

Federal regulations and can therefore be approved.

#### *26.20.14.13 Deep Mine Bonding Requirements*

Maryland proposed to add a subsection D to its current regulations at COMAR 26.20.14.13. The proposed language can be found in its entirety in the January 16, 2003, **Federal Register** (68 FR 2268). We are approving the amendment because it is substantively identical to its Federal counterpart found at 30 CFR 817.121(c)(5). In short, both provisions require a permittee to obtain additional performance bond when subsidence-related material damage to protected land, structures or facilities occurs or when contamination, diminution, or interruption to a protected water supply occurs. Both regulations also provide that no additional bond is required if repair, compensation, or replacement is completed within 90 days of the occurrence of damage. Finally, both regulations provide substantively identical criteria governing when the regulatory authority may extend the 90-day time frame and limit such extension to one year or less.

#### **IV. Summary and Disposition of Comments**

##### *Public Comments*

We asked for public comments on the amendment (Administrative Record No. MD-574-06), but did not receive any.

##### *Federal Agency Comments*

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Maryland program (Administrative Record No. MD-574-08). We did not receive any comments.

##### *Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. MD-574-09). In a March 13, 2003 telephone conversation, EPA notified us that it had no substantive comments (Administrative Record No. MD-574-10). Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). This amendment does not contain provisions that relate to air or water quality

standards and, therefore, concurrence by the EPA is not required.

##### *State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On November 5, 2002, we requested comments on Maryland's amendment (Administrative Record No. MD-574-05), but neither responded to our request.

#### **V. OSM's Decision**

Based on the above findings, we approve the amendment Maryland sent us. We approve, as discussed in the findings above: COMAR 26.20.02.15, concerning Survey of Structures and Renewable Resources Lands; 26.20.01.02, concerning the definitions of material damage and replacement of water supply; 26.20.02.16, concerning subsidence control plans; 26.20.13.05, concerning hydrologic balance; 26.20.13.07, concerning subsidence control; 26.20.13.09, concerning surface owner protection from subsidence; and 26.20.14.13, concerning deep mine bonding requirements.

We approve the rules proposed by Maryland with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 920, which codify decisions concerning the Maryland program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that Maryland's program demonstrate that it has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of Maryland and Federal standards.

#### **VI. Procedural Determinations**

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian Tribes.