PBGC to assess a civil penalty of up to $1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

Adjustment of Civil Penalties

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 [2] requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 19, 2023, the Office of Management and Budget issued memorandum M–24–07 on implementation of the 2024 annual inflation adjustment.[3] The memorandum provides agencies with the cost-of-living adjustment multiplier for 2024, which is based on the Consumer Price Index (CPI–U) for the month of October 2023, not seasonally adjusted. The multiplier for 2024 is 1.03241. The adjusted maximum amounts are $2,670 for section 4071 penalties and $356 for section 4302 penalties.

Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866 and therefore not subject to its review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Parts 4071 and 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4071 and 4302 as follows:

[2] Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

[3] See M–24–07, Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, *https://www.whitehouse.gov/wp-content/uploads/2023/12/M-24-07-Implementation-of-Penalty-Inflation-Adjustments-for-2024.pdf.*

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 1. The authority citation for part 4071 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

§ 4071.3 [Amended]

■ 2. In § 4071.3, remove the number ''$2,586'' and add in its place the number ''$2,670''.

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

■ 3. The authority citation for part 4302 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.3 [Amended]

■ 4. In § 4302.3, remove the number ''$345'' and add in its place the number ''$356''.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2024–00488 Filed 1–11–24; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No. WV–125–FOR; Docket ID: OSMRE–2017–0003 S1D1S SS08011000 SX064A000 2340S180110; S2D2S SS08011000 SX064A000 23XS501520]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment with deferral.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, with one deferral, an amendment to the West Virginia statutory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment revises the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) as contained in Senate Bill 687 of 2017. These revisions modify the WVSCMRA requirements related to the release of bonds and provisions related to the use of money from the Special Reclamation Water Trust Fund. We are deferring our decision on the removal of provisions pertaining to the long-range planning process for the selection and prioritization of sites to be reclaimed.

DATE: This rule is effective February 12, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Acting Field Office Director, Charleston Field Office, Telephone: (859) 260–3900. Email: *osm-chfo@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

Subject to OSMRE's oversight, SMCRA section 503(a) 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 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. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find 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 the West Virginia 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 May 3, 2017 (Administrative Record No. 1608), and received by us on May 15, 2017, the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program under SMCRA, docketed as WV–125–FOR. The proposed amendment consists of statutory revisions to WVSCMRA contained in Senate Bill 687 of 2017 (S.B. 687) (approved April 26, 2017). *See* 2017 W.Va. Acts ch. 86.

Through S.B. 687, West Virginia seeks to revise statutory provisions related to the release of bonds and the use of

money from the Special Reclamation Water Trust Fund to assure a reliable source of capital and operating expenses for the treatment of discharges from bond-forfeited sites. West Virginia also seeks to revise and reorganize the bond release requirements specific to when the different phases of a bond can be released and under what circumstances; it also preserves the requirement that no bond will be released until all reclamation requirements are met.

We announced receipt of the proposed amendment in the April 8, 2019, **Federal Register** (84 FR 13853) (Administrative Record No. 1617). In the same notice, we opened a public comment period and provided an opportunity for a public hearing on these provisions. The public comment period closed on May 8, 2019. We did not hold a public hearing or meeting because one was not requested. Letters were sent to various Federal agencies requesting comments (Administrative Record No. 1618), but none were received. For clarification, the summary of the April 8, 2019, proposed rule notice also unintentionally mentions revisions to pre-blasting and blasting requirements as being a part of this amendment. West Virginia had submitted other amendments to its blasting regulations that we had not yet addressed; therefore, in order to keep all changes to the blasting regulations together, we consolidated them into a separate amendment, which can be viewed at *www.regulations.gov* by searching the Docket ID Number OSM–2016–0010–0002, or SATS No. WV–123–FOR.

III. OSMRE's Findings

We are approving, with one deferral, the revisions proposed in WV–125–FOR as described below. The following are findings concerning West Virginia's amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at *www.regulations.gov,* searchable by the Docket ID Number referenced at the top of this notice.

