

### 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 data and assumptions for the counterpart Federal regulations.

### Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

### List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 920

[MD-033-FOR]

#### Maryland Regulatory Program

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** OSM is reopening the public comment period on a proposed amendment to the Maryland permanent regulatory program (hereinafter referred to as the "Maryland program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Maryland regulations

pertaining to excess spoil disposal, conditions of surety and collateral bonds, and procedures for release of general bonds. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., E.S.T., February 4, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, 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 contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief,  
Appalachian Regional Coordinating  
Center, Office of Surface Mining  
Reclamation and Enforcement, 3  
Parkway Center, Pittsburgh, PA  
15220, Telephone: (412) 937-2153  
Maryland Bureau of Mines, 160 South  
Water Street, Frostburg, MD 21532,  
Telephone: (301) 689-4136

**FOR FURTHER INFORMATION CONTACT:**  
George Rieger, Field Branch Chief,  
Appalachian Regional Coordinating  
Center, Telephone: (412) 937-2153.

#### SUPPLEMENTARY INFORMATION:

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

On February 18, 1982, the Secretary of the Interior 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 February 18, 1982, **Federal Register** (47 FR 7214). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.15 and 920.16.

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

Maryland provided an informal amendment to OSM regarding excess spoils on March 11, 1994. OSM completed its reviews of the informal amendment and requested a formal proposal from Maryland in a letter dated August 6, 1996. By letter dated January 7, 1997 (Administrative Record No.

MD-576-00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at OSM's request. Additionally, by letter dated January 14, 1997 (Administrative Record No. MD-552-13), Maryland submitted proposed amendments to its program pursuant to SMCRA. These amendments pertain to conditions of surety and collateral bonds, and procedures for release of general bonds and are intended to comply with required program amendments identified in 30 CFR 920.16 (k) and (m). The proposed amendments were announced in the January 30, 1997, **Federal Register** (62 FR 4502). (At the time of announcement, the proposed amendment was identified as [MD-041]. Please note that the amendment is now identified as [MD-033]). However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on four items was sent to Maryland dated June 13, 1997 (Administrative Record No. MD-576-05). Maryland responded in its letter dated June 27, 1997 (Administrative Record No. MD-576-06), by requesting a meeting with OSM and stating that additional information would not be available until after that meeting. A meeting was held on August 14, 1997, and a response was received from Maryland in its letter dated December 8, 1997 (Administrative Record No. MD-576-07). Therefore, OSM is reopening the public comment period regarding the following clarifications to Maryland's proposed amendments:

##### 1. COMAR 25.20.26, Excess Spoil Disposal

a. Maryland was asked to clarify how it would fund projects in cases where the operator defaults on the contract or otherwise fails to perform the necessary reclamation. This funding source would be in addition to the "contractor incentive provisions proposed at COMAR 25.20.26.05(D)(2). Maryland responded that the proposed amendment at COMAR 25.20.26.05(A)(1) provides that the abandoned mine land must be eligible for funding under Environment Article, Title 15, Subtitle 11, Annotated Code of Maryland. Any default by the operator on a contract or failure to perform reclamation could be funded by specially ear-marking a portion of Maryland's AML grant funds to complete the reclamation. This would be in addition to the sanctions provided in the proposed amendment.

b. Maryland was asked to clarify which requirements in the approved

program will apply to the placement of excess spoil on abandoned mine lands as referenced in proposed COMAR 25.20.26.05 (A)(3) and (B)(4). Maryland responded that since existing conditions on abandoned mine lands differ at each site, it would be extremely difficult to clarify exactly which requirements of Maryland's approved program would apply in every case for the placement of excess spoil. A field review during the application review process would verify conditions at the AML site and will determine which requirements are necessary to ensure that the excess spoil is placed in an environmentally sound manner.

c. Maryland was asked to clarify how placement of excess spoil on abandoned mine lands would achieve compliance with its AML program. Maryland responded that it considers the environmental reviews, public notice requirements and inspection requirements of its federally approved regulatory program to be comparable to those required by the AML program. Each abandoned mine lands site proposed for placement of excess spoil will be reviewed in conjunction with the application for a surface mining permit and subjected to the same requirements.

#### 2. COMAR 25.20.14.09, Procedures for Release of Bonds

a. COMAR 25.20.14.09B(2)(e) is further modified by changing the word "approximate" to "appropriate".

### 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. Specifically, OSM is seeking comments on the clarifications to the State's regulations that were submitted on December 8, 1997 (Administrative Record No. MD-576-07). Comments should address whether the proposed amendment with these clarifications 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.

### 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 3 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

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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 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: January 9, 1998.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Chapter IV

[HCFA-1014-NC]

RIN 0938-AI45

#### Medicare Program: Request for Public Comments on Implementation of the Medicare+Choice Program, and Notice of Timeframes for Submission of Applications for Contracts

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of intent to regulate; solicitation of comments.

**SUMMARY:** The Balanced Budget Act of 1997 (BBA) establishes a new Medicare+Choice program. Under this program, eligible individuals may elect to receive Medicare benefits through enrollment in one of an array of private health plans that contract with us.

The BBA directs the Secretary to publish by June 1, 1998, regulations establishing standards for the Medicare+Choice program. We have already received comments and inquiries from the public on a number of issues associated with the Medicare+Choice program. This document solicits further public comments on issues related to implementation of the Medicare+Choice program. We intend to consider these comments as we develop an interim