

EXECUTIVE SUMMARY

FINAL RULEMAKING SURFACE MINING (25 Pa. Code Chapter 209)

This rulemaking adopts by reference selected safety standards from the United States Department of Labor's Mine Safety and Health Administration (MSHA) regulations at 30 CFR Parts 56 and 77 (relating to safety and health standards-surface metal and nonmetal mines; and mandatory safety standards, surface coal mines and surface work areas of underground coal mines). Chapter 209, Subchapter A (relating to general safety in bituminous coal strip mines) is antiquated and differs from safety requirements established by MSHA. This difference in standards is a source of confusion and jeopardizes safety at bituminous surface mines. Other than for blasting, there are no Department safety regulations for anthracite surface mines. Chapter 209, Subchapter B (relating to explosives in anthracite coal strip mines) is not only out-of-date, but also redundant. The storage, handling and use of explosives at anthracite surface mines are addressed by Chapters 88 and 211 (relating to anthracite coal; and storage, handling and use of explosives). There are no Department regulations specifying safety standards for surface industrial mineral mines.

This final-form rulemaking addresses the Rendell Administration's initiative to develop a "world class mine safety program." To implement this initiative, Chapter 209 is rescinded and new standards for coal and industrial mineral surface mines in Chapter 209a are added. By adopting the MSHA standards, the Department's safety standards are modernized and additional costs on operators are minimized. Finally, by eliminating inconsistencies between the Department's standards and the MSHA standards, the possibility for confusion in the field is minimized. The provisions of the MSHA regulations adopted by this final rulemaking are: those that address the most significant risk to surface miners in this Commonwealth, provisions that the Department inspection staff have sufficient expertise to regulate, and provisions applying to areas where the Department staff would normally go during the environmental and safety inspections they currently conduct. This final rulemaking does not adopt provisions that would require the Department inspection staff to obtain and be trained in the use of specialized equipment, would require them to expand the area where they go when they conduct their routine inspections, or address standards adopted by the Department in other regulations.

On many surface mine sites, the Department conducts inspections more frequently than MSHA. Effective safety programs rely on the principles of prevention and providing constant reminders of hazards to avoid complacency. The compelling need for these regulations is twofold; to provide Department inspectors with state-enforceable safety standards for anthracite (non-blasting) and industrial mineral surface mines, and to create heightened awareness through the Department's inspections that will help prevent accidents and result in a safer work environment at surface mines in this Commonwealth.

These regulations were published in the Pennsylvania Bulletin on September 1, 2007. There was a 30-day comment period. The Board received comments from the Independent Regulatory Review Commission and Essroc Cement Corporation. These commentators raised issues that

resulted in modifications to the proposed regulations. First, they commented that reporting minor accidents to the Department would be burdensome to the mining industry as well as the Department. Second, they commented that the Department needs to consider petitions to MSHA for alternative safety standards that have been submitted but not acted on by MSHA upon the effective date of this regulation. As explained in greater detail in the Comment and Response Document, the regulations have been amended to require only serious accidents, either causing death or serious injuries or having the potential to do so, be reported. Additionally, the final regulations have been amended to allow acceptance of pending requests, submitted prior to the regulations effective date, to MSHA for alternative mine-specific safety standards upon the Department's receipt of documentation of MSHA's approval.

The Mining and Reclamation Advisory Board (MRAB) reviewed and approved the final rulemaking at its January 10, 2008 meeting.