The following describes the substantive statutory revisions that WVDEP submitted to OSMRE for approval on May 3, 2017 (Administrative Record No. WV–1608).

1. W. Va. Code 22–3–11(g)(1)—Bonds; amount and method of bonding; bonding requirements; special reclamation tax and funds; prohibited acts; period of bond liability.

West Virginia seeks to revise W. Va. Code 22–3–11(g)(1) to specify that moneys in the Special Reclamation Water Trust Fund are to be used to assure a reliable source of capital and operating expenses for the treatment of water discharges from forfeited sites where the WVDEP Secretary has obtained or applied for a National Pollutant Discharge Elimination System (NPDES) permit as of the effective date of WVSCMRA. The existing provision states only that the funds assure ''a reliable source of capital to reclaim and restore water treatment systems on forfeited sites.''

OSMRE's Findings: The West Virginia alternative bonding system was conditionally approved by the Secretary on January 21, 1981 (46 FR 5915), and the condition of the approval was removed on March 1, 1983 (48 FR 8448). This approval was granted under section 509(c) of SMCRA, 30 U.S.C. 1259(c), which allows for the approval of an alternative bonding system that will achieve the objectives and purposes of section 509. In drafting section 509(c), Congress was not specific in prescribing how alternative bonding programs should be financed. The relevant analysis is whether the proposed alternative bonding system achieves the objectives and purposes of a conventional bonding system as expressed in section 509 of SMCRA and as implemented by 30 CFR 800.11(e).

In the May 7, 2020, **Federal Register** (85 FR 27139), we approved on a permanent basis revisions to W. Va. Code 22–3–11(g) made by West Virginia in 2008 that added language to provide that the Special Reclamation Water Trust Fund was created within the State Treasury, into and from which moneys would be paid for the purpose of assuring a reliable source of capital to reclaim and restore water treatment systems on forfeited sites. Previously, the expenditure for water treatment systems was limited to fees collected under the Special Reclamation Fund. The revisions West Virginia proposes through S.B. 687 clarify that in addition to assuring sufficient funds to cover capital costs, which generally relate to the construction of water treatment systems, the funds must also be sufficient to cover those systems' operating expenses.

Both capital and operating costs must be accounted for to ensure compliance with the requirement in 30 CFR 800.11(e)(1) that the State have sufficient money to complete reclamation for any areas that may be in default at any time. In our 2020 approval, we made special mention of other language in this provision, which West Virginia now proposes to delete, that both funds are ''for the purpose of designing, constructing, and maintaining water treatment systems.'' *See* 85 FR at 27152. The proposed text stating that the Special Reclamation Water Trust Fund moneys are to be used for both capital and operating expenses only calls special attention to the distinction and removes any ambiguity from West Virginia's requirements in light of the proposed deletion of ''for the purpose of designing, constructing, and maintaining water treatment systems,'' which we address below in the provision West Virginia has renumbered as paragraph (g)(2). S.B. 687 also clarifies that the money from the Special Reclamation Water Trust Fund is to be used where the Secretary has received or applied for an NPDES permit. As indicated in proposed paragraph (g)(2), addressed below, both funds are ''for the reclamation and rehabilitation'' of eligible lands, which we understand to mean that to the extent that any reclamation obligation is not expensed under the Special Reclamation Water Trust Fund, it will be expensed under the Special Reclamation Fund. Neither of these revisions materially change West Virginia's program as we approved it on May 7, 2020, and it continues to be no less stringent than the Federal alternative bonding requirement at section 509(c) of SMCRA, 30 U.S.C. 1259(c), and no less effective than the Federal alternative bonding requirements at 30 CFR 800.11(e).

2. W. Va. Code 22–3–11(g)(2)—Bonds; amount and method of bonding; bonding requirements; special reclamation tax and funds; prohibited acts; period of bond liability.

