

inadvertently appears. This correction notice deletes the word from the rule.

The second sentence of the final rule language of paragraph (a) of § 75.363 Hazardous conditions; posting, correcting and recording, inadvertently contains a phrase which limits the application of the rule. The phrase would exclude the application of posting and correcting requirements of § 75.363 when a hazardous condition is found during a preshift examination or during a preshift type examination conducted following a fan stoppage and restart under § 75.313(d)(1)(i). As proposed, MSHA's intent is that the § 75.363 requirements for posting or immediately correcting hazardous conditions do apply to the preshift examination and to preshift-type examinations conducted following a fan stoppage and restart under § 75.313(d)(1)(i). It is only the recording requirements of § 75.363 that do not extend to the § 75.360 and § 75.364 examinations since these examinations contain their own recording requirements. This correction notice deletes the phrase that inadvertently appears in the rule. Also, this correction notice makes a conforming change to the preamble of the rule. On page 9802 of the preamble to the final rule, the second sentence of the second paragraph in the first column is corrected by this notice.

In the preamble to § 75.380 Escapeways; bituminous and lignite mines, on page 9813, the second column, 14 lines from the top, the date "September 15, 1992" is incorrect. The correct date is "November 16, 1992," which was the effective date of the 1992 final ventilation rule. This correction notice deletes the incorrect date and replaces it with the correct date. In addition, a portion of the preamble discussion for § 75.380 is inadvertently repeated almost verbatim and is deleted by this correction notice. Specifically, the repetition of the preamble discussion of § 75.380 begins with the third full paragraph of the middle column on page 9816 (the paragraph begins, "Like the proposal, the final rule \* \* \*") and continues through the end of the preamble discussion for § 75.380.

**Correction of Publication**

The preamble and final rule for safety standards for underground coal mine ventilation that appeared in the Federal Register on March 11, 1996 (61 FR 9764) are corrected as follows:

1. In the preamble, on page 9774, in the second column, 25 lines from the bottom, the phrase "in nonventilated areas" is removed.

2. In the preamble, on page 9782, in the second column, last paragraph, the last sentence is correctly revised to read as "New paragraph (h) requires all ventilation controls, including seals, to be maintained to serve the purpose for which they were built".

3. In the preamble, on page 9801, in the last column, last paragraph, the last sentence is correctly revised to read as "Under (g)(2), the certified person directing the on-shift examination to assure compliance with the respirable dust control parameters specified in the mine ventilation plan must certify by initials, date, and time that the examination was made."

4. In the preamble, on page 9802, in the first column, the second sentence of the second paragraph is correctly revised to read as, "It specifies that hazardous conditions shall be corrected immediately or posted until the conditions are corrected."

5. In the preamble, on page 9813, in the second column, 14 lines from the top, remove "September 15, 1992", and add "November 16, 1992".

6. In the preamble, beginning on page 9816, in the second column, the third full paragraph, through page 9820, to the end of the first column is removed.

7. In the rule, on page 9832, in the first column, § 75.322 is correctly revised to read as:

**§ 75.322 Harmful quantities of noxious gases.**

Concentrations of noxious or poisonous gases, other than carbon dioxide, shall not exceed the threshold limit values (TLV) as specified and applied by the American Conference of Governmental Industrial Hygienists in "Threshold Limit Values for Substance in Workroom Air" (1972). Detectors or laboratory analysis of mine air samples shall be used to determine the concentrations of harmful, noxious, or poisonous gases. This incorporation by reference has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Mine Safety and Health Administration, Department of Labor, 4015 Wilson Boulevard, Arlington, VA 22203 and at every Coal Mine Health and Safety District and Subdistrict Office. The material is available for examination at the Office of the Federal Register, 800 N. Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

**§ 75.325 [Corrected]**

8. In the rule, on page 9833, in the second column, § 75.325(b), a sentence

is added following the last sentence of the first paragraph to read as follows:

\* \* \* \* \*

(b) \* \* \* This minimum also applies to sections which are not operating but are capable of producing coal by simply energizing the equipment on the section.

\* \* \* \* \*

**§ 75.333 [Corrected]**

9. In the rule, on page 9835, in the first column, § 75.333, paragraph (h), is correctly revised to read as follows:

\* \* \* \* \*

(h) All ventilation controls, including seals, shall be maintained to serve the purpose for which they were built.

**§ 75.362 [Corrected]**

10. In the rule, on page 9839, in the second column, the last sentence, § 75.362, paragraph (a)(2), is correctly revised to read as follows:

(a) \* \* \*

(2) \* \* \* Measurements of the air velocity and quantity, water pressure and flow rates are not required if continuous monitoring of these controls is used and indicates that the dust controls are functioning properly.

