

(x) The Regional Director or Director may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application will not be considered until corrected in writing.

(3) *Issuance.* (i) The Regional Director or Director, as appropriate, will review each application and will make a determination whether the application contains all of the required information, is consistent with the goals, objectives, and requirements of the FMP or regulations and other applicable law, and constitutes a valid exempted educational activity. The applicant will be notified in writing of the decision within 5 working days of receipt of the application.

(ii) The Regional Director or Director may attach terms and conditions to the authorization, consistent with the purpose of the exempted educational activity, including, but not limited to:

(A) The maximum amount of each regulated species that may be harvested.

(B) The time(s) and place(s) where the exempted educational activity may be conducted.

(C) The type, size, and amount of gear that may be used by each vessel operated under the authorization.

(D) Reasonable data reporting requirements.

(E) Such other conditions as may be necessary to assure compliance with the purposes of the authorization, consistent with the objectives of the FMP or regulations.

(F) Provisions for public release of data obtained under the authorization, consistent with NOAA confidentiality of statistics procedures at part 603 of this chapter. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted educational activity as a condition of the authorization.

(iii) The authorization will specify the scope of the authorized activity and will include, at a minimum, the duration, vessel(s), species and gear involved in the activity, as well as any additional terms and conditions specified under paragraph (d)(3)(ii) of this section.

(4) *Duration.* Unless otherwise specified, authorization for an exempted educational activity is effective for no longer than 1 year, unless revoked, suspended, or modified. Authorizations may be renewed following the application procedures in this section.

(5) *Alteration.* Any authorization that has been altered, erased, or mutilated is invalid.

(6) *Transfer.* Authorizations issued under this paragraph (d) are not transferable or assignable.

(7) *Inspection.* Any authorization issued under this paragraph (d) must be carried on board the vessel(s) for which it was issued or be in possession of the applicant to which it was issued while the exempted educational activity is being conducted. The authorization must be presented for inspection upon request of any authorized officer. Activities that meet the definition of "fishing," despite an educational purpose, are fishing. An authorization may allow covered fishing activities; however, fishing activities conducted outside the scope of an authorization for exempted educational activities are illegal.

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 75

RIN 1219-AA11

#### Safety Standards for Underground Coal Mine Ventilation

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; corrections.

**SUMMARY:** This document corrects errors in the final rule for safety standards for underground coal mine ventilation which appeared in the Federal Register on March 11, 1996 (61 FR 9764).

**EFFECTIVE DATE:** June 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235-1910.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 11, 1996, MSHA published a final rule to revise its safety standards for underground coal mine ventilation. This document corrects several errors that appeared in the preamble discussion and in the final rule.

In the preamble discussion to § 75.313 Main mine fan stoppage with persons underground, on page 9774, the second column, 25 lines from the bottom, the phrase "in nonventilated areas" inadvertently appears. This correction notice deletes the phrase from the preamble.

The final rule language of § 75.322, Harmful quantities of noxious gases, is incorrect. No changes were proposed to § 75.322 and the current version of § 75.322 that appears in the 1995 compilation of the Code of Federal

Regulations is correct. Therefore, § 75.322 is corrected to be the version that appears in the 1995 compilation of the Code of Federal Regulations.

The final rule language of § 75.325 Air quantity, inadvertently omits the last sentence of existing § 75.325(b). No changes were proposed to § 75.325(b) and the current version of § 75.325(b) that appears in the 1995 compilation of the Code of Federal Regulations is correct. Therefore, § 75.325(b) is corrected to be the version that appears in the 1995 compilation of the Code of Federal Regulations.

Paragraph (h) of § 75.333(h) Ventilation controls, deals with the maintenance of ventilation controls. In the preamble and the rule, the word "permanent" inadvertently appears. This correction notice deletes the word "permanent" from § 75.333(h) and from the preamble of the rule in the last sentence of the second column of page 9782. The preamble discussion in columns 1 and 2 of page 9784 makes it clear that § 75.333(h) is to apply to temporary controls as well as permanent controls, and that the word "permanent" therefore appeared in error. As correctly stated on page 9784, "Given the importance of temporary control devices in providing for adequate ventilation, the final rule requires all ventilation controls, both permanent and temporary, including all doors and seals, to be maintained to serve the purpose for which they were built."

The preamble for paragraph (g)(2) of § 75.362 On-shift examination, is inconsistent with the language appearing in the final rule. This correction notice clarifies the intent of the Agency that a certified person must certify that the examination has been completed. At page 9799 of the preamble discussion, the preamble correctly states that: "The final rule deletes the word 'certified,' permitting on-shift examinations of dust controls to be conducted by one or more persons who are not certified individuals. However, the examination must still be conducted under the direction of a person designated by the operator and as set out in paragraph (g)(2), a certified person must certify that the examination has been completed \* \* \*." The last sentence at page 9801 in the preamble discussion of the rule is inconsistent with this explanation and this correction document corrects the sentence. Also, the word "certified" is added to the rule.

In the last sentence of the final rule language of paragraph (a)(2) of § 75.362 On-shift examination, on page 9839, the second column, the word —additional—

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.

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