

enforcement alternative including direct Federal enforcement.

Another organization commented that West Virginia has immediate authority to implement the provisions of the Energy Policy Act of 1992 to protect water and homes from damage from underground mining (Administrative Record Number WV-978). To get prompt, strict enforcement of the provisions of the Energy Policy Act the commenter recommended that OSM log and track all water loss and subsidence complaints and independently assess the State's conclusions. The State and OSM have agreed to set up a joint team to review all the complaints relating to subsidence and water loss filed between October 24, 1992, through July 10, 1995, the date of the new State subsidence procedures discussed above. However, since West Virginia has equivalent provisions to the Federal subsidence regulations (with the subsidence procedures policy of July 10, 1995) it is the State's responsibility to enforce those provisions. OSM will conduct normal oversight of the West Virginia program for the period following July 10, 1995, using the ten-day notice process if necessary.

The commenter also made additional recommendations. The Regional Director notes, however, the subject of the comments (baseline groundwater well sampling, presubsidence survey requirements at 30 CFR 784.20, and timeframes for submitting State amendments to fully address such other requirements) are outside the scope of this notice.

A third organization commented that although West Virginia has statutory and regulatory provisions in place that correspond in some ways to the requirements of the Federal law, OSM should select joint State and OSM initial enforcement of the provisions of the Energy Policy Act of 1992 that the State has not yet fully addressed (Administrative Record Number WV-981). The commenter specifically noted that the West Virginia program currently allows the waiver of water replacement rights by current landowners, and that it is unclear whether the State means to apply the requirements of the Energy Policy Act only to "permits" issued on or after October 24, 1992, or to all portions of operations conducted after October 24, 1992. The Regional Director notes, and as discussed above, the State has implemented on July 10, 1995, new subsidence policy procedures that address the commenter's concerns. According to the new State subsidence procedures, all permits, regardless of issuance date, are liable for subsidence damage caused by underground mining

that occurred after October 24, 1992. As for the waiver language at West Virginia Code section 22A-3-24(b) and the State regulations at CSR 38-2-14.5(h) concerning the waiver of water supply replacement, the Regional Director notes that the West Virginia program contains the requirements of 30 CFR 817.41(j) concerning drinking, domestic or residential water supply. The Regional Director notes that the State and OSM will jointly review all the complaints that were filed between October 24, 1992, and July 10, 1995, to ensure that the State's past enforcement actions complied with the requirements of the Energy Policy Act of 1992. If a complaint was filed that meets the criteria of the Energy Policy Act of 1992. If a complaint was filed that meets the criteria discussed above, State officials will take enforcement action to require the company to comply with the new policy.

The commenter also provided comments regarding proof of damage through presubsidence surveys and baseline monitoring and delays in program implementation. Those concerns are outside the scope of this document, but will be addressed at a later date.

Director's decision. Based on the information provided by West Virginia, discussions held with the State on July 13, 1995, and the comments discussed above, the Regional Director has decided that enforcement of the underground coal mine subsidence control and water replacement requirements in West Virginia will be accomplished through State enforcement.

OSM's initial concern that the West Virginia program does not have adequate authority to enforce the provisions of the Energy Policy Act of 1992 has been addressed by the State. On July 10, 1995, West Virginia implemented new State subsidence policy procedures that require repair or compensation for subsidence damage after October 24, 1992, consistent with 30 CFR 817.121(c)(2), and the approved program requires replacement of water supplies consistent with 30 CFR 817.41(j). In addition, OSM and the State will jointly review all the complaints filed between October 24, 1992, through July 10, 1995, to ensure that the State's past actions with regard to these complaints are consistent with the Energy Policy Act of 1992.

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

Dated: July 24, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN131-1-6794a; TN136-1-6795a; TN137-1-6796a; FRL-5257-5]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving three state implementation plan (SIP) revisions submitted on March 17, July 8 and July 13, 1994, by the State of Tennessee, through the Tennessee Air Pollution Control Division. The revisions submitted March 17, 1994, modify the existing basic motor vehicle inspection and maintenance (I/M) program in Davidson County to meet the requirements of the EPA I/M regulations, as published on November 5, 1992. The revisions submitted on July 8 and July 13, 1994, establish and require the implementation of a basic I/M program in the four middle Tennessee counties of Rutherford, Sumner, Williamson, and Wilson. These counties, along with Davidson County, form the Nashville ozone nonattainment area. The regulations establishing the I/M program constituted the July 8, 1994, submittal while the nonregulatory components of the program were discussed in the July 13, 1994, submittal.

DATES: This final rule will be effective September 26, 1995 unless adverse or critical comments are received by August 28, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Dale Aspy at the EPA Regional office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Air and Radiation Docket and Information Center (Air Docket), U.S.