\* \* \* \* \*

11. In the rule, on page 9839, in the third column, § 75.362, paragraph (g)(2), is correctly revised to read as follows:

\* \* \* \* \*

(g) \* \* \*

(2) The certified person directing the on-shift examination to assure compliance with the respirable dust control parameters specified in the mine ventilation plan shall certify by initials, date, and time that the examination was made.

\* \* \* \* \*

**§ 75.363 [Corrected]**

12. In the rule on page 9839, in the third column, the second sentence of § 75.363, paragraph (a), is correctly revised to read as follows:

(a) \* \* \* A hazardous condition shall be corrected immediately or the area shall remain posted until the hazardous condition is corrected. \* \* \*

\* \* \* \* \*

Dated: May 17, 1996.

J. Davitt McAteer,  
Assistant Secretary for Mine Safety and Health.

[FR Doc. 96-13275 Filed 5-22-96; 3:08 pm]

BILLING CODE 4510-43-P

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 914**

[SPATS No. IN-112-FOR; Amendment No. 92-7C]

**Indiana Regulatory Program****AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.**ACTION:** Final rule; clarification/approval of amendment.

**SUMMARY:** OSM is clarifying the previous approval, and noted deferrals therein, of an amendment to the Indiana permanent regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consisted of revisions to Indiana's Surface Coal Mining and Reclamation Rules concerning the control of subsidence caused by underground mining operations. The amendment was submitted to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

**EFFECTIVE DATE:** May 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204-1521, Telephone (317) 226-6166.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Indiana Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

**I. Background on the Indiana Program**

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

**II. Submission of the Proposed Amendment**

By letter dated December 2, 1992 (Administrative Record No. IND-1175), the Indiana Department of Natural

Resources (IDNR) submitted a proposed amendment (#92-7) to the Indiana program. Amendment #92-7 proposed changes to the Indiana surface mining rules concerning subsidence liability.

On May 17, 1993, OSM approved, with two exceptions, amendment #92-7 (58 FR 28775). By letter dated March 18, 1994 (Administrative Record Number IND-1340), Indiana submitted to OSM a notice of the final adoption of amendment #92-7 as published in the Indiana Register, Volume 17, Number 6, pages 1086-1089 (March 1, 1994).

The final adopted language of amendment #92-7 differed in some ways from the language approved by OSM on May 17, 1993. Therefore, OSM reopened the public comment period and invited comment on the substantive differences.

OSM announced receipt of the proposed amendment (i.e., the adopted language of #92-7) in the April 22, 1994, Federal Register (59 FR 19155), and in the same document opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on May 23, 1994.

On April 20, 1995, OSM approved the amendment with deferrals on decisions in three areas until July 31, 1995, when OSM was to address the enforcement of SMCRA section 720 and 30 CFR 784.20 and 817.121 (60 FR 19669). The deferrals related to the above enforcement provisions during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of the corresponding Indiana statute IC 13-4.1-9-2.5 (June 30, 1994).

On July 28, 1995, OSM announced its decision on initial enforcement of underground coal mine subsidence control and water replacement requirements in Indiana (60 FR 38680). After consultation with Indiana and consideration of public comments, OSM decided that initial enforcement in Indiana would be accomplished through joint Indiana and OSM enforcement. OSM, however, did not specifically address the deferrals of the April 20, 1995, approval (60 FR 19669).

**III. Director's Findings**

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the deferrals contained in the original approval of the proposed amendment (60 FR 19669). These findings are based on the original proposed amendment and the April 20, 1995, approval and deferrals related to the enforcement scheme as published

on July 28, 1995. It should be noted that the July 28, 1995, decision addressed only the initial enforcement schemes for water replacement (30 CFR 817.41(j)) and subsidence damage repair/compensation (30 CFR 817.121(c)(2)) provided for under section 720 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), as amended by the Energy Policy Act of 1992, Pub. L. 102-486, 106 Stat. 2776(1992). In addition to the basic water supply replacement requirement and the related subsidence damage repair requirement, the implementing Federal regulations that became effective March 31, 1995, contain other related supporting and permitting provisions. OSM anticipates that these other requirements will become effective in the same way as other revisions to the permanent program regulations; i.e., in primacy states such as Indiana, upon adoption of counterpart State regulatory program provisions (60 FR 16722). This process will be initiated separately by OSM under the provisions of 30 CFR 732.17(d).

