

internal administrative actions.⁶ This rulemaking is exempt under that provision.

Regulatory Flexibility Act Certification

7. The Regulatory Flexibility Act of 1980 (RFA)⁷ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission certifies that this final rule will not have such an impact. An analysis under the RFA therefore is not required.

Document Availability

8. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

9. From FERC's Home page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number excluding the last three digits of this document in the docket number field.

10. User assistance is available for FERRIS and the FERC's website during normal business hours. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Effective Date

11. This final rule is effective immediately upon issuance. Congressional review of Final Rules does not apply to this Final Rule, because the rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.

List of Subjects in 18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

By the Commission.

Magalie R. Salas,
Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I,

Title 18, *Code of Federal Regulations*, as follows.

PART 375—THE COMMISSION

1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717w, 3301-3432; 16 U.S.C. 791-825r, 2601-2645; 42 U.S.C. 7101-7352.

2. Section 375.304 is amended by revising paragraph (b)(1)(iv) and adding paragraph (b)(1)(v) to read as follows:

§ 375.304 Delegations to the Chief Administrative Law Judge

* * * * *

(b) * * *

(1) * * *

(iv) Extend any close or record date ordered by the Commission in a proceeding for good cause, and

(v) Set or extend procedural time standards, including but not limited to hearing, briefing and initial decision dates, including dates set by the Commission, unless the Commission states otherwise in its hearing order.

* * * * *

[FR Doc. 03-3115 Filed 2-7-03; 8:45 am]

BILLING CODE 6718-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 58

Conforming Regulations Regarding Removal of Section 507 of the Federal Food, Drug, and Cosmetic Act

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 1 to 99, revised as of April 1, 2002, on page 310, in § 58.3, paragraph (e)(9) is removed and reserved.

[FR Doc. 03-55505 Filed 2-7-03; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF STATE

22 CFR Part 123

Licenses for the Export of Defense Articles

CFR Correction

In Title 22 of the Code of Federal Regulations, Parts 1 to 299, revised as of April 1, 2002, on page 447, the authority citation for part 123 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778,

2797); 22 U.S.C. 2753; E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p. 79; 22 U.S.C. 2658; Pub. L. 105-261, 112 Stat. 1920.

[FR Doc. 03-55503 Filed 2-7-03; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

RIN 1219-AB32

Criteria and Procedures for Proposed Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Direct final rule.

SUMMARY: The Mine Safety and Health Administration (MSHA) is revising its civil penalty assessment amounts to adjust for inflation. The Debt Collection Improvement Act of 1996 (DCIA) requires MSHA to adjust all civil penalties for inflation at least once every four years according to the formula specified in the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act). MSHA intends that this action will maintain the deterrent effect of its civil penalties and encourage compliance with the Federal Mine Safety and Health Act of 1977 (Mine Act) and its regulations. The revised penalties apply to citations and orders issued on or after the effective date, and not to citations or orders pending assessment on the effective date.

DATES: This direct final rule is effective April 11, 2003 without further notice, unless we (MSHA) receive significant adverse comment by March 12, 2003.

ADDRESSES: Clearly identify comments as such and submit them either electronically to comments@msha.gov; by facsimile to (202) 693-9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939. Comments are posted for public viewing at <http://www.msha.gov/currentcomments.htm>.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: (202) 693-9440; FAX: (202) 693-9441; E-mail: nichols-marvin@msha.gov.

SUPPLEMENTARY INFORMATION:

I. Direct Final Rule

The Debt Collection Improvement Act of 1996 requires MSHA to adjust our

⁶ 18 CFR 380.4(1) and (5).

⁷ 5 U.S.C. 601-612.

civil penalties for inflation at least once every four years. MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect to receive any significant adverse comments. A significant adverse comment is one that explains why the rule is inappropriate, including challenges to the rule's underlying premise or approach, or why it will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, we will consider whether it warrants a substantive response in a notice and comment process. If we receive such comment, we will publish a timely withdrawal of this direct final rule in the **Federal Register**.

II. Rulemaking Background

Sections 105(a) and 110 of Mine Act require us (MSHA) to propose a civil penalty assessment for each violation of the Mine Act or a mandatory safety and health standard promulgated under the Mine Act. The Mine Act originally provided that—

- (1) The maximum penalty for each violation would not exceed \$10,000;
- (2) The maximum penalty for failure to correct a violation cited under § 104(a) within the period permitted for its correction would not exceed \$1,000 for each day that the violation continued to exist; and
- (3) The maximum penalty for a miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials would not exceed \$250 for each occurrence of such violation.

