

26.20.13.07 *Subsidence Control: General Requirements*

Maryland proposes to make several changes to COMAR section 26.20.13.07. First, two changes are proposed for subsection A. Subsection A currently reads as follows:

A. Underground mining activities shall be planned and conducted so as to prevent subsidence from causing material damage to the surface, to the extent technologically and economically feasible, and so as to maintain the value and reasonably foreseeable use of surface lands. This may be accomplished by leaving adequate coal in place, backfilling, or other measures to support the surface, or by conducting underground mining in a manner that provides for planned and controlled subsidence. This may not be construed to prohibit the standard method of room and pillar mining.

The State proposes to remove the phrase "to the surface" from the first sentence in the above quoted regulation and also to remove the final sentence, "[t]his may not be construed to prohibit the standard method of room and pillar mining," from the regulation.

Second, the State proposes to add new paragraphs B and C to COMAR 26.20.13.07. The proposed paragraphs are quoted below:

B. Underground mining activities that employ mining technology that provides for planned subsidence in a predictable and controlled manner must utilize necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to all structures, except that measures required to minimize material damage to such structures are not required if:

(1) The permittee has the written consent of the owners of the structures; or

(2) The cost of such measures exceeds the anticipated costs of repair, unless the anticipated damage would constitute a threat to health or safety.

C. Nothing in this regulation prohibits the standard method of room-and-pillar mining.

Third, Maryland proposes to change the existing subsection B to subsection D. The current subsection B states that "[t]he person engaged in underground mining activities shall comply with all provisions of the subsidence control plan prepared and approved by the Bureau." If we approve the proposed changes, the new subsection D would state, "[t]he person engaged in underground mining activities shall comply with all provisions of the approved subsidence control plan prepared and approved by the Bureau in accordance with COMAR 26.20.02.16."

Finally, a new subsection E is proposed. The language of the proposed subsection is quoted below:

E. Presubsidence Surveys of Water Supplies.

(1) Each application for a permit shall contain a survey of the condition of the quantity and quality of all water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence.

(2) The applicant or permittee shall pay for any survey technical assessment or engineering evaluation used to determine the quantity and quality of any water supplies. A copy of the survey and any technical assessment or engineering evaluation shall be provided to the property owner and the Bureau.

26.20.13.09 *Subsidence Control: Surface Owner Protection*

Maryland regulations at COMAR section 26.20.13.09 currently consist of subsections A, B, and C. No changes are proposed for subsections A, B, or C; however, the State proposes to add subsection D:

D. In determining whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the Bureau.

26.20.14.13 *Deep Mine Bonding Requirements*

COMAR section 26.20.14.13 currently contains subsections A, B, and C. No changes are proposed for these subsections; however, the State proposes to add a new subsection D:

D. When subsidence-related material damage to land, structures or facilities protected under COMAR 26.20.13.09 occurs, or when contamination, diminution, or interruption to a water supply protected under COMAR 26.20.13.05C occurs, the Bureau shall require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is completed within 90 days of the occurrence of damage, no additional bond is required. The Bureau may extend the requirement to post bond beyond 90 days, but not to exceed one year, if the permittee demonstrates and the Bureau finds, in writing, that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that it would be unreasonable to complete the repair of the subsidence-related material damage to land or protected structures, or the replacement of protected water supply within 90 days.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Oversight and Inspection Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. MD-049-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Oversight and Inspection Office at 412-937-2153.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on January 31, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under