

[FR Doc. 97-7270 Filed 3-24-97; 8:45 am]

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## Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 920

[MD-041-FOR]

#### Maryland Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Maryland regulatory program (hereinafter the "Maryland program" under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Maryland regulations pertaining to bonding. The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

**DATES:** Written comments must be received by 4:00 p.m. E.S.T. April 24, 1997. If requested, a public hearing on the proposed amendment will be held on April 21, 1997. Requests to speak at

the hearing must be received by 4:00 p.m., E.S.T., on April 9, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Program Manager, at the address listed below.

Copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contracting OSM's Appalachian Regional Coordinating Center.

George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937-2153.

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532. Telephone: (301) 689-4136.

#### FOR FURTHER INFORMATION CONTACT:

George Rieger, Program Manager, Appalachian Regional Coordinating Center, at (412) 937-2153.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 1, 1980, **Federal Register** (45 FR 79449). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.12, 920.15, and 920.16.

##### II. Description of the Proposed Amendment

By letter dated March 6, 1997 (Administrative Record No. MD-552.18), Maryland submitted a proposed amendment to its program pursuant to SMCRA in response to required amendments at 30 CFR 920.16 (h), (i), (j), and (n). Maryland is revising the Code of Maryland Regulations (COMAR) at section 26.20.14.01B—Performance Bonds and is formally submitting actuarial study which reviews the adequacy of its alternative bonding system. Specifically, Maryland proposes to require that a performance bond be conditioned upon the permittee faithfully performing every requirement of Subtitle 5 of the Annotated Code of Maryland, the Regulatory Program, the permit, and the reclamation plan.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Maryland program.

#### *Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Appalachian Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### *Public Hearing*

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.S.T. on April 9, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact

the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### *Public Meeting*

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

### IV. Procedural Determinations

#### *Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

#### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, 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 since each such 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 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.

#### *National Environmental Policy Act*

No environmental impact statement is required for this rule since section

702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

#### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the date and assumptions for the counterpart Federal regulations.

#### **Unfunded Mandates**

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 920**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 1997.

**Michael K. Robinson,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 97-7537 Filed 3-24-97; 8:45 am]

BILLING CODE 4310-05-M