is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 27, 2012.

Allen D. Klein

Director, Western Region.

For the reasons set out in the preamble, 30 CFR part 926 is amended as set forth below:

PART 926—MONTANA

■ 1. The authority citation for part 926 continues to read as follows:

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

■ 2. Section 926.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 926.15 Approval of Montana regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
August 19, 2011	September 19, 2012	MCA 82–4–203(4)(c) (definition of AOC); addition of –203(27) ''in situ coal gasification;'' –203(44) ''recovery fluid;'' recodification of former –203(27) through (56).

[FR Doc. 2012–23087 Filed 9–18–12; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SATS No. TX–064–FOR; Docket ID: OSM–2012–0005]

Texas 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 (OSM), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its regulations regarding annual permit fees. Texas revised its program at its own initiative to raise revenues sufficient to cover its anticipated share of costs to administer the coal regulatory program and to encourage mining companies to more quickly reclaim lands and request bond release, thereby fulfilling SMCRA's purpose of assuring the reclamation of mined land as quickly as possible.

DATES: *Effective Date:* September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. Email: *aclayborne@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

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, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Amendment

By letter dated February 9, 2012 (Administrative Record No. TX–700), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 et seq.). Texas sent the amendment on its own initiative.

We announced receipt of the proposed amendment in the March 28, 2012, **Federal Register** (77 FR 18738). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on April 27, 2012. We did not receive any public comments.

III. OSM's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

16 Texas Administrative Code (TAC) Section 12.108 Permit Fees

Texas proposed to revise its regulations at 16 TAC sections 12.108(b)(1)–(3), adjusting the annual coal mining permit fees for calendar year 2011 and 2012. Fees for mining activity during calendar year 2011 must be paid by coal mine operations by March 15, 2012, which is in Texas' 2012 fiscal year. Similarly, fees for mining activity during calendar year 2012 are due by March 15, 2013, which is in Texas' 2013 fiscal year.

By this amendment, Texas is:

(1) Increasing the current $130.00 per acre fee to $154.00 per acre, the amount in paragraph (b)(1) for each acre of land within the permit area on which coal or lignite was actually removed during the calendar year;

(2) Increasing the current $5.50 per acre fee to $10.40 per acre, the amount in paragraph (b)(2) for each acre of land within a permit area covered by a reclamation bond on December 31st of the year; and

(3) Increasing the current $4,250.00 fee to $6,900.00, the amount in paragraph (b)(3) for each permit in effect on December 31st of the year.

The Federal regulations at 30 CFR 777.17, concerning permit fees, provide that applications for surface coal mining permits must be accompanied by a fee determined by the regulatory authority.

The Federal regulations also provide that the fees may be less than, but not more than, the actual or anticipated cost of reviewing, administering, and enforcing the permit.

Texas' amendment describes how Texas funds its coal mining regulatory program. Texas operates on a biennial budget which appropriates general revenue funds for permitting and inspecting coal mining facilities within the state. This appropriation is contingent on the Railroad Commission of Texas (Commission) assessing fees sufficient to generate revenue to recover the general revenue appropriation. When calculating anticipated costs to the Commission for regulating coal mining activity, Texas anticipates OSM providing grant funding for regulatory program costs based on section 705(a) of SMCRA. Historically, Texas has estimated that OSM would fund 50% of the regulatory program costs. However, OSM does not agree that this is a reasonable expectation in light of the Administration's proposed fiscal year 2013 budget which reduces overall funding to states, and may result in them receiving less than fifty percent of their anticipated regulatory program costs, consistent with Section 705 of SMCRA.

Texas adjusts its fees biennially to recover the amounts expended from state appropriations in accordance with a formula and schedule agreed to in 2005 by the coal mining industry and the Commission. This amendment represents the fourth adjustment to surface mining fees based upon that agreement. Adjustments are expected to continue for a ten year period that began in 2005.

We find that Texas' fee changes are consistent with the discretionary authority provided by the Federal regulation at 30 CFR 777.17. Therefore, OSM approves Texas' proposed permit fees, recognizing that Texas has a process to adjust its fees to cover the cost of its regulatory program not covered by the Federal grant.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On February 28, 2012, 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 Texas program (Administrative Record No. TX–700.1). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comment

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.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on February 28, 2012, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. TX–700.1). The EPA did not respond to our request.

State Historical Preservation Officer (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 February 28, 2012, we requested comments on Texas' amendment (Administrative Record No. TX–700.1), but neither the SHPO nor ACHP responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Texas sent us on February 9, 2012 (Administrative Record No. TX–700).

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943 that codify decisions concerning the Texas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA 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. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Taking

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that 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 because each 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 the Federal regulations at 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not 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.

The basis for this determination is that our decision is on a State regulatory program and does not involve Federal regulations involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211, which requires agencies to prepare a Statement of Energy Effects for a rule 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 expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because 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

The Department of the Interior certifies 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. 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.

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 upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 17, 2012.

Ervin J. Barchenger,

Regional Director, Mid-Continent Region.

For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

■ 1. The authority citation for Part 943 continues to read as follows:

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

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
February 9, 2012	September 19, 2012	16 TAC 12.108(b)(1)–(3)

[FR Doc. 2012–23075 Filed 9–18–12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0555; FRL–9728–1]

Approval and Promulgation of Implementation Plans; Florida: New Source Review—Prevention of Significant Deterioration; Fine Particulate Matter ($PM_{2.5}$)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve changes to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP) to EPA on March 15, 2012. The March 15, 2012, SIP revision modifies Florida's New Source Review (NSR) Prevention of Significant Deterioration (PSD) permitting regulations to adopt, into the Florida SIP, federal NSR PSD requirements for the fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) as promulgated in EPA's 2008 NSR $PM_{2.5}$ Implementation Rule and the 2010 $PM_{2.5}$ PSD Increment, Significant Impact