



COALEX STATE INQUIRY REPORT - 335

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TOPIC: PREBLAST SURVEY

INQUIRY: The question has been raised in Indiana as to what types of structures require preblast surveys. A gas development company has requested a preblast survey on an inactive gas well located on a mineral lease adjacent to an active permitted mine site. As a consequence, Indiana would like to know the following regarding interpretations by other state programs:

1. Does your agency require preblast surveys on oil or gas well heads? If yes, what specifically is required to be part of the survey? Are preblast surveys limited to the visible surface features?
2. Does your agency require preblast survey notification to parties who have only a lease hold interest? For the preblast survey requirement to apply, does it make a difference whether the leaseholder "owns" the structure?
3. The federal preamble does not appear to limit the types of structures that are eligible for a preblast survey. Does your agency have a mechanism for defining which class of structures require notification and a survey? For example, are such things as fence posts, culverts, portable bins or livestock feeding facilities excluded from the definition of "structures"? If so, how is this interpretation supported -- by statute, by regulation, by policy, by technical determination or some other way?

SEARCH RESULTS: Eight IMCC member states responded to the survey. The results of the survey appear as an attachment. Also attached are several Federal Register notices; these include: (1) the federal preamble to the final regulations (30 CFR 816.62 Preblast survey); (2) OSM's decision to deny a petition for rulemaking which had recommended expanding the distance that an operator must notify owners of dwellings and structures from « to 1 mile; and (3) preambles to OSM approval of amendments to state programs.

ATTACHMENTS



- A. Table of Responses
- B. 48 FR 9788 (March 8, 1983). Final rule. Use of explosives.
- C. 56 FR 59904 (November 26, 1991). Denial of petition.
- D. Excerpts of Federal Register preambles for:
 - 1. Illinois
 - 2. Indiana
 - 3. Missouri
 - 4. Montana
 - 5. North Dakota
 - 6. Ohio
 - 7. Pennsylvania
 - 8. Texas
 - 9. West Virginia

Research conducted by: Joyce Zweben Scall

TABLE OF RESPONSES

1. Does your agency require preblast surveys on oil or gas well heads? If yes, what specifically is required to be part of the survey? Are preblast surveys limited to the visible surface features?

STATE	ARE SURVEYS REQUIRED?	EXPLANATION
ARKANSAS	NO	If the oil/gas heads are within 1000 feet of a structure, the agency will notify people that they could ask for a survey. Arkansas regulations do not require a survey
ILLINOIS	NO	Our regulations state: "...owners of structures located within [1/2] mile of the permit area how to request a preblast or condition survey....Structures such as pipelines, cisterns, wells and other water systems warrant special attention such as the review of construction, drilling or completion specifications; however, assessment of these structures may be limited to surface conditions." The Department by regulation will not allow blasting within 100 feet of facilities including, but not limited to, disposal wells, petroleum or gas storage facilities, municipal water storage facilities, fluid-transmission pipelines, or water sewage lines.
MISSOURI	NO	Missouri considers oil or gas well heads as



		<p>"structures" which are eligible for preblast surveys. "Structures" are by technical definition all items constructed on property within [1/2] mile radius of the blasting site. Because Missouri's rules state that the survey may be limited to an assessment of the surface conditions or other readily available data, we would not require an assessment beyond the surface (or visible) conditions or other readily available data. In other words, the surveyor would be required to assess the structure through visual observations only as opposed to, for example, also probing, uncovering, sounding, or testing the structure. If data on the condition of the structure was readily available, we would require the operator to present the data as part of the survey. However, the operator would not be required to attest to the accuracy of the data.</p>
OHIO	NO	<p>Our agency would require a preblast survey of an oil or gas well and its associated structures if requested, in writing, by the owner. However, no utility company (electric, telephone, TV cable, oil and gas company, etc.) has ever requested a preblast survey. If one were requested, "...the assessment of these structures may be limited to surface conditions and other readily available data." as stated in our administrative rules. No interpretation of this requirement has been necessary, to date.</p>
OKLAHOMA	NO	<p>We require the operator to give the owner of the structure the opportunity to request a preblast survey. We do not formally review the survey. If presented a copy of the survey, we provide comments that may make the survey more complete and adequate. The extent of the survey is at the discretion of the operator. A detailed survey will provide a greater degree of protection for the operator and owner of the structure.</p>
PENNSYLVANIA	NO	
VIRGINIA	NO	<p>The Division of Mined Land Reclamation (DMLR) requires preblast surveys on any structures within the [1/2] mile radius when a timely request for the survey is made by the owner of the structure or by the residence of an occupied dwelling [816.62(a)]. DMLR only requires that the survey include the visible surface features. DMLR has not developed</p>



		any specific survey criteria for a specific structure such as a well head.
WEST VIRGINIA	NO	Oil and gas wells are considered structures by this state. If requested by a resident or owner within [1/2] mile of the permit area, the operator shall conduct a preblast survey in accordance with 6.8.a.2 of the regulations.

2. Does your agency require preblast survey notification to parties who have only a lease hold interest? For the preblast survey requirement to apply, does it make a difference whether the leaseholder "owns" the structure?

