6713(a). Tax return information disclosed and used for purposes of a quality, peer, or conflict review shall not be disclosed or used for any other purpose.

* * * * *

(s) *Effective/applicability date.* Paragraphs (n), (o), and (p) of this section apply to disclosures or uses of tax return information occurring on or after December 28, 2012. All other paragraphs of this section apply to disclosures or uses of tax return information occurring on or after January 1, 2009.

§ 301.7216–2T [Removed]

■ **Par. 5.** Section 301.7216–2T is removed.

Stephen T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: December 20, 2012.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2012–31185 Filed 12–26–12; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

RIN 1219–AB81

Criteria and Procedures for Proposed Assessment of Civil Penalties; Inflation Adjustment

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Mine Safety and Health Administration (MSHA) is revising its civil penalty assessment amounts to adjust for inflation. The Federal Civil Penalties Inflation Adjustment Act of 1990, (Inflation Adjustment Act) as amended by the Debt Collection Improvement Act of 1996, requires the Agency to adjust civil penalties for inflation at least once every four years according to the formula specified in the Inflation Adjustment Act. The revised penalties apply to citations and orders issued on or after the effective date of this rule.

DATES: *Effective Date:* January 28, 2013.

FOR FURTHER INFORMATION CONTACT: George F. Triebsch, Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, *triebsch.george@dol.gov* (email), 202–693–9440 (voice), or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act, Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note)), as amended by the Debt Collection Improvement Act of 1996 (DCIA), (Pub. L. 104–134, 110 Stat. 1321), requires MSHA to review and, where appropriate, adjust its civil penalties for inflation, based on the cost of living, at least once every four years. It prescribes the formula for any such adjustments. MSHA last adjusted its civil penalties for inflation in 2008 (73 FR 7206).

Section 5(b) of the Inflation Adjustment Act provides an inflation adjustment formula that defines a ''cost-of-living'' adjustment as—

* * * the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Section 5(a) included criteria for rounding the cost-of-living adjustment amount as follows:

Any increase * * * shall be rounded to the nearest—

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

Section 3(3) of the Inflation Adjustment Act defines the term ''Consumer Price Index'' (CPI) to mean ''the Consumer Price Index for all-urban consumers published by the Department of Labor.''

Section 7 of the Inflation Adjustment Act provides that the first adjustment of a civil monetary penalty under the Act may not exceed 10 percent of such penalty.

The Inflation Adjustment Act only requires that the cost-of-living adjustment and rounding formula be applied to penalties that were statutorily established by Congress. The Mine Act, as amended, contains eight statutory penalties. Consequently, MSHA applied the formula to its statutory civil penalties in 30 CFR Part 100 and is adjusting the maximum penalty for failure to provide timely notification to the Secretary under section 103(j) of the Mine Act, in § 100.4(c), from $60,000 to $65,000. In addition, MSHA is increasing the maximum penalty for flagrant violations under Section 110(b)(2) of the Mine Act, in § 100.5(e), from $220,000 to $242,000. Applying the formula to the remaining statutory civil penalties, regarding the maximum civil penalty for regular assessments in § 100.3(a)(1), the two minimum penalties for unwarrantable failure violations in § 100.4(a) and (b), the minimum penalty for failure to timely report accidents in § 100.4(c), maximum daily penalty in § 100.5(c), and the maximum smoking penalty in § 100.5(d), did not result in inflation adjustments because the increases under the inflation adjustment formula were rounded to zero pursuant to the Inflation Adjustment Act's rounding rules.

The Administrative Procedure Act (APA) requires that rulemakings be published in the **Federal Register** and that, generally, agencies provide an opportunity for public comment. Notice and an opportunity for public comment are not required, however, when the agency ''for good cause finds'' that notice and comment ''are impracticable, unnecessary, or contrary to the public interest'' (5 U.S.C. 553(b)(B)).

The decision whether to make adjustments and the amount of any adjustments for these Civil Penalties are prescribed by the Inflation Adjustment Act and are not within MSHA's discretion. MSHA is required to perform mathematical computations based on published cost-of-living data and adjust its penalties accordingly. For this reason, the Agency has determined that there is good cause that public notice and comment are unnecessary and contrary to the public interest, and that this rule should be published in final form. In accordance with the APA, this final rule is effective 30 days after date of publication in the **Federal Register**.

