

The provisions of COMAR that Maryland proposes to revise are as follows: COMAR, 26.20.03.07 Augering, A. and B., 26.20.03.11 Lands Eligible for Remining, A., B., (1), (2), C., and D., 26.20.05.01 Required Written Findings, A., B., C., L., (1), (2), and (3), and 26.20.25.02 Topsoil Handling D. The specific amendments to COMAR are identified below.

26.20.03.07 Augering.

Maryland proposes to recode the first section A. and add section B. which states “No permit shall be issued for any augering operations unless the Bureau finds, in writing, that the operation meets all other requirements of this subtitle and will be conducted in compliance with COMAR 26.20.24.01”.

26.20.03.11 Lands Eligible for Remining.

Maryland proposes to add sections which state:

A. This regulation applies to any person who conducts or intends to conduct a surface coal mining operation on lands eligible for remining.

B. Any application for a permit under this regulation shall be made according to all requirements of this subtitle applicable to surface coal mining and reclamation operations. In addition, the application shall:

(1) To the extent not otherwise addressed in the permit application, identify potential environmental and safety problems related to prior mining activities at the site that could be reasonably anticipated to occur; and

(2) With regard to potential environmental and safety problems referred to in section B(1) of this regulation, describe the mitigative measures that will be taken to ensure that the applicable reclamation requirements of the Regulatory Program can be met.

C. The identification of the environmental and safety problems required under section B(1) of this regulation shall include visual observations at the site, a record review of past mining at the site, and environmental sampling tailored to current site conditions.

D. The requirements of the regulation shall not apply after September 30, 2004.

26.20.05.01 Required Written Findings.

“A, and may not” are deleted and this section is revised to read, “No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Bureau finds, in writing, on the basis of information set forth in the application, or information otherwise available and

documented in the approval under COMAR 26.20.04.11 A., the following:”

A. “Complies” is deleted and this section now reads, “The permit application is complete and accurate and the applicant has complied with all requirements of the Regulatory Program;”

B. The words “Surface coal mining and” as well as “mining and” are deleted and the section is revised to read, “The applicant has demonstrated that reclamation operations, as required by the Regulatory Program, can be feasibly accomplished under the reclamation plan contained in the application;”

C. The phrases “has been made an” and “have been made” have been deleted and the section now reads, “The Bureau has made an assessment of the probable cumulative impacts of all anticipated coal mining in the cumulative impact area on the hydrologic balance and has determined that the operations proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area;”

D.–K. (text unchanged)

L. The sentence, “The activities are conducted so as to reasonably maximize the use of coal, while using the best appropriate technology currently available to maintain environmental integrity, so that the probability of re-affecting the land in the future by strip or underground mining operations is minimized.” is deleted and the section is revised to read, “For permits issued under COMAR 26.20.03.11, the permit application must contain:”

(1) Land eligible for remining;

(2) An identification of the potential environmental and safety problems related to the prior mining activities which could reasonably be anticipated to occur at the site; and

(3) Mitigation plans to sufficiently address these potential environmental safety problems so that reclamation as required by the applicable requirements of the Regulatory Program can be accomplished.

26.20.25.02 Topsoil Handling.

A.–C. (text unchanged)

D. The word “Topsoil”, the phrase “in the amounts determined by soil tests”, and the fragment and sentence “surface soil layer so that it supports the approved post mining land use and meets the revegetative requirements. All soil tests shall be performed by a qualified laboratory or person using standard methods approved by the bureau.” all have been deleted. The section now reads as follows:

Nutrients and Soil Amendments.

Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the vegetative cover.

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 Maryland 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 may 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 Appalachian Regional Coordinating Center may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII, Word file avoiding the use of special characters and any form of encryption. Please also include “Attn: SATS NO. MD-051-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 Appalachian Regional Coordinating Center 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 inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under