In 1995, West Virginia submitted revisions to W. Va. Code 22–3–11(g) that established the development of a long-range planning process for selection and prioritization of sites to be reclaimed to avoid inordinate short-term obligations of the fund's assets of such magnitude that the solvency of the fund was jeopardized. Relying on West Virginia's implementing regulations at 38 CSR 2–12.4(c), which provide that reclamation operations must be initiated within 180 days following final forfeiture notice, we approved that revision to the extent that it provided only for the ranking of sites for reclamation without compromising the requirement that all sites for which bonds were posted be properly and timely reclaimed. *See* 60 FR 51900 (Oct. 4, 1995). In 2008, West Virginia further revised this section to account for the Special Reclamation Water Trust Fund and specified that ''[t]he secretary may use both funds for the purpose of designing, constructing

and maintaining water treatment systems when they are required for a complete reclamation of the affected lands described in this subsection.'' West Virginia now seeks to delete these provisions, as well as renumber the remaining paragraph, formerly part of (g)(1), as (g)(2).

OSMRE's Findings: We addressed West Virginia's long-range planning process for selection and prioritization of sites to be reclaimed in previous decisions, specifically in the **Federal Register** documents of October 4, 1995 (60 FR 51900) and May 29, 2002 (67 FR 37610). In both of these instances, we explained in detail that for West Virginia's Special Reclamation Fund and Special Reclamation Water Trust Fund to remain solvent requires an inventory of sites requiring reclamation. Without this inventory, it is virtually impossible for the Special Reclamation Advisory Council to accurately assess the liabilities that would be included in the alternative bonding system. We further emphasized this fact in our letter to the WVDEP dated August 23, 2021 (Administrative Record No. 1659). Again, we raised concerns regarding WVDEP having not taken the necessary steps to ensure the complete and accurate listing of all outstanding reclamation obligations (including water treatment) on active permits. We informed WVDEP that the State was required to submit either a proposed written amendment or a description of an amendment to be proposed that meets the requirements of 30 CFR 732.17(f)(1) to establish a better inventory of existing obligations.

On October 18, 2021, WVDEP responded to our letter with a proposal for an amendment (Administrative Record No. 1664) to address this issue, which then proceeded through the State's statute and rulemaking process. On March 29, 2022, WVDEP submitted this proposed revision to the West Virginia program (Administrative Record No. 1666) to develop and maintain a database to track reclamation liabilities in the WVDEP Special Reclamation Program. We are deferring our decision on Section 22–3–11(g)(2) until we have reviewed the 2022 proposed amendment (docketed as WV–128–FOR). Our deferral does not impact West Virginia's efforts to renumber these provisions from subsection (g) to paragraph (g)(2), and the renumbering has no effect on the West Virginia program. Therefore, we approve the renumbering.

3. W. Va. Code 22–3–23(c)—Release of bond or deposits; application; notice; duties of Secretary; public hearings; final maps on grade release.

West Virginia seeks to amend W. Va. Code 22–3–23(c) to more closely reflect the language used in section 519(c) of SMCRA (Requirements for release), 30 U.S.C. 1269(c), first by eliminating the distinction previously created at existing subsections (c)(1) and (c)(2) between operations with and without an approved variance from the requirement that areas be reclaimed to approximate original contour (AOC). This proposed change replaces two sets of phased bond release requirements (currently at (c)(1)(A)–(C) and (c)(2)(A)–(C)) with one set of bond release requirements under subsection (c), paragraphs (1) through (3). The State also seeks to eliminate the proviso repeated under both sets of requirements that a minimum bond of ten thousand dollars shall be retained following Phase I and II bond releases, and a proviso that allowed total release of bonds following backfilling where provisions for sound future maintenance was assured by the local or regional economic development or planning agency and certain other requirements were met. West Virginia originally proposed the provision about sound future maintenance, as well as bond release provisions specific to operations with variances from AOC requirements, in relation to a Consent Decree agreed to by the plaintiffs and WVDEP in the matter of *Bragg* v. *Robertson,* Civil Action No. 2:98–0636 (S.D.W.Va.) (approved by the U.S. District Court for the Southern District of West Virginia on February 17, 2000). The remaining changes relate to Phase II bond release at existing subparagraphs (c)(1)(B) and (c)(2)(B), which will become paragraph (c)(2).

