

program, not SMCRA, is the law within the State. OSM recognizes that, under existing rules implementing SMCRA, States with approved regulatory programs have primary responsibility for implementing SMCRA, based on the approved program. However, in this rule, OSM has carved out a limited exception to the general proposition, to the extent necessary to give reasonable force and effect to section 720, while maintaining so far as possible State primacy procedures. OSM believes that the process adopted in this final rule is consistent with and authorized by Congress under the Energy Policy Act, and that case law interpreting other provisions of SMCRA is not necessarily dispositive.

Director's Decision. Based on the information provided by Alabama, discussions held with Alabama on May 2, 1995, and the comment discussed above, the Director has decided that enforcement of the underground coal mine subsidence control and water replacement requirements in Alabama will be accomplished through joint State and OSM enforcement. Alabama will enforce its provisions for the replacement of water supplies affected by underground mining activities conducted after October 24, 1992. OSM will enforce those provisions of 30 CFR 817.121(c)(2) pertaining to the repair of material damage resulting from subsidence that are not covered or are limited by the State provisions of underground mining activities conducted after October 24, 1992.

If circumstances within Alabama change significantly, the Director may reassess this decision. Formal reassessment of this decision would be addressed by **Federal Register** notice.

D. Enforcement in Mississippi

Mississippi program activity, requirements, and enforcement. By letter to Mississippi dated December 14, 1994, OSM requested information that would be useful in determining how to implement section 720(a) of SMCRA and the implementing Federal regulations in Mississippi (Administrative Record No. MS-328). Mississippi did not respond to this request in writing. On May 10, 1995, representatives from OSM's Birmingham Field Office and the State met to discuss how the provisions of the Energy Policy Act would be implemented. Mississippi has had no surface or underground coal mining operations for several decades. At present, Mississippi is in the process of completely revising its approved regulatory program. It was agreed that the program revision process addressed in the Federal regulations at 30 CFR Part 732 would be implemented.

Comments. On April 10, 1995, OSM published in the **Federal Register** (60

FR 18045) an opportunity for a public hearing and a request for public comment to assist OSM in making its decision on how the underground coal mine subsidence control and water replacement requirements should be implemented in Mississippi. The comment period closed on April 30, 1995. The comment period was subsequently extended to May 10, 1995 (60 FR 21093, April 25, 1995). Because OSM did not receive a request for one, OSM did not hold a public hearing. OSM received one comment in response to its notice. Following is OSM's response to it.

A mining association responded on May 12, 1995 (Administrative Record Number MS-331). The party stated that the enforcement alternatives incorporating total or partial direct interim Federal enforcement (items (3) and (4) in section I.B. above) have no statutory basis in SMCRA and are not consistent with Congress' intent in creating section 720 of SMCRA. The party also commented that the waiving of ten-day notice procedures under direct Federal enforcement is not consistent with Federal case law. OSM does not agree with the commenter's assertions, and it addressed similar comments in the March 31, 1995, **Federal Register** (60 FR 16722, 16742-16745). These concerns about direct Federal enforcement are moot issues in Mississippi because the Regional Director has decided, as set forth below, not to implement an enforcement alternative including direct Federal enforcement.

Director's Decision. Based on discussions held with the State on May 10, 1995, and the comment discussed above, the Director has decided that initial enforcement of the underground coal mine subsidence control and water replacement requirements in Mississippi is not reasonably likely to be required and that implementation will be accomplished through the State program amendment process. There have been no underground mines in Mississippi for decades. Mississippi is in the process of amending its entire regulatory program and would enforce its statutory and regulatory provisions when its program is determined to be in accordance with the revised SMCRA and consistent with the revised Federal regulations.

If circumstances within Mississippi change significantly, the Director may reassess this decision. Formal reassessment of this decision would be addressed by **Federal Register** notice.

Dated: July 24, 1995.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95-18609 Filed 7-27-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 913

Illinois Regulatory Program

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

ACTION: Notice of decision.

SUMMARY: OSM is announcing its decision on initial enforcement of underground coal mine subsidence control and water replacement requirements in Illinois. Amendments to the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the implementing Federal regulations require that underground coal mining operations conducted after October 24, 1992: Promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures and promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining. After consultation with Illinois, OSM has decided that initial enforcement in Illinois will be accomplished through the State program amendment process for the water replacement provisions and State enforcement for the repair or compensation of material damage provisions.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Keith M. Shank, Acting Director, Springfield Field Office, OSM, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Pub. L. 102-486, 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of