

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 633**

[Docket No. FHWA–2025–0013]

RIN 2125–AG11

Rescinding Requirements Regarding Federal-Aid Contracts for Appalachian Contracts

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FHWA rescinds the regulations related to Federal-Aid Contracts (Appalachian Contracts), issued on September 30, 1974 because they are unnecessary, outdated, and duplicative of other statutory and regulatory requirements.

DATES: This final rule is effective January 2, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony DeSimone, Office of Infrastructure, (317) 226–5307, anthony.desimone@dot.gov; or Mr. Michael Harkins, Office of Chief Counsel, (202) 366–1523, Michael.harkins@dot.gov, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access and Filing**

This document, as well as the notice of proposed rulemaking (NPRM), and all comments received, may be viewed online through the Federal eRulemaking portal at www.regulations.gov. The website is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: www.federalregister.gov and the U.S. Government Publishing Office's website at www.GovInfo.gov.

Background

FHWA is rescinding the rule issued on September 30, 1974, Federal-Aid Contracts (Appalachian Contracts), at 39 FR 35146, as amended on October 21, 1975, by 40 FR 49084 and on March 1, 1976, by 41 FR 8769, amending 23 CFR part 633, subpart B. The rule being rescinded provided policies and procedures for administering projects and funds for the Appalachian Development Highway System (ADHS) and Appalachian local access roads. 23

CFR 633.201. FHWA rescinds the entire subpart B of part 633.

This subpart concerns projects for the ADHS and Appalachian local access roads. Under section 14501 of title 40 of the United States Code (U.S.C.), the Secretary of Transportation may assist in the construction of the ADHS and local access roads serving the Appalachian region, and Congress has appropriated funds for this purpose. While such Appalachian projects have been, are being, and likely will continue to be constructed, FHWA does not find it necessary to maintain the current regulations to administer such construction. This subpart is being rescinded because it is substantially outdated and duplicative of other statutory and regulatory sections.

Further, the rescission of this rule does not affect the application of the use of special preference to materials and products indigenous to the region, or the use of coal derivatives as provided in 40 U.S.C. 14501(d), implementation of Executive Order (E.O.) 14261 (April 8, 2025), “Reinvigorating America’s Beautiful Clean Coal Industry and Amending E.O. 14241,” and applicable wage rates as required under 40 U.S.C. 14701.

On May 30, 2025, at 90 FR 22878, FHWA published an NPRM proposing to rescind 23 CFR part 633, subpart B, and sought comments on all aspects of that proposal. FHWA received one comment on its NPRM expressing general disagreement with deregulation but no substantive comment on the proposal. As such, FHWA now adopts the proposal without change.

Rulemaking Analyses and Notices

A. Executive Orders 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

This final rule does not meet the criteria of a “significant regulatory action” under E.O. 12866, as amended by E.O. 14215 and 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rulemaking under those orders.

This rescission removes regulations that FHWA believes are outdated, duplicative, and unnecessary. FHWA believes there may be some cost savings from this rescission, such as cost savings from not having to include unnecessary contract provisions. FHWA, however, does not have data on the extent of those savings. FHWA sought comments on any impacts that could result from removing the provisions identified in this final rule

but did not receive any additional information.

These changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another Federal Agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This final rule is an E.O. 14192 deregulatory action. Cost-savings are not quantified.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996; 5 U.S.C. 601 *et seq.*), Federal Agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rulemaking on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of a Federal Agency or an appropriate designee certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. FHWA has concluded and hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included. This rescission would only remove requirements that FHWA believes are outdated and unnecessary.

D. Unfunded Mandates Reform Act

This rulemaking does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48) for State, local and Tribal governments, or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132. FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. FHWA has also determined that this action would not preempt any State law or State regulation or affect the States’ ability to

discharge traditional State governmental functions.

F. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), a Federal Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. This rule is deregulatory and so would not impose any additional information collection requirements.

G. National Environmental Policy Act

FHWA has analyzed this rule pursuant to the National Environmental Policy Act (NEPA) and has determined that it is categorically excluded under 23 CFR 771.117(c)(2), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. This rule rescinds an outdated regulation and does not require any new Federal actions or procedures. FHWA does not anticipate any adverse environmental impacts from this rule, and no unusual circumstances are present under 23 CFR 771.117(b).

H. Executive Order 13175 (Tribal Consultation)

E.O. 13175 requires Federal Agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. FHWA has assessed the impact of this rule on Indian Tribes and determined that this rule would not have Tribal implications that require consultation under E.O. 13175.

I. Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

J. Rulemaking Summary, 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at www.regulations.gov, under the docket number.

List of Subjects in 23 CFR Part 633

Appalachia contracts bidding and implementation, Construction labor and materials, Maintenance, Project agreements, Project funding allocation and obligation.

Issued in Washington, DC, under authority delegated in 49 CFR 1.85.

Sean McMaster,
Administrator, Federal Highway Administration.

For the reasons stated in the preamble, under the authority of 23 U.S.C. 315, 49 CFR 1.81, and 1.85, FHWA amends 23 CFR part 633 as set forth below:

PART 633—REQUIRED CONTRACT PROVISIONS

- 1. Add an authority citation for part 633 to read as follows:

Authority: 23 U.S.C. 114 and 315; 49 CFR 1.48.

Subpart B—[Removed and Reserved]

- 2. Remove and reserve subpart B, consisting of §§ 633.201 through 633.211 and appendices A through D.

[FR Doc. 2025–21780 Filed 12–2–25; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No. WV–124–FOR; Docket No. OSM–2016–0012; S1D1S SS08011000 SX064A000 232S180110; S2D2S SS08011000 SX064A000 23XS501520]

West Virginia Regulatory Program

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

ACTION: Final rule; partial approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), approve in part an amendment to the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment makes changes to the West Virginia Code of State Rules (CSR),

authorized under the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA), relating to bonding requirements for operations seeking permit renewals, topsoil, inactive status, and contemporaneous reclamation.

DATES: Effective January 2, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Justin Adams, Field Office Director, Charleston Field Office, Telephone: (304) 347–7158. Email: osm-chfo@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the West Virginia Program
- II. Submission of the Amendment
- III. OSMRE's Findings
- IV. Summary and Disposition of Comments
- V. OSMRE's Decision
- VI. Statutory and Executive Order Reviews

I. Background on the West Virginia Program

Subject to OSMRE's oversight, section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find additional background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated June 14, 2016, and received by OSMRE on June 21, 2016 (Administrative Record No. WV–1606), the West Virginia Department of Environmental Protection (WVDEP) submitted to us an amendment regarding its approved regulatory program under West Virginia's Surface Mining Reclamation Regulations at CSR title 38, series 2. This amendment includes regulatory revisions to CSR title 38, series 2 with the passage of Committee Substitute for House Bill 117 (H.B. 117) of 2016 (Administrative Record No. WV–1606). See 2016 W. Va. Acts ch. 5 (1st Extraordinary Session). The bill includes revisions related to contemporaneous reclamation, inactive