West Virginia's proposed revisions eliminate a requirement that Phase II bond release (*i.e.,* bond release following successful revegetation) may occur only at a minimum of two years from the last augmented seeding, fertilizing, irrigation, or other work, and eliminate the flat percentage of bond returned at Phase II bond release (ten percent for those operations with an approved variance from AOC, twenty-five percent for all other operations). In place of the flat percentages, paragraph (2) will provide that the bond or deposit, in whole or in part, may be released after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the Secretary will retain that amount of bond for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility at W. Va. Code 22–3–13(b). This section establishes that the operator ensures that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable and complies with the minimum environmental performance standards for surface mining operations.

Proposed paragraph (c)(3) redrafts provisos from subparagraphs (c)(1)(C) and (c)(2)(C) that provide that when the operator has successfully completed all surface coal mining and reclamation activities, the remaining portion of the bond may be released, but not before the expiration of the period specified for operator responsibility at W. Va. Code 22–3–13(b). These provisions also provide that no bond will be fully released until all reclamation requirements are complied with, and that ''the release may be made where the quality of untreated post-mining water discharged is better than or equal to the premining water quality discharged from the mining site where expressly authorized,'' which currently only relates to West Virginia's remining regulations at CSR 38–2–23. All of this language will now appear at proposed paragraph (c)(3).

OSMRE's Findings: As we explained in our August 18, 2000, **Federal Register** notice (65 FR 50409, 50411), West Virginia's bond release requirements particular to operations with approved AOC variances apply to mountaintop removal and steep slope mining operations. We noted at that time that the different percentages of bonds released did not exceed those provided under section 519(c) of SMCRA and the Federal regulations at 30 CFR 800.40(c). Further, we explained that there was no counterpart in SMCRA or its implementing regulations for the requirement that final bond cannot be released on lands subject to an AOC variance unless, if applicable, any necessary postmining infrastructure is established and any necessary financing is completed. Therefore, the elimination of these unique requirements from WVSCMRA is approved.

West Virginia proposed to delete a proviso stating that after Phase I and II bond release, operations must still maintain a minimum bond of $10,000. We find that this requirement is redundant of W. Va. Code 22–3–11(a), which states: ''Provided, that the minimum amount of bond furnished for any type of reclamation bonding shall be ten thousand dollars.'' The elimination of this proviso from W. Va. Code 22–3–23 does not relieve operations of the requirement of W. Va.

Code 22–3–11(a), which itself is the same as the requirement under section 509(a) of SMCRA, 30 U.S.C. 1259(a). Therefore, we approve this deletion to the extent that it removes the requirement from West Virginia's bond release requirements, but we note that its deletion has no effect on West Virginia's general requirement that no reclamation bonds may be less than ten thousand dollars.

In the November 12, 1999, **Federal Register** (64 FR 61507, 61512), we deferred a decision on the proposed amendment that would allow certain operations to be granted full bond release where provisions for sound future maintenance were assured by the local or regional economic development or planning agency and certain other requirements were met. Our deferral pended West Virginia's submission of regulations that West Virginia believed would satisfy our concerns that the proviso created an exemption from bond release requirements that conflicted with SMCRA. At that time, we explained that until we readdressed our deferral, West Virginia was prohibited from implementing this provision. Because this provision never became effective, West Virginia's current proposed deletion of the proviso has no effect on West Virginia's program. Therefore, we are approving the deletion.

