§ 1.897–77 Treatment of certain partnership interests as entirely U.S. real property interests under sections 897(g) and 1445(e) (temporary).

* * * * *

(c) Coordination with section 864(c)(8). [Reserved]. For further guidance, see § 1.897–7(c).

Sunita Lough,
Deputy Commissioner for Services and Enforcement.


David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2020–21165 Filed 11–5–20; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–119–FOR (Interim) OSM 2012–0013; WV–121–FOR; OSM–2013–0010 S1D15 S50801000 SX064A000 2015S180110; S2D25 S508011000 SX064A000 20XXS01520]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the West Virginia regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). West Virginia is submitting a proposed amendment to revise the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) by creating a new section relating to the award of attorney fees and costs by the Surface Mine Board. On July 11, 2012, OSMRE on an interim basis, approved statutory amendments (WV–119) to the West Virginia program under SMCRA. West Virginia revised the WVSCMRA to effect changes concerning the special reclamation tax and apportionment of this tax. This amendment was intended to increase and extend the special reclamation tax. Moreover, a specific portion of this tax was allocated to the Special Reclamation Water Trust Fund for the purpose of designing, constructing and maintaining water treatment systems on forfeited mine sites. We approved the reinstatement of the special reclamation tax, its increase to twenty-seven and nine-tenths cents per ton of clean coal mined, as well as fifteen cents of the amount collected for deposit to the Special Reclamation Water Trust Fund on a temporary basis. OSMRE’s approval took effect upon publication of this interim rule in the Federal Register on July 11, 2012 (77 FR 40793) (Administrative Record No. WV–1583).

III. OSMRE’s Findings


A new section is created in the West Virginia Code, designated as § 22–3–33 to award attorney fees and costs by the SMB and courts of appeals from actions taken by the WVDEP under the approved State surface mining program. The SMB or the court may authorize an award to the petitioner the amount of cost and expenses, including attorney fees.

This action is being taken due to the deletion of State statutory provisions from the approved State program which provided that any person involved in any administrative or judicial proceeding is entitled to reimbursement of all costs and expenses, including attorney fees, incurred by his participation in proceedings as determined by the SMB or State court.

We find the proposed State statutory revisions, as amended, to be no less effective than the Federal requirements at 43 CFR 4.1295 and no less stringent than section 525(e) of SMCRA (30 U.S.C. 1275), which states that costs and expenses, including attorney fees that are reasonably incurred may be awarded, and can be approved.

B. WV–119–FOR: WVSCMRA § 22–3–11(h)(1)–Special Reclamation Tax

Subsection 22–3–11(h)(1) of the WVSCMRA is substantively amended by increasing the amount of the special reclamation tax to twenty-seven and nine-tenths cents per ton of clean coal mined. The former special reclamation tax, effective as of July 1, 2009, required remittance of fourteen and four-tenths cents per ton of clean coal mined; the
that it had no comments on the Reclamation Tax Amendment, No. WV–1590), the Mine Safety and Health Administration (MSHA) responded that it had no comments on the program (Administrative Record No. 1565), the Army Corp of Engineers (COE) responded that they have no comments regarding the proposed changes to the bonding requirements at this time. Environmental Protection Agency (EPA) Comments and Concurrence

Under Federal regulations at 30 CFR 732.17(h)(11) and (ii), we are required to solicit comments and get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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.) OSMRE has determined that none of the State revisions pertained to air or water quality standards; therefore, EPA’s concurrence was not requested on this amendment. By letter received by OSMRE dated July 24, 2014 (Administrative Record No. 1595), the EPA acknowledged that it had no comments on WV–121–FOR. EPA concurrence was not requested for WV–119–FOR as it does not relate to air or water quality standards.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under Federal regulations at 30 CFR 732.17(h)(4), we are required to solicit comments from the SHPO and the ACHP on amendments that may have an effect on historic properties. Because OSMRE determined that none of the proposed State revisions pertained to historical preservation, the SHPO and the ACHP were not asked to comment on this amendment.

V. OSMRE’s Decision

We are approving the changes in the approved State program made by HB 4065 regarding the deletion of former West Virginia Code Chapter 22, Article 4 about the RBR and also approving SB 497 and its authorization to make changes in the approved State program about the award of attorney fees and costs by the SMB and courts in appeals from actions taken by WVDEP.

Furthermore, as discussed above, we are approving, on a permanent basis, revisions to the increase in the State’s special reclamation tax at WVSCMRA § 22–3–11(h)(1) to complete land reclamation and water treatment activities at bond forfeiture sites.

To implement this decision, we are amending the Federal regulations at 30 CFR part 948, which codifies decisions concerning the West Virginia program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) requires that the State’s program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule does not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 1563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempt from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.
Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department has determined that this Federal Register notice meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency’s legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this Federal Register notice and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the state regulatory program or to the program amendment that the State of West Virginia drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under Section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to “grant the States the maximum administrative discretion possible” with respect to Federal statutes and regulations administered by the States. West Virginia, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the state level. This rule approves an amendment to the West Virginia program submitted and drafted by the State, and thus is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department’s consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department’s tribal consultation policy is not required. The basis for this determination is that our decision is on the West Virginia program that does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 et seq.) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) is not required.

Regulatory Flexibility Act

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 corresponding 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. 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule will not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.
List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,
Regional Director North Atlantic—Appalachian Region.

For the reasons set out in the preamble, the Office of Surface Mining Reclamation and Enforcement amends 30 CFR part 948 as follows:

PART 948—WEST VIRGINIA

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date Date of publication of final rule Citation/description


[FR Doc. 2020–23214 Filed 11–5–20; 8:45 am]
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DEPARTMENT OF EDUCATION

Office of the Secretary
34 CFR Parts 75 and 76
Office for Civil Rights
34 CFR Part 106
Office of Postsecondary Education
34 CFR Parts 606, 607, 608, and 609
[Docket ID ED–2019–OPE–0080]
RIN 1840–AD45

Direct Grant Programs, State-Administered Formula Grant Programs, Non Discrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, Developing Hispanic-Serving Institutions Program, Strengthening Institutions Program, Strengthening Historically Black Colleges and Universities Program, and Strengthening Historically Black Graduate Institutions Program

AGENCY: Office for Civil Rights, Office of Postsecondary Education, Department of Education.

ACTION: Final rule; corrections.

SUMMARY: In the Federal Register of September 23, 2020, the Department of Education (Department) published a final rule, Direct Grant Programs, State-Administered Formula Grant Programs, Non Discrimination on the Basis of Sex of publication of final rule’ entries for “W.Va. Code 22–3–33, Attorney fees and costs” and “W.Va. Code 22–3–11(h)(1), Increase in Special Reclamation Tax” to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

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DEPARTMENT OF EDUCATION

Office of the Secretary
34 CFR Parts 75 and 76
Office for Civil Rights
34 CFR Part 106
Office of Postsecondary Education
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