MSHA last updated civil penalties according to the Inflation Adjustment Act on February 7, 2008 (73 FR 7206, Feb. 7, 2008).

II. Section-by-Section Analysis

A. Section 100.3—Determination of Penalty Amount; Regular Assessment

Existing § 100.3(a)(1) provides the criteria for determining regular penalty assessments and specifies a maximum

dollar amount for a proposed civil penalty assessment. The maximum civil penalty assessment was evaluated using the formulas provided in the Inflation Adjustment Act. No adjustment is required. The existing maximum civil penalty assessment of $70,000 remains unchanged.

Existing § 100.3(g) contains a penalty conversion table (Table XIV) based on the statutory maximum penalty assessment of $70,000 in existing § 100.3(a)(1). Since the statutory maximum civil penalty for regular assessments remains unchanged the penalty conversion table is unchanged.

B. Section 100.4—Unwarrantable Failure and Immediate Notification

Existing § 100.4 states the minimum penalties for citations or orders issued under section § 104(d)(1) or (d)(2) of the Mine Act. It also includes the specific penalties required for failure to timely report the categories of accidents specified in section 5(a) of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). MSHA included this requirement in a final rule published on March 22, 2007 (72 FR 13592). In accordance with section 5(b) of the Inflation Adjustment Act, MSHA determined the inflation rate based on the consumer price index from June 2007 (208.352, the month of June of the calendar year in which the amount of the penalty was last set) through June 2011 (225.722, the month of June of the calendar year preceding this adjustment). This resulted in an inflation rate of 8.3 percent [(225.722 − 208.352) ÷ 208.352 = 0.083].

Existing § 100.4(c) states that the penalty for failure to provide timely notification to the Secretary under section 103(j) of the Mine Act will not be less than $5,000 and not more than $60,000. The minimum penalty for failure to provide timely notification was evaluated using the formulas provided in the Inflation Adjustment Act. No adjustment is required. The existing minimum penalty of $5,000 remains unchanged. To adjust the existing maximum civil penalty of $60,000 for inflation, MSHA applied the 8.3 percent inflation increase, which resulted in $4,980. MSHA rounded the increase to $5,000 in accordance with section 5(a) of the Inflation Adjustment Act. Final § 100.4(c) retains a minimum penalty of $5,000 and increases the maximum penalty to $65,000.

C. Section 100.5—Determination of Penalty Amount; Special Assessment

Existing § 100.5(e) states the maximum penalty for violations that are deemed to be flagrant under section 110(b) of the Mine Act. MSHA included this requirement in a final rule published on March 22, 2007 (72 FR 13592). The existing maximum penalty is $220,000 for such violation. To adjust the existing civil penalty for flagrant violations, MSHA applied the 8.3 percent inflation increase from June 2007 (the month of June of the calendar year in which the amount of the penalty was last set) to June 2011 (the month of June of the calendar year preceding this adjustment), which resulted in $18,260. MSHA rounded the increase to $25,000 in accordance with section 5(a) of the Inflation Adjustment Act. However, this is the first time this penalty has been adjusted under the Inflation Adjustment Act and, therefore, according to section 7, the adjustment may not exceed 10 percent of the penalty. Final § 100.5(e) increases the maximum penalty for a flagrant violation from $220,000 to $242,000 ($220,000 + 10% = $242,000).

III. Executive Order 12866: Regulatory Planning and Review; and Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a ''significant regulatory action'' is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. MSHA has determined that this final rule is not a ''significant'' regulatory action and a cost-benefit and economic analysis is not required. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the Inflation Adjustment Act, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the incentive for operators to maintain safe and healthful workplaces, and not allowing the incentive to be diminished by inflation.

Executive Order 13563 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility to minimize burden. Congress, in mandating the inflationary adjustments, has already determined that any possible increase in costs is justified by the overall benefits of such adjustments. This rule makes only the mandatory statutory changes. Since only mandatory changes are being made, there are no alternatives or further analysis required by E.O. 13563.