**1. 310 IAC 12-3-87.1 Subsidence Control Plan**

**310 IAC 12-3-87.1(c)(2).** In the April 20, 1995, Federal Register, the Director approved the language at subsection 87.1(c)(2) to the extent that it met the requirements of SMCRA section 720 and 30 CFR 784.20 from June 30, 1994. However, the Director deferred a decision until July 31, 1995, on the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of the corresponding Indiana statute IC 13-4.1-9-2.5 (June 30, 1994).

On July 28, 1995, OSM announced its decision on initial enforcement of underground coal mine subsidence control and water replacement requirements in Indiana (60 FR 38680). After consultation with Indiana and consideration of public comments, OSM decided that initial enforcement in Indiana would be accomplished through joint Indiana and OSM enforcement. In discussions leading to this decision, Indiana indicated that Indiana law at IC 13-4.1-9-2.5 incorporates the substantive language of section 620 of SMCRA and applies to underground mining operations conducted after June 30, 1994. For underground mining operations conducted in Indiana in the interim period between October 24, 1992 (the effective date of the Energy Policy Act of 1992 and SMCRA section 720), and June 30, 1994 (the effective

date of Indiana law counterpart to the Energy Policy Act of 1992), the State concluded that the existing Indiana program provisions provide the IDNR with sufficient authority to impose the requirements of the Energy Policy Act of 1992 with respect to underground mining operations conducted in Indiana during the interim period. The State concluded, however, that although it believes that the IDNR has sufficient authority to impose the requirements of the Energy Policy Act of 1992 during the interim period, joint State and OSM enforcement in Indiana should be the chosen enforcement scheme in Indiana, as it would assure protection for the citizens of Indiana during the interim period (Administrative Record Number IND-1494). Under this scheme, the IDNR would enforce the requirements of the Energy Policy Act of 1992 in Indiana from June 30, 1994, and during the interim period to the extent permissible under Indiana law. OSM would enforce the requirements of the Energy Policy Act of 1992 in the interim period only if a situation arose where the State could not so enforce.

Based on the discussion above, the Director finds that 310 IAC 12-3-87.1(c)(2) is no less effective than 30 CFR 784.20 and no less stringent than SMCRA section 720, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 and 30 CFR 784.20 from June 30, 1994, and the enforcement scheme approved July 28, 1995, meets the requirements of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

### 2. 310 IAC 12-5-130.1 Subsidence Control; General Requirements

310 IAC 12-5-130.1(c)(2). In the April 20, 1995, Federal Register, the Director approved the language at subsection 130.1(c)(2) to the extent that it met the requirements of SMCRA section 720 from June 30, 1994. However, the Director deferred a decision until July 31, 1995, on the enforcement of the provisions of SMCRA section 720 and 30 CFR 817.121 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of the corresponding Indiana statute IC 13-4.1-9-2.5 (June 30, 1994).

As discussed in Finding 1 above, on July 28, 1995, OSM announced its decision on initial enforcement of underground coal mine subsidence control and water replacement requirements in Indiana (60 FR 38680). OSM decided that initial enforcement would be accomplished through joint

Indiana and OSM enforcement. The IDNR would enforce the requirements of the Energy Policy Act of 1992 in Indiana from June 30, 1994, and during the interim period (October 24, 1992-June 30, 1994) to the extent permissible under Indiana law. OSM would enforce the requirements of the Energy Policy Act of 1992 in the interim period only if a situation arose where the State could not so enforce.

Based on the above discussion, the Director finds that 310 IAC 12-5-130.1(c)(2) is no less effective than 30 CFR 817.121(c)(2) and no less stringent than SMCRA section 720, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994, and the enforcement scheme approved July 28, 1995, meets the requirements of SMCRA section 720 and 30 CFR 817.121(c)(2) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

### 3. Repeal of 310 IAC 12-5-132

Indiana proposed the repeal of 310 IAC 12-3-87, 310 IAC 12-5-130, 310 IAC 12-5-131, and 310 IAC 12-5-132 because the provisions were replaced by 310 IAC 12-3-87.1, 310 IAC 12-5-130.1, and 310 IAC 12-5-131.1. The Director deferred decision on the repeal of 310 IAC 12-5-132 until July 31, 1995, when OSM was to address the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 and 817.121 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

As discussed in Findings 1 and 2 above, on July 28, 1995, OSM announced its decision on initial enforcement of underground coal mine subsidence control and water replacement requirements in Indiana (60 FR 38680), finding that initial enforcement would be accomplished through joint Indiana and OSM enforcement. IDNR would enforce the requirements of the Energy Policy Act of 1992 in Indiana from June 30, 1994, and during the interim period (October 24, 1992-June 30, 1994) to the extent permissible under Indiana law. OSM would enforce the requirements of the Energy Policy Act of 1992 in the interim period only if a situation arose where the State would not so enforce.