West Virginia also proposed to revise the requirements for Phase II bond release by eliminating the specified amount (ten and twenty-five percent) that is to be returned upon a Phase II bond release and eliminating the minimum two-year waiting period after the last augmented seeding before revegetation standards may be met. Neither SMCRA nor the Federal regulations specify an amount of bond to be released upon Phase II or proscribe a time period for the determination that revegetation has been established for the purpose of Phase II bond release. Rather, Federal law places within the discretion of the regulatory authority the need to determine and retain adequate bond to complete all required reclamation and to determine that successful revegetation has been established. *See* 30 U.S.C. 1269(c)(2) and 30 CFR 800.40(c)(2). When we approved West Virginia's inspection frequency of inactive mines, we explained that West Virginia's two-year requirement from last augmented seeding was more stringent than Federal requirements. *See* 55 FR 21304, 21333 (May 23, 1990). The Federal requirements at 30 CFR 800.40(c) ''require only that revegetation be successfully established, with the definition of 'established' left to the discretion of the regulatory authority, provided it includes adequacy to control erosion and compliance with the species composition requirements of the reclamation plan.'' When a regulatory authority proposes to remove a provision that is more stringent than the Federal requirements, we must still ensure the remaining provisions are not rendered less stringent than those requirements. The two-year requirement is not critical to a mining operator's achievement of the relevant vegetative performance standard or to WVDEP's evaluation of whether the standard is met. The proposed amendment retains West Virginia's commitment to verify that applicable standards for vegetative success have been met before the relevant portion of the bond is released and, therefore, is no less stringent than sections 505 and 519 of SMCRA, 30 U.S.C. 1265 and 1269, or less effective than the Federal regulations at 30 CFR 800.40 and 816.116. Therefore, we are approving the amendment.

West Virginia's proposed revision would eliminate the flat percentage Phase II bond release in favor of retaining the amount of bond for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation and for the period specified for operator responsibility. This proposed revision directly reflects the language of 30 CFR 800.40(c)(2). In 1983, we removed from paragraph (c)(2) a corresponding twenty-five percent Phase II maximum bond release requirement in favor of more flexibility for the regulatory authority to retain the amount of bond necessary. *See* 48 FR 32932, 32953 (July 19, 1983). At that time, we acknowledged that establishment of a maximum percentage as a Federal requirement was arbitrary and not consistent with SMCRA. *Id.* Given that West Virginia's revision brings its bond release requirement back in line with the Federal regulation, it is no less effective than Federal requirements, and we are approving it.

Regarding proposed paragraph (c)(3), this paragraph simply redrafts provisions related to the conditions for final bond release from existing subparagraphs (c)(1)(C) and (c)(2)(C), which were revisions initially required by us, *see* 50 FR 28316, 28319 (July 11, 1985), and for which we later approved subsequent revisions by West Virginia, *see* 68 FR 40157, 40158–59 (July 7, 2003). Because the proposed redrafting does not change any of these provisions from when we last approved them, we are approving the redrafted language.

4. W. Va. Code 22–3–23(i)—Release of bond or deposits; application; notice; duties of Secretary; public hearings; final maps on grade release.

WVDEP proposed to add subdivision (i) to its bonding requirements, which would authorize the Secretary to propose rules for legislative approval during the 2018 regular session of the Legislature that implemented the statutory changes discussed above while adopting, where possible, corresponding Federal regulatory standards. In addition, the Secretary was to specifically consider the adoption of corresponding Federal standards codified at 30 CFR part 700 *et seq.*

OSMRE's findings: OSMRE is approving the addition of subdivision (i) to WVDEP's bonding requirements, which authorizes the Secretary to propose rules for legislative approval. In addition, the WVDEP Secretary was to specifically consider the adoption of corresponding Federal standards codified at 30 CFR part 700 *et seq.* This approval enabled WVDEP the discretion to amend its bonding regulations as needed so that West Virginia's program may continue to satisfy Federal law. West Virginia made its regulatory revisions through a Committee Substitute for Senate Bill 163 of 2018, *see* 2018 W.Va. Acts ch. 141, which West Virginia submitted to us on May 2, 2018 (Administrative Record No. WV–1613A, in part), docketed as WV–126–FOR. Subsection (i) itself did not change any substantive provisions of West Virginia's approved program, but instead only directed WVDEP to fashion revisions to WVDEP's regulations that WVDEP determined were necessary to comply with Federal law. Therefore, subsection (i) is neither inconsistent with SMCRA nor less effective than SMCRA's implementing regulations. We are currently reviewing those regulatory revisions made under the authority of subsection (i) as part of a separate action docketed at WV–126–FOR.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment and received a letter dated May 8, 2019, from the West Virginia Coal Association (WVCA) (Administrative Record No. 1627). WVCA stated in its letter that S.B. 687 revised both bonding and explosives and blasting provisions of the WVSCMRA. WVCA stated that it was unclear why WV–125–FOR only covered the bonding portion of the bill. The blasting provisions referenced in our public notice of WV–125–FOR on April 8, 2019, were moved into WV–123–FOR with House Bill 4726

