relating to smoking prohibition) are incorporated by reference.

(b) Any individual who violates the mandatory safety standards relating to smoking, including the use of electronic nicotine delivery systems, such as e-cigarettes or other electronic liquid-vaporizing devices, shall be subject to a civil penalty assessed by the Department, which penalty shall not be more than the maximum civil penalty provided under 30 CFR § 100.5(d) for each occurrence of such violation.

Commented [A1]: Pursuant to the Federal Civil Penalties Inflation Adjustment Act, this is updated every year to reflect inflation. Currently at \$332 as of Jan. 23, 2019 – 84 FR 213, 30 CFR 100.5(d) – currently \$332.00

§ 208.376. Smoking prohibition: Underground Areas of Underground Mines

(a) No person shall smoke or use an open flame in any underground bituminous coal mine.

(b) Open lights, smoking and smokers’ articles, including matches, are prohibited in bituminous coal mines. No individual shall at any time enter a mine with or carry into the mine any matches, pipes, cigars, cigarettes, electronic nicotine delivery systems, such as e-cigarettes, or other electronic liquid-vaporizing devices, or any device for making lights or fire not approved.

(c) In all mines the operator may search or cause to be searched any individual, including his clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent such individual from taking or carrying into the mine any of the articles prohibited by this section.

(d) Any individual who ~~willfully~~ violates the mandatory safety standards relating to smoking or the carrying of smoking materials, including electronic nicotine delivery systems, such as e-cigarettes or other electronic liquid-vaporizing devices, matches, or lighters, shall be subject to a civil penalty assessed by the Department, which penalty shall not be more than ~~\$375.00~~ the maximum civil penalty provided under 30 CFR § 100.5(d) for each occurrence of such violation.

Commented [A2]: Pursuant to the Federal Civil Penalties Inflation Adjustment Act, this is updated every year to reflect inflation. Currently at \$332 as of Jan. 23, 2019 – 84 FR 213, 30 CFR 100.5(d) – currently \$332.00