On May 30, 1978 (43 FR 23514), MSHA promulgated its first regulations relating to civil penalty assessments under the Mine Act. These regulations included a Penalty Conversion Table for regular assessments based on the six criteria enumerated in 30 CFR 100.3(a).

On May 21, 1982 (47 FR 22286), MSHA promulgated a rule that—

- (1) Revised its regular assessment Penalty Conversion Table;
- (2) Further defined the criteria for issuing special assessments; and
- (3) Created a \$20 single penalty assessment for those violations that were not reasonably likely to result in reasonably serious injury or illness and which were abated in a timely manner.

Neither the 1978 nor the 1982 rule contained provisions addressing assessment of civil penalties for failing to abate violations of the Mine Act or for smoking or carrying smoking materials because the Mine Act had set these penalty amounts.

In 1990, the Omnibus Budget Reconciliation Act of 1990 (Budget Act), Pub. L. 101–508, amended the Mine Act. Section 3102 of the Budget Act raised the maximum MSHA civil penalty per violation from \$10,000 to \$50,000; and raised the civil penalty for failure to correct a violation under § 104(a) of the Mine Act from \$1,000 to \$5,000 per day. The miner smoking penalty remained at \$250. Also in 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), Pub. L. 101–410, amending the Budget Act.

On January 24, 1992 (57 FR 2968), as amended December 21, 1992 (57 FR 60690), MSHA published a final rule which implemented the penalty increases prescribed by the Budget Act and accounted for inflation since 1982. The rule revised the regular assessment Penalty Conversion Table and raised the \$20 single penalty assessment to \$50.

In 1996, Congress passed the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (OCRAA), Pub. L. 104–134. Chapter 10 of the OCRAA, titled the “Debt Collection Improvement Act of 1996” (DCIA), modified the Inflation Adjustment Act. The DCIA requires each agency to adjust for inflation each civil monetary penalty provided for by law within its jurisdiction at least once every four years. Agencies must make this cost-of-living adjustment using the inflation adjustment formula described under § 5 of the Inflation Adjustment Act. Although the first adjustment was not allowed to exceed 10% of the existing penalty, subsequent adjustments are not subject to this limitation.

On April 22, 1998 (63 FR 20032), MSHA published a final rule increasing civil penalties to comply with the DCIA. To account for inflation since 1992, this rule raised the maximum proposed civil penalty assessment from \$50,000 to \$55,000, raised the single penalty assessment from \$50 to \$55, and revised the Penalty Conversion Table. This rule also codified the penalties assessed under §§ 110(b) and 110(g) of the Mine Act into 30 CFR 100, raising the daily penalty for failing to abate violations from \$5,000 to \$5,500 and raising the penalty for smoking or carrying smoking materials from \$250 to \$275.

III. Discussion and Summary of the Direct Final Rule

A. General Discussion

In passing the Inflation Adjustment Act, Congress stated its concern that the punitive and deterrent effects of civil penalties erode over time when the penalties fail to keep pace with

inflation. This direct final rule makes a cost-of-living adjustment to MSHA's proposed civil penalty assessment amounts in compliance with the Inflation Adjustment Act. Under § 5 of the Inflation Adjustment Act, civil monetary penalties are to be increased by a “cost-of-living” adjustment. The statute defines “cost-of-living” adjustment as—

* * * The percentage * * * 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.

The term *Consumer Price Index* (CPI) means “the Consumer Price Index for all-urban consumers published by the Department of Labor.”

In determining the current cost-of-living adjustment for its proposed civil penalty assessments, MSHA calculated the following:

538.9.0 (the CPI for June 2002, the calendar year preceding the current adjustment).

488.2 (the CPI for June 1998, the calendar year in which the MSHA civil penalties were last adjusted).

$10.4\% = (538.9 - 488.2) / 488.2 =$ rounded inflation adjustment factor = percentage increase.

The Inflation Adjustment Act also 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;

The Inflation Adjustment Act only requires us to use the cost-of-living adjustment and rounding formula for penalties that were statutorily established by Congress. The Mine Act contains only three such penalties: the civil maximum penalty, the daily maximum penalty, and the miner smoking penalty. Consequently, this direct final rule adjusts our regulatory penalties, those not established by the Mine Act, by 10.4% truncated to the whole dollar.

B. Section-by-Section Analysis

The following discussion explains the direct final rule's effect on existing civil penalty amounts.

