

**DATES:** We will accept written comments on this amendment until 4 p.m., e.s.t. April 24, 2003. If requested, we will hold a public hearing on the amendment on April 21, 2003. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on April 9, 2003.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to George Rieger at the address listed below.

You may review copies of the Maryland program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Oversight and Inspection Office: Mr. George Rieger, Oversight and Inspection Office, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Pittsburgh, PA 15220, 412-937-2153, [grieger@osmre.gov](mailto:grieger@osmre.gov); and C. Edmon Larrimore, Program Administrator, Mining Program, Maryland Department of the Environment, 1800 Washington Blvd., Baltimore, MD 21230, 410-537-3573.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Telephone: 412-937-2153. Internet: [grieger@osmre.gov](mailto:grieger@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Maryland Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Maryland Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Maryland program on February 18, 1982. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Maryland program in the February 18, 1982, **Federal Register** (47 FR 7214). You can also find later actions

concerning Maryland's program and program amendments at 30 CFR 920.15, 920.16, 920.20, and 920.25.

**II. Description of the Proposed Amendment**

By letter dated November 25, 2002, Maryland sent us a proposed amendment to its program (Administrative Record No. MD-577-21) under SMCRA (30 U.S.C. 1201 *et seq.*). Specifically, Maryland proposes to amend several sections of the Code of Maryland Regulations (COMAR) including sections 26.20.02.13, 26.20.21.01, 26.20.21.08, and 26.20.21.09 as they relate to impoundments. The proposed amendments to each section are outlined below. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Maryland's proposed amendment contains various references to both the Soil Conservation Service (SCS) and the Natural Resources Conservation Service (NRCS). To prevent any confusion, it should be noted that the NRCS is an agency of the U.S. Department of Agriculture (USDA) and was formally known as the SCS. Therefore, any documents released before the SCS became the NRCS and referenced in Maryland's proposed amendment are referenced as SCS documents.

**26.20.02.13 Description of Proposed Mining Operations**

Maryland proposes changes to COMAR section 26.20.02.13 subsections U, V, and AA. Subsection U currently requires "[a] general plan for each proposed sedimentation pond, water impoundment, excess spoil disposal structure, and coal processing waste bank, dam, or embankment within the proposed mine plan area," which meet certain enumerated criteria. Maryland proposes to change this regulation by removing the phrase "excess spoil disposal structure," and by adding "siltation structures," before the term "sedimentation pond." Therefore, if we approve the proposed changes, the new rule would read as follows:

U. A general plan for each proposed siltation structures, sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed mine plan area. \* \* \*

The enumerated criteria would remain unchanged.

Maryland proposes the same changes to subsection V(1), which currently requires a "detailed design plan for each

proposed sedimentation pond, water impoundment, excess spoil disposal structure, and coal processing waste bank, dam, or embankment within the proposed permit area," which meet certain enumerated criteria. Maryland also proposes an addition to the enumerated criteria. A new subsection V(1)(a) is proposed, reading as follows:

(a) Is designed in compliance with the requirements of COMAR 26.20.21.06 and .08;

If we approve the proposed changes, the current subsections (a)-(d) would therefore become subsections (b)-(e), respectively. Maryland also proposes changes to subsection v(3). The current subsection reads:

(3) If a sedimentation pond, water impoundment, or coal processing waste dam or embankment is 20 feet or higher or impounds more than 20 acre-feet, the plan shall contain a stability analysis of each structure. The stability analysis shall include but not be limited to strength parameters, pore pressures, and long-term seepage conditions.

The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Maryland proposes to replace the language, "or embankment is 20 feet or higher or impounds more than 20 acre-feet" with "or siltation structure meets the Class (b) or (c) criteria for dams in the USDA, Soil Conservation Service Technical Release No. 60, (October 1985), as incorporated by reference in COMAR 26.20.21.01-1 or meets the size or other criteria of 30 CFR 77.216(a)."

Finally, Maryland proposes changes to subsection AA(1). Subsection AA requires descriptions of excess spoil disposal sites. Subsection AA(1) currently states:

Descriptions, including appropriate maps and cross-section drawings, of any proposed excess spoil disposal site and design of the spoil disposal structures.

These plans shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate, of the site and structures.

If we approve the proposed changes, the first paragraph of subsection AA(1) would read:

Each application shall contain descriptions including appropriate maps and cross-section drawings, of any proposed excess spoil disposal site and design of the spoil structures in accordance with COMAR 26.20.26.

No amendments are proposed to the remaining provisions of subsection AA.