Based on the above discussion, the Director is approving the repeal of 310 IAC 12-5-132 because appropriate provisions are replaced by 310 IAC 12-3-87.1 and 310 IAC 12-5-130.1 and the repeal does not render the Indiana program less effective than the

counterpart Federal requirements to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994, and the enforcement scheme approved July 28, 1995, meets the requirements of SMCRA section 720 and 30 CFR 784.20 and 817.121(c)(2) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

### IV. Summary and Disposition of Comments

Comments on the initial submittal were solicited from Federal agencies and the public on January 14, 1993 (58 FR 4372), and on the adopted language of the approved changes on April 22, 1994 (59 FR 19155). Comments received were discussed in the related Federal Registers of May 17, 1993 (58 FR 28775), and April 20, 1995 (60 FR 19669), respectively. As this current action is based on language of the previous submittals, the solicitation of additional comments is not necessary; refer to the Federal Registers identified above for the discussion of comments received.

### V. Director's Decision

Based on the findings above, the Director is approving the three provisions of Indiana's program amendment concerning subsidence, as originally submitted by Indiana on March 18, 1994, and for which the decisions were deferred in the April 20, 1995, Federal Register (60 FR 19669). As discussed above in Finding 1 concerning 310 IAC 12-3-87.1(c)(2) and Finding 2 concerning 310 IAC 12-5-130.1(c)(2), the Director is approving the proposed deference to State law to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994, and the enforcement scheme approved July 28, 1995, meets the requirements of SMCRA section 720 and 30 CFR 784.20 and 817.121(c)(2) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994). As discussed in Finding 3, the Director is also approving the repeal of 310 IAC 12-5-132.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision.

### VI. Procedural Determinations

#### *Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

**Executive Order 12988**

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

**National Environmental Policy Act**

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

**Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

**Regulatory Flexibility Act**

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

**Unfunded Mandates**

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 8, 1996.

Brent Wahlquist,  
*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 914—INDIANA**

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (qqq) to read as follows:

**§ 914.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(qqq) The revised provisions at 310 IAC 12-3-87.1(c)(2) and 310 IAC 12-5-130.1(c)(2) and the repeal of 310 IAC 12-5-132 contained in Indiana's program amendment concerning subsidence, as originally submitted by Indiana on March 18, 1994, and for which the decisions were deferred on April 20, 1995, are approved effective May 28, 1996.

[FR Doc. 96-13264 Filed 5-24-96; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 925**

[SPATS No. MO-026-FOR]

**Missouri Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving, with a reporting stipulation, a proposed amendment to the Missouri regulatory program (hereinafter referred to as the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Revised Statutes of Missouri (RSMo) and the Code of State Regulations (CSR) along with supporting documentation and information pertaining to Missouri's

alternative bonding system. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** May 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Brent Wahlquist, Regional Director, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002 Telephone: (618) 463-6460.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Missouri Program  
II. Submission of the Proposed Amendment  
III. Director's Findings  
IV. Summary and Disposition of Comments  
V. Director's Decision  
VI. Procedural Determinations

**I. Background on the Missouri Program**

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, Federal Register (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

**II. Submission of the Proposed Amendment**

By letter dated March 7, 1995, Missouri submitted a proposed amendment to its program pursuant to SMCRA (Administrative record No. MO-617). Missouri submitted the proposed amendment in response to a January 30, 1986, letter (Administrative record No. MO-351) that OSM sent to Missouri in accordance with 30 CFR 732.17(c) and in response to the required program amendments at 30 CFR 925.16(g). The provisions of the Revised Statutes of Missouri (RSMo) and the Code of State Regulations (CSR) that Missouri proposed to revise were: RSMO 444.805, Definition of Phase I reclamation bond; RSMO 444.830, Bond requirements, when a bond must be filed, the amount of a bond, and allowance for bond substitution; RSMO 444.950, Phase I reclamation bond requirements; RSMO 444.960, Establishment, purpose, and duties of the Coal Mine Land Reclamation Fund (CMLR Fund); RSMO 444.965.1, Assessment for fund; 10 CSR 40-7.011, Bond requirements; 10 CSR 40-7.021, Duration and release of reclamation liability; 10 CSR 40-7.041, Form and administration of the CMLR Fund. In addition, Missouri submitted: (1) A