Section 100.3 Determination of Penalty Amount; Regular Assessment

This section describes the criteria that MSHA will use to determine the proposed civil penalty assessment for violations of the Mine Act or regulations promulgated under the Mine Act.

Paragraph (a) of this section specifies the maximum per violation proposed civil penalty assessment. This direct final rule increases the maximum civil penalty by \$5,000 from \$55,000 to \$60,000, reflecting the 10.4% adjustment as calculated in accordance with the Inflation Adjustment Act. Because the Mine Act originally required this penalty, we have rounded the increase to \$5,000 in accordance with the Inflation Adjustment Act rounding requirements.

Paragraph (g) of this section includes a Penalty Conversion Table that correlates the total of the points assigned for each criterion enumerated in this section with a proposed civil penalty assessment. Current penalties range from \$66 to \$55,000. The increased civil penalties in the Penalty Conversion Table range from \$72 to \$60,000 to reflect a 10.4% adjustment factor. Because the Mine Act originally did not require these penalties, with the exception of the maximum civil penalty, we have truncated the adjusted penalty to the nearest whole dollar.

Section 100.4 Determination of Penalty; Single Penalty Assessment

This section pertains to violations that are not reasonably likely to result in reasonably serious injury or illness and which are abated in a timely manner. This direct final rule increases the single penalty assessment by \$5 from the existing \$55 to \$60 to reflect a 10.4% adjustment factor. Because the Mine Act originally did not require this penalty, we have truncated the adjusted penalty to the nearest whole dollar.

Section 100.5 Determination of Penalty; Special Assessment

This section pertains to violations, which are of such a nature or seriousness that we cannot determine an appropriate penalty using the regular assessment formula (§ 100.3) or the single penalty assessment (§ 100.4).

MSHA field personnel review certain categories of violations for special assessment. If the violation qualifies, experienced MSHA mine safety and health specialists determine the special assessment penalty based on the facts and circumstances of each case.

Paragraph (c) of this section addresses penalties which may be assessed daily to an operator for failure to correct a violation within the period permitted for its correction. This direct final rule increases the existing maximum daily civil penalty by \$1,000 from \$5,500 to \$6,500 to reflect the 10.4% adjustment factor computed under the Inflation Adjustment Act. Because the Mine Act originally required this penalty, we have rounded the increase to \$1,000 in accordance with the Inflation Adjustment Act rounding requirements.

Paragraph (d) of this section addresses penalties for miners who willfully violate mandatory safety standards relating to the use or carrying of smoking materials underground. This direct final rule keeps the miner's smoking penalty at \$275. Because the Mine Act originally required this penalty, we have rounded the increase to \$0 (the nearest \$100) in accordance with the Inflation Adjustment Act rounding requirements.

IV. Executive Order 12866, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act

In accordance with Executive Order (E.O.) 12866, we have analyzed the estimated costs and benefits associated with the revisions of Part 100—Criteria and Procedures for Proposed Assessment of Civil Penalties. We estimate that the direct final rule will result in increased costs to the mining industry of about \$2.5 million annually, which is not an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), we certify that this direct final rule does not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, we must include the factual basis for this certification in the direct final rule. Accordingly, we are publishing a summary of the factual basis for our regulatory flexibility certification statement in the **Federal Register**, as

part of this preamble, and are providing a copy to the Small Business Administration (SBA), Office of Advocacy. We also will mail a copy of the direct final rule, including the preamble and certification statement, to mine operators and miners' representatives and post it on our Internet Home Page at www.msha.gov.

This direct final rule increases certain civil monetary penalties to account for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This statute specifies the procedure for calculating the adjusted civil monetary penalties and does not allow us to vary the calculation to minimize the effect on small entities. Moreover, the actual amount of the increase in penalties does not meet the threshold for a significant regulatory action, which is set forth in the RFA. We discuss our quantitative analysis supporting this conclusion below.

Factual basis for certification.

Traditionally, MSHA has considered a small mine to be one with fewer than 20 employees. The SBA definition for a small business in the mining industry is one with 500 or fewer employees. For the purpose of this certification, we have analyzed the costs and evaluated the impact of this direct final rule on mines using both MSHA's traditional definition and SBA's definition for a small mine.

We analyzed the impact of this direct final rule separately for the two major sectors of the mining industry: coal mining operations and metal/nonmetal mining operations. We compared the costs of the direct final rule in each sector to the revenues for each sector for each size category analyzed. In each case, the results indicated that the costs were much less than 1% of revenue.

