

Release No. 60 (TR-60) is incorporated by reference.”

We are approving this revision as the incorporation of the reference to the TR-60 makes Maryland's program no less effective than Federal regulations incorporation by reference to the same TR-60, at 30 CFR 780.25(a)(2) and 784.16(a)(2).

COMAR 26.20.21.08

Maryland proposes several revisions to COMAR subsection 26.20.21.08. First, Maryland proposes to revise subsection 26.20.21.08A, which lists the general requirements for impoundments. Under the current regulations, the first requirement is that impoundments be designed and constructed to ensure:

(1) Compliance with USDA, Soil Conservation Service, Standards and Specifications for Ponds (Code 378), July, 1981, as incorporated by reference in COMAR subsection 26.17.05.05B(3), if impoundments do not meet the size or other criteria of 30 CFR Section 77.216(a) and are located where failure would not be expected to cause loss of life or serious property damage.

The revised COMAR section 26.20.21.08A(1) reads as follows: “(1) Compliance with USDA, Natural Resources Conservation Service, Maryland Conservation Practice, Standard Pond 378 (January 2000), as incorporated by reference in COMAR 26.17.02.01-1B(2).”

We are approving this revision because Code 378 addresses Class A Hazards. There is no direct Federal counterpart and we find it is not inconsistent with the Federal regulations at 30 CFR 816.49 and 817.49.

Maryland also proposes to revise the second requirement of subsection A. The new requirement reads as follows: “(2) Compliance with requirements of COMAR 26.17.04.05 if the embankment is more than 15 feet in height as measured from the upstream toe of the embankment to the crest of the emergency spillway.”

We are approving this revision to the Maryland program as it is not inconsistent with the Federal regulations. Maryland also proposes a new subsection (3) referencing:

“Impoundments meeting the Class (b) or (c) criteria for dams in Earth Dams and Reservoirs, TR-60 shall comply with “Minimum Emergency Spillway Hydrologic Criteria” table in TR-60 and the requirements of this regulation.”

We are approving this revision as it is substantively identical to and no less effective than the Federal counterpart under 30 CFR 816.49(a)(1) and 817.49(a)(1).

Maryland also proposes changes to subsection B of COMAR 26.20.21.08, which addresses the stability of impoundments. COMAR section 26.20.21.08B(1) currently requires that: “(1) Impoundments meeting the size or other criteria of 30 CFR 77.216(a), located where failure would be expected to cause loss of life or serious property damage, or a coal mine waste impounding structure, shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions and a seismic safety factor of at least 1.2.”

The language addition states: “(1) Impoundments meeting the Class (b) or (c) criteria for dams contained in “Earth Dams and Reservoirs”, TR-60 or the size or other criteria of 30 CFR 77.216(a) shall have a minimum static safety factor of 1.5 for a normal pool with steady state seepage saturation conditions and a seismic safety factor of at least 1.2.”

The deleted language does not render the Maryland program inconsistent with the Federal regulations because loss of life or serious property damage is a hazard criterion for Class C impoundments. Additionally, the deletion of the phrase “coal mine waste impounding structure” is not inconsistent with Federal regulations because Maryland has performance standards for coal mine waste impounding structures at COMAR 26.20.27.11. We are approving this revision to the Maryland program as it is substantively identical to the Federal regulations at 30 CFR 816.49(a)(4)(i) and 817.49(a)(4)(i). The revision is therefore no less effective than the Federal counterpart regulations.

COMAR section 26.20.21.08B(2) currently requires that: “(2) Except for coal mine waste impounding structures and impoundments located where failure would be expected to cause loss of life or serious property damage, impoundments not meeting the size or other criteria of 30 CFR 77.216(a) shall be constructed to achieve a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions.”

Maryland proposes to make revisions to section 26.20.21.08B(2), which read: “(2) Impoundments not included in Section B(1) of this regulation, except for coal mine waste impounding structures shall be constructed to achieve a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions.”

The deleted language does not render the Maryland program inconsistent with the Federal regulations because loss of life or serious property damage is a

criteria for Class C impoundments referenced in subsection B(1). We are approving these proposed revisions to the Maryland program, as they are substantively identical to and no less effective than Federal regulations at 30 CFR 816.49(a)(4)(ii) and 817.49(a)(4)(ii).

Maryland also proposes a new COMAR section 26.20.21.08.C, which reads:

“C. Freeboard. (1) Impoundments shall have adequate freeboard to resist overtopping by waves and sudden increases in storage volume. (2) Impoundments meeting the Class (b) or (c) criteria for dams in “Earth Dams and Reservoirs”, TR-60 shall comply with the freeboard hydrograph criteria in “Minimum Emergency Spillway Hydrologic Criteria” table in TR-60. Subsequently, the current subsections C and D would therefore become subsections D and E, respectively.”

D. Foundation. The current subsection C(2) now reads: “(2) For an impoundment meeting the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.”

Subsection C(2) becomes D(2) and reads:

“(2) For an impoundment meeting the Class (b) or (c) criteria for dams contained in “Earth Dams and Reservoirs”, TR-60 or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability.”

We are approving these proposed revisions to the Maryland program because they are substantively the same and no less effective than the Federal regulations at 30 CFR 816.49(a)(5)-(6) and 817.49(a)(5)-(6) regarding Freeboard and Foundation. Maryland is revising this section as a result of the July 8, 1997, issue letter requirements.

Maryland proposes changes to COMAR 26.20.21.08D. As noted above, the proposed addition of a new subsection C changes the current subsection D to E with approval of the proposed changes. Further, the State proposes changes to the current subsection D(3). Currently subsection D(3) contains subsections (a) and (b), which contain the required design precipitation event for impoundments meeting the spillway requirements of the section. The State proposes to add a new subsection D(3)(c): “(c) For impoundments meeting the Class (b) or (c) criteria for dams in “Earth Dams and