(approved April 1, 2016), *see* 2016 W.Va. Acts ch.106, and Senate Bill 163 (approved May 2, 2018), *see* 2018 W.Va. Acts ch. 141, which also amended West Virginia's blasting laws.

Federal Agency Comments

On April 10, 2019, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the West Virginia program (Administrative Record No. 1618). On April 30, 2019, we received a letter from the USDA Forest Service, Monongahela National Forest. The USDA Forest Service did not have any comments of the proposed changes to the revisions to the West Virginia Code (Administrative Record No. 1626).

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to 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.*). On April 10, 2019, under 30 CFR 732.17(h)(11)(i), we requested comments and concurrence from the EPA on the amendment (Administrative Record No. 1618). We received concurrence but no comments from the EPA on August 14, 2019, (Administrative Record No. 1629).

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On April 10, 2019, we requested comments on West Virginia's amendment (Administrative Record No. 1618). We did not receive any comments.

V. OSMRE's Decision

We are approving this amendment, with one deferral, to the West Virginia statutory program under SMCRA. The amendment revises WVSCMRA as contained in Senate Bill 687 of 2017. These revisions modify the WVSCMRA requirements related to the release of bonds and provisions related to the use of money from the Special Reclamation Water Trust Fund.

Based on the above findings, we are approving the amendment WVDEP sent to us on May 3, 2017 (Administrative Record No. 1608), with one exception—we are deferring our decision on the removal of provisions related to the long-range planning process and the prioritization of sites. We will address those proposed revisions along with West Virginia's submission docketed at WV–128–FOR related to the establishment of a database to track existing reclamation liabilities.

To implement this decision, we are amending the Federal regulations at 30 CFR part 948 that codify 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.

VI. Statutory and Executive Order Reviews

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

This rule would 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 Orders 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, 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 exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

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 determined that this **Federal Register** document 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** document 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 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, in part, an amendment to the West Virginia program submitted and drafted by the State and defers decision on one element of the amendment only to the extent necessary to evaluate it in concert with a related amendment recently submitted by the State. Therefore, this rule 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 the distribution of power and responsibilities between the Federal government and Tribes. The basis for this determination is that our decision on the West Virginia program does not include Indian lands, as defined by SMCRA, or regulation of activities on Indian lands. Indian lands are regulated independently under the applicable approved Federal program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to

identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on such amendments.

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 a 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 (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 the Office of Management and Budget 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 does 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, 30 CFR part 948 is amended as follows:

PART 948—WEST VIRGINIA

■ 1. The authority citation for part 948 continues to read as follows:

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

■ 2. Amend § 948.12 by adding paragraph (k) to read as follows:

§ 948.12 State statutory, regulatory, and proposed program amendment provisions not approved.

* * * * *

(k) We are not approving the following portions of provisions of the proposed program amendment that West Virginia submitted on May 15, 2017:

(1) We are deferring our decision on the deletion of provisions from W. Va. Code 22–3–11(g)(2) regarding the development of a long-range planning process for the selection and prioritization of sites to be reclaimed. We defer our decision until we make a determination on West Virginia's related amendment docketed at WV–128–FOR, which relates to the complete and accurate listing of all outstanding reclamation obligations (including water treatment) on active permits in the State.

