

Maryland program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 1, 1980, **Federal Register** (47 FR 79431). You can also find later actions concerning Maryland's program and program amendments at 30 CFR 920.12, 920.15 and 920.16.

II. Submission of the Proposed Amendment

By letter dated November 25, 2002, Maryland sent us an amendment to its program (Administrative Record No. MD-577-21) under SMCRA (30 U.S.C. 1201 *et seq.*) in response to the issuance of an OSM 732 letter dated July 8, 1997. Specifically, Maryland was required 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, relative to: Detailed design plans, siltation structures, and impoundments and the reference to the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Technical Release No. 60 (criteria for dam classification).

We announced receipt of the proposed amendment in the March 25, 2003, **Federal Register** (68 FR 14360). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on April 24, 2003. We did not receive any public comments.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes. The full text of the changes can be found in the March 25, 2003, **Federal Register** (68 FR 14360).

Maryland proposed revisions to the following sections of COMAR in order to be consistent with the corresponding Federal regulations. Because these proposed rules contain language that is the same or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

COMAR 26.20.02.13

Maryland proposed to amend its regulations at Subsection U of COMAR 26.20.02.13 so that each application includes a "general plan for each

proposed siltation structure, sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed mine plan area." The Federal regulations at 30 CFR 780.25(a) and 784.16(a) require that each application include "a general plan and a detailed design plan for each proposed siltation structure, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area."

Although subsection U of the State regulation does not refer to "a detailed design plan" as does the Federal regulation, a detailed design plan is required by the State under subsection V. Maryland proposed to amend Subsection V(1) so that, like the Federal regulations, it requires a detailed design plan for "each proposed siltation structure, sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed mine plan area."

Maryland also proposed to add a new subsection V(1)(a) that requires the design plan to be designed in compliance with COMAR 26.20.21.06 and .08, which provide performance standards for siltation structures and impoundments, respectively.

The deletion of the phrase, "excess spoil disposal structure" in the current subsection, and the replacement of this phrase with, "siltation structure" before the term "sedimentation pond" in the new subsection, make Maryland's rules substantively identical to the Federal rules at 30 CFR 780.25 and 784.16 which require siltation structures and sedimentation ponds to be designed in compliance with performance standards. The deletion of the reference to excess spoil does not render the Maryland program less effective because Maryland has permitting and performance standards for excess spoil at COMAR 26.20.02.13 AA and 26.20.26.01 respectively. Also the current subsection, (a)-(d) becomes subsections (b)-(e). The renumbering of the sections is purely administrative in nature.

We are approving these revisions, as they are no less effective than the Federal regulations.

Maryland also proposes revisions to subsection (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 is substituting the following: "or embankment is 20 feet or higher or impounds more than 20 acre-feet" with "or siltation structure that 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)." The deleted language is not a requirement of the Federal regulations.

This subsection is substantively identical to 30 CFR 780.25(f) and 784.16(f).

We find these revisions to be no less effective than Federal regulations and are approving the revisions.

Maryland proposes revisions to subsection AA(1). Subsection AA requires descriptions of excess spoil disposal sites. Subsection AA(1) currently reads:

"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."

Revision of the first paragraph of subsection AA(1) reads: "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 section 26.20.26."

We are approving this revision because it is substantively identical to 30 CFR 780.35(a). The reference to section 26.20.26, makes Maryland's program no less effective than 30 CFR 780.14(c) and 784.23(c) by clarifying that only registered professional engineers may certify designs for excess spoil fills. This is in accordance with item #3 of OSM's July 8, 1997, issue letter.

COMAR 26.20.21

Maryland proposes a new COMAR subsection 26.20.21.01-1:01-1 which reads, "Incorporation by Reference, The U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR60, October 1985), "Earth Dams and Reservoirs," Technical