DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–043–FOR]

Maryland Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Maryland regulatory program (“Maryland program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed revisions to its statutes pertaining to the Land Reclamation Committee to satisfy a required program amendment at 30 CFR 920.16(l). The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: July 8, 1999.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937–2153. E-mail: grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

II. Submission of the Proposed Amendment

III. Director’s Findings

IV. Summary and Disposition of Comments

V. Director’s Decision

VI. Procedural Determinations

I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. You can find background information on the Maryland program, including the Secretary’s findings, the disposition of comments, and the conditions of approval in the December 1, 1980, Federal Register (45 FR 79449). You can find later actions on conditions of approval and program amendments at 30 CFR 920.12, 920.15, and 920.16.

II. Submission of the Proposed Amendment

By letter dated August 22, 1997 (Administrative Record No. MD–578.00), Maryland submitted a proposed amendment to its program pursuant to SMCRA in response to a required amendment at 30 CFR 920.16(l). Maryland is revising the 1997 Laws of Maryland, Chapter 223 (House Bill 245), at section 15–204(a)(4) to require that Land Reclamation Committee (LRC) members recuse themselves from proceedings that may affect their direct or indirect financial interests.

We announced receipt of the proposed amendment in the September 19, 1997, Federal Register (62 FR 49183), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on October 20, 1997.

During our review of the amendment, we identified concerns with Maryland’s submission. In a letter dated January 29, 1998 (Administrative Record No. MD–578–06), we informed Maryland that it must amend its program to require that LRC members file a statement of employment and financial interests. Since Maryland did not take further action, it was not necessary to reopen the comment period.

III. Director’s Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment. Any revisions we do not specifically discuss below concern nonsubstantive wording changes and paragraph notations to reflect organizational changes resulting from this amendment.

30 CFR 920.16(l) required Maryland to amend its program to require members of the LRC to: (1) recuse themselves from proceedings that affect their direct financial interest and (2) file a statement of employment and financial interest. In response, Maryland proposed to revise Chapter 223, 1997 Laws of Maryland, at section 15–204(a)(4) to require that LRC members recuse themselves from proceedings that may affect their direct or indirect financial interests. We find that the proposed revision is no less effective than the Federal regulation at 30 CFR 705.4(d) and satisfies the first part of the required amendment at 30 CFR 920.16(l).

In its submittal letter, Maryland stated that it is presently requiring that LRC members file a Federal OSM employment and financial interest statement. Maryland did not, however, provide supporting documentation. We find that Maryland’s program is less effective than the Federal regulations at 30 CFR 705.11(a) and 705.17(a).
IV. Summary and Disposition of Comments

Public Comments

We solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

According to 30 CFR 732.17(h)(11)(ii), we solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Maryland program. The U.S. Department of Labor, Mine Safety and Health Administration and the U.S. Department of the Army, Army Corps of Engineers, concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.). None of the revisions that Maryland proposed to make in this amendment pertains to air or water quality standards. Therefore, OSM did not request EPA’s concurrence.

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. 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

This rule is exempted from review by the Office of Management and Budget (OMB) under 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.

Regulatory Flexibility Act

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule complies with the regulatory flexibility requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal which is the subject of this rule is based upon SMCRA and its implementing Federal regulations and whether such regulations would not have a significant economic impact 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 data and assumptions for the corresponding 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 920

Intergovernmental relations, Surface mining, Underground mining.


Ronald C. Recker,
Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for Part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.

2. Section 920.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

* * * * *
Section 920.16 is amended by revising paragraph (l) to read as follows:

§ 920.16 Required program amendments.
  * * * * *
  (l) By July 10, 2000, Maryland must amend its program to be no less effective than 40 CFR 705.11(a) and 705.17(a) by requiring each member of the Land Reclamation Committee to file a statement of employment and financial interest.

III. Opportunity for Public Comments

I. Background

A. What is a SIP?

B. What is the Federal Approval Process for a SIP?

C. What is transportation conformity?

II. Approval of the Albuquerque/Bernalillo County Transportation Conformity Rule

A. What did the State send?

B. What is EPA approving today and why?

C. How did the AQCB satisfy the interagency consultation process (40 CFR 93.105)?

D. Why did the AQCB exclude the grace period for new nonattainment areas (40 CFR 93.102(d))?

E. What parts of the rule are excluded?

III. Opportunity for Public Comments

IV. Administrative Requirements

I. Background

A. What is a SIP?

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