(2) [Reserved]

■ 3. In § 948.15 amend the table by adding an entry in chronological order by ''Date of publication of final rule'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication of final rule	Citation/description of approved provisions
*	*	* * * * * * *
May 3, 2017	1/12/2024	W.Va. Code 22–3–11(g)(1), (g)(2) (partial); 22–3–23(c) and (i).

[FR Doc. 2024–00530 Filed 1–11–24; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501, 510, 535, 536, 539, 541, 542, 544, 546, 547, 548, 549, 551, 552, 553, 555, 558, 560, 561, 566, 570, 576, 578, 583, 584, 588, 589, 590, 592, 594, 597, and 598

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing this final rule to adjust certain civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This rule is effective January 12, 2024.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; Assistant Director for Compliance, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treas.gov/ofac*).

Background

Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74, 129 Stat. 599, 28 U.S.C. 2461 note) (the FCPIA Act), requires each federal agency with statutory authority to assess civil monetary penalties (CMPs) to adjust CMPs annually for inflation according to a formula described in section 5 of the FCPIA Act. One purpose of the FCPIA Act is to ensure that CMPs continue to maintain their deterrent effect through periodic cost-of-living-based adjustments.

OFAC has adjusted its CMPs nine times since the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 went into effect on November 2, 2015: an initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016); an additional initial catch-up adjustment related to CMPs for failure to comply with a requirement to furnish information, the late filing of a required report, and failure to maintain records (''recordkeeping CMPs'') that were inadvertently omitted from the August 1, 2016 initial catch-up adjustment on October 5, 2020 (85 FR 54911, September 3, 2020); and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017); March 19, 2018 (83 FR 11876, March 19, 2018); June 14, 2019 (84 FR 27714, June 14, 2019); April 9, 2020 (85 FR 19884, April 9, 2020); March 17, 2021 (86 FR 14534, March 17, 2021); February 9, 2022 (87 FR 7369, February 9, 2022); and January 13, 2023 (88 FR 2229, January 13, 2023).

Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the FCPIA Act. Under the FCPIA Act and the Office of Management and Budget guidance required by the FCPIA Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (''CPI–U'') for the October preceding the date of the adjustment and the prior year's October CPI–U. As set forth in Office of Management and Budget Memorandum M–24–07 of December 19, 2023, the adjustment multiplier for 2023 is 1.03241. In order to complete the 2024 annual adjustment, each current CMP is multiplied by the 2024 adjustment multiplier. Under the FCPIA Act, any increase in CMP must be rounded to the nearest multiple of $1.

New Penalty Amounts

OFAC imposes CMPs pursuant to the penalty authority in five statutes: the Trading With the Enemy Act (50 U.S.C. 4301–4341, at 4315) (TWEA); the International Emergency Economic Powers Act (50 U.S.C. 1701–1706, at 1705) (IEEPA); the Antiterrorism and Effective Death Penalty Act of 1996 (18 U.S.C. 2339B) (AEDPA); the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908, at 1906) (FNKDA); and the Clean Diamond Trade Act (19 U.S.C. 3901–3913, at 3907) (CDTA).

The table below summarizes the existing and new maximum CMP amounts for each statute.

TABLE 1—MAXIMUM CMP AMOUNTS FOR RELEVANT STATUTES

Statute	Existing maximum CMP amount	Maximum CMP amount effective Jan. 12, 2024
TWEA	$105,083	$108,489
IEEPA	356,579	368,136
AEDPA	94,127	97,178
FNKDA	1,771,754	1,829,177
CDTA	16,108	16,630

In addition to updating these maximum CMP amounts, OFAC is also updating two references to one-half the IEEPA maximum CMP from $178,290 to $184,068, and is adjusting the recordkeeping CMP amounts found in OFAC's Economic Sanctions Enforcement Guidelines in appendix A to 31 CFR part 501. The table below summarizes the existing and new maximum CMP amounts for OFAC's recordkeeping CMPs.