STATE	IS NOTIFICATION REQUIRED?	EXPLANATION
ARKANSAS	NO	Arkansas regulations do not require notification; notification is at the discretion of the agency. Leaseholders who get proceeds from the production of oil/gas from the well onsite would be notified; therefore, it would not matter if they owned the structure.
ILLINOIS	NO	The Department requires a preblast survey upon written request by a resident or owner of a dwelling or structure that is located within [1/2] mile of any portion of the permitted area, or by the owner of a dwelling or structure at a distance greater than [1/2] mile from the permit area but within one mile of the blasting area and within an area determined by the Department to be appropriate in a particular situation.
MISSOURI	NO	A survey would be required if requested by a leaseholder who is also a resident or occupant of a dwelling. We would not require a survey if a leaseholder or a dwelling requested a survey on a structure which is not a part of or attached to the dwelling in which he resides. However, the leaseholder may be able to convince the owner of the structure to request the survey
OHIO	NO	Our rule requires notification "...to all residents or owners of dwellings or other structures located within « mile of the permit area..." Therefore, relative to non-dwelling structures such as oil and gas wells, we require that the owners be notified. In fact, since 1986, we have required permit applicants to include



		such structures (and their addresses) in the [1/2] mile preblast survey notification list. Indiana's specific question about leaseholders has never come up.
OKLAHOMA	NO	We have never had this problem as an issue. However, the determining factor for us is who owns the structure. Lessee, or lessor, is not relevant. The owner of the structure is the relevant issue.
PENNSYLVANIA	YES	Leaseholders will be notified only if they own the structure. Pennsylvania regulations require notice of right to preblasting survey be given to "owners and residents" of structures and dwellings.
VIRGINIA	NO	DMLR does not require notice to those with only a lease hold interest. The rule at 816.62(a) is specifically applicable to the "owners" of structures.
WEST VIRGINIA	NO	

3. The federal preamble does not appear to limit the types of structures that are eligible for a preblast survey. Does your agency have a mechanism for defining which class of structures require notification and a survey? For example, are such things as fence posts, culverts, portable bins or livestock feeding facilities excluded from the definition of "structures"? If so, how is this interpretation supported -- by statute, by regulation, by policy, by technical determination or some other way?

STATE	HAVE REGS FOR DEFINING STRUCTURES?	EXPLANATION
ARKANSAS	NO	There are no written mechanisms for defining which class of structures require notification. The agency would not be concerned about a fence post, unless it was next to the blast site. The agency might look at the situation if the "structure" was a feeding bin. A "large" structure such as a silo would definitely be eligible for a survey.
ILLINOIS	YES	By regulation, the types of structure that would be considered eligible for a preblast survey are dwellings, public buildings, schools, churches, or commercial or institutional buildings and those listed in response to question 1 above. Illinois does not require a preblast survey on fence posts, culverts, portable bins or livestock



		feeding facilities.
MISSOURI	YES	"Structures" are by technical definition all items constructed on the property, including portable items. Because Missouri has not yet received requests for surveys which could be considered frivolous, we have not seen a need to further define the types of structures that qualify for surveys. Requests for surveys on structures which experts state cannot be affected by blasting might be considered frivolous.
OHIO	NO	Our agency has no specific mechanism for defining which class of structures requires notification and a survey. We expect that all residents or owners of dwellings or other structures be notified about how to request a preblast survey. If a property had nothing but a barn or hunting cabin on it, we would expect that owner's name and address to be on the « mile preblast survey notification list required at permit application time. No property owner has ever asked that his fence posts, culverts, portable bins or livestock feeding facilities be surveyed. However, if such a request were received, we would probably interpret "structures" in its broadest definition from Webster -- 'something built or constructed' -- and require a preblast survey accordingly. The [1/2] mile preblast survey notification list would, in almost every case, automatically cover the properties where these structures might exist. The normal expectation of property owners and people who conduct preblast surveys is that the residence, garage, outbuildings, driveways, walkways, patios, porches and other related structures will be included in the survey, subject to approval of the owner. But if an owner specifically asks the preblast survey inspector to include fence posts or portable structures, the inspector would document to condition of such structures or call for an interpretation of the request.
OKLAHOMA	NO	We do not have such a mechanism. Also, we have never had this problem as an issue.
PENNSYLVANIA	YES	Preblasting surveys are always offered to dwellings, public buildings, schools, churches



		and commercial and institutional buildings. The Department will require preblasting surveys to be offered to owners of any other structure if there is potential for damage from vibration. Such "other" structures could include farm buildings, silos, garages, sheds, bridges and pipelines. Other structures would not include fence posts, culverts or any portable structures.
VIRGINIA	NO	DMLR does not have a definition making distinction between types of structures. The rule at 816.62(a) appears applicable to all structures while 816.(c) seems to make an exception for surveying only the conditions of the surface part of certain structures.
WEST VIRGINIA	YES	Fences and culverts are not considered structures by this state for preblast survey purposes in accordance with 2.116 of the regulations.