

regulations. The Director agrees, in part, with the comments presented above. As explained in the Director's Decision below, the Director notes that OSM will directly enforce those provisions of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) for which the State does not have comparable provisions and/or the authority to enforce. Specifically, for those underground mining activities conducted between October 24, 1992, and August 21, 1994. The State will enforce its provisions for which it has authority. Specifically, for those underground mining activities conducted after August 21, 1994.

A citizens' group responded on May 10, 1995 (Administrative Record No. PA-835.04). The party commented that a strict timeframe should be established for submission of a State program amendment which incorporates all the provisions of the Energy Policy Act. The Director recognizes that Pennsylvania may need to amend its program. As discussed above, by letter dated May 4, 1995, Pennsylvania intends to utilize the State program amendment process to make its program no less effective than the Federal regulations. The Director finds the 732 State program amendment process adequate to address potential deficiencies in the State program. The Director also notes that OSM will support the State's program by enforcing the provisions of the Energy Policy Act of 1992 for which the Pennsylvania program lacks counterparts. The party also recommends that the implementation of the subsidence and water replacement rules be an oversight (special fund) for at least the first two years of implementation. The Director notes that OSM will continue to consider special studies of interest to its stakeholders as required by OSM's Director REG-8 which establishes the procedures for conducting oversight. The State will be required to enforce the provisions of its approved program while OSM will conduct oversight using the ten-day notice process, if necessary.

The party recommends that all citizen complaints relating to water loss or subsidence that are the subject of this notice be logged and tracked by OSM to assure proper implementation of the Energy Policy Act. For those complaints previously investigated by the State, the party feels the ten-day notice procedure should not be used. The Director notes the OSM's Harrisburg Field Office has compiled a list of all complaints received after October 24, 1992, and each will be evaluated. For those complaints where damage occurred after August 21, 1994, OSM will conduct normal oversight using the ten-day notice process, if necessary.

The party's last comment concerns the permitting process. It recommends that pending submission of a State program amendment, if Pennsylvania does not modify the permitting process immediately through the use of existing language in the State program to require additional groundwater and subsidence information, OSM should demand that each permittee be required, prior to permit issuance, to develop groundwater and subsidence information for OSM's approval prior to permit issuance. Failing this, individual enforcement actions should be taken. The Director does not agree. Pennsylvania has jurisdiction over the regulation of its surface coal mining operations. Through the 30 CFR 732.17 program amendment process, the Director will notify Pennsylvania of required changes to its program.

Director's Decision. Based on the information provided by Pennsylvania, the comments discussed above, and two informal meetings with the State, the Director has decided that enforcement of the underground coal mine subsidence control and water replacement requirements in Pennsylvania will be accomplished through joint State and OSM enforcement—option #4. Pennsylvania has statutory and regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2). The State's authority to enforce its provisions applies to operations conducted after August 21, 1994, and it would enforce its provisions for these operations. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992.

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

Dated: July 24, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

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30 CFR Part 946

Virginia 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 Virginia. 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 Virginia and consideration of public comments, OSM has decided that initial enforcement in Virginia will be accomplished through State enforcement.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT:

Douglas E. Stone, Acting Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Drawer 1217, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:

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 the damaged structures as a result of subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt placement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with these provisions for operations conducted after October 24, 1992.