IV. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (5 U.S.C. 804(2)), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. As MSHA has determined for good cause that notice and public comment are not required for this rule, the Regulatory Flexibility Act does not apply and a regulatory flexibility analysis is not required for this rule. The rule only adjusts for the effects of inflation.

V. Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that MSHA consider the impact of paperwork and other information collection burdens imposed on the public. MSHA has determined that this final rule does not require any collection of information.

VI. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

Because the final rule simply adjusts for inflation, it does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments; nor does it increase private sector expenditures by more than $100 million annually; nor does it significantly or uniquely affect small governments. Accordingly, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.) requires no further agency action or analysis.

B. Executive Order 13132: Federalism

This final rule does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, Executive Order 13132, Federalism,

requires no further agency action or analysis.

C. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

This final rule will have no effect on family well-being or stability, marital commitment, parental rights or authority, or income or poverty of families and children. Accordingly, section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires no further agency action, analysis, or assessment.

D. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This final rule will not implement a policy with takings implications. Accordingly, Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, requires no further agency action or analysis.

E. Executive Order 12988: Civil Justice Reform

This final rule was drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform. This final rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. MSHA has determined that this final rule meets the applicable standards provided in section 3 of Executive Order 12988.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This final rule will have no adverse impact on children. Accordingly, Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, as amended by Executive Orders 13229 and 13296, requires no further agency action or analysis.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule does not have ''tribal implications'' because it 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. Accordingly, Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires no further agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This final rule has been reviewed for its impact on the supply, distribution, and use of energy because it applies to the coal mining industry. MSHA has concluded that the adjustment of civil monetary penalties to keep pace with inflation and thus maintain the incentive for operators to maintain safe and healthful workplaces is not a significant energy action because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, Executive Order 13211 requires no further Agency action or analysis.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

MSHA has reviewed the final rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. This rule does not establish any new burdens. It makes the necessary adjustments as required by the Inflation Adjustment Act and is therefore consistent with the provisions of E.O. 13272.

J. Congressional Review Act

The Congressional Review Act, codified at 5 U.S.C. 801 et seq., provides generally that ''major rules'' cannot take effect until 60 days after publication of the rule in the **Federal Register** and delivery of the rule to each House of Congress and to the U.S. Comptroller General. MSHA has concluded, in agreement with the Office of Information and Regulatory Affairs at the Office of Management and Budget that this rule is not a ''major rule'' as defined by the Congressional Review Act. For this reason, the rule will take effect on the date indicated.

List of Subjects in 30 CFR Part 100

Mine safety and health, Penalties.

Dated: December 19, 2012.

Joseph A. Main,

Assistant Secretary for Mine Safety and Health.

Under the authority of the Federal Mine Safety and Health Act of 1977, as amended, chapter I of title 30, Code of Federal Regulations, part 100 is amended as follows:

PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 30 U.S.C. 815, 820, 957.

■ 2. Amend § 100.4 by revising paragraph (c) introductory text to read as follows:

§ 100.4 Unwarrantable failure and immediate notification.

* * * * *

(c) The penalty for failure to provide timely notification to the Secretary under section 103(j) of the Mine Act will be not less than $5,000 and not more than $65,000 for the following accidents:

* * * * *

■ 3. Amend § 100.5 by revising paragraph (e) to read as follows:

§ 100.5 Determination of penalty amount; special assessment.

* * * * *

(e) Violations that are deemed to be flagrant under section 110(b)(2) of the Mine Act may be assessed a civil penalty of not more than $242,000. For purposes of this section, a flagrant violation means ''a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.''

[FR Doc. 2012–30963 Filed 12–27–12; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0998]

RIN 1625–AA00

Safety Zone, Upper Mississippi River MM 35.0 to MM 55.0; Thebes, IL and Cape Girardeau, MO, and MM 75.0 to MM 85.0; Grand Tower, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, extending the entire width between miles 35.0 to 55.0, and miles 75.0 to 85.0 from December 15, 2012 until March 31, 2013. This safety zone