In determining revenues for coal mines, we multiplied coal production data (in tons) for mines in specific size categories (reported to MSHA quarterly) by the average price per ton for coal as determined in the *Coal Industry Annual 2000* (U.S. Department of Energy, Energy Information Administration). We obtained revenue data for metal and nonmetal mines from the *Mineral Commodities Summaries 2001* (U.S. Department of the Interior, Geological Survey).

The following table summarizes the results of our analysis.

COSTS COMPARED TO REVENUES BY MINE SIZE

| Mine size (employment) | Number of mines | Estimated cost of rule | Estimated revenue (millions) | Estimated cost/mine | Cost as percent of revenue |
|--|-----------------|------------------------|------------------------------|---------------------|----------------------------|
| Coal Mines | | | | | |
| Small <20 | 1,078 | \$720,498 | \$586 | \$668 | 0.123% |
| Small <=500 | 1,901 | 1,270,563 | 15,093 | 668 | 0.008% |
| Metal and Nonmetal (M/NM) Mines | | | | | |
| Small <20 | 9,928 | 1,002,761 | 8,377 | 101 | 0.012% |
| Small <=500 | 11,620 | 1,173,659 | 36,802 | 101 | 0.003% |

The full economic analysis, including the factual basis for our regulatory flexibility certification statement, is provided in the Regulatory Economic Analysis (REA) supporting this direct final rule. The REA is available from MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939. You can also view and obtain a copy from our Internet Home Page at www.msha.gov.

V. Other Regulatory Considerations

A. Paperwork Reduction Act of 1995

This direct final rule contains no information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

B. Unfunded Mandates Reform Act of 1995

This direct final rule affects about 220 small mines operated by governmental jurisdictions to provide aggregates for the construction and repair of highways and roads. We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this direct final rule does not include any Federal mandate that may result in increased expenditures by State, local, or tribal governments in the aggregate of more than \$100 million, or increased expenditures by the private sector of more than \$100 million. We also determined, for purposes of § 203, that this direct final rule does not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference with Constitutionally Protected Property Rights

This direct final rule is not subject to Executive Order 12630 because it does not involve implementation of a policy with takings implications.

D. Executive Order 12988: Civil Justice Reform

We have reviewed Executive Order 12988 and determined that this direct final rule will not unduly burden the Federal court system. We wrote the direct final rule to provide a clear legal standard for affected conduct and have reviewed it carefully to eliminate drafting errors and ambiguities.

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

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this rule on children and have determined that it will have no effects on children.

F. Executive Order 13132: Federalism

We have reviewed this rule in accordance with Executive Order 13132 regarding federalism, and have determined that it will not have federalism implications.

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

We certify that the direct final rule does not impose substantial direct compliance costs on Indian tribal governments.

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

In accordance with Executive Order 13211, we have reviewed the direct final rule for its energy impacts. The direct final rule has no effect on the distribution or use of energy. The only impact of the rule on the supply of energy is through its effect on the price of coal or the production of coal. Impacts of the rule on metal and nonmetal mines do not affect the supply of energy.

The final rule has no direct effects on the production of coal. The rule does

not prevent the mining of particular coal deposits, nor does the rule require coal deposits to be mined at a slower pace. The only impact of the rule on coal mine production is indirect, via the cost or price of coal. The estimated annual cost of the final rule for the coal mining industry is about \$1.3 million. The annual revenues of the coal mining industry in 2000 were about \$17,700 million. The cost of the rule for the coal mining industry is, therefore, equal to about 0.007% of revenues. Even if we were to suppose that the increased cost caused by the rule would be fully reflected in coal prices, the impact would be negligible.

Accordingly, we have determined that the direct final rule has no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

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

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the direct final rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined that the direct final rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 100

Mine safety and health, Penalties.

Dated: February 4, 2003.

Dave D. Lauriski,

Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, chapter I, subchapter P, part 100 of title 30 of the Code of Federal Regulations 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. Section 100.3 is amended by revising the first sentence of the introductory text of paragraph (a) and by revising the Penalty Conversion Table in paragraph (g) to read as follows:

§ 100.3 Determination of penalty amount; regular assessment.

(a) *General.* The operator of any mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of the Mine Act, shall be assessed a civil penalty of not more than \$60,000. * * *

(g) * * *

PENALTY CONVERSION TABLE

| Points | Penalty (\$) |
|-------------|--------------|
| 20 or fewer | 72 |
| 21 | 80 |
| 22 | 87 |
| 23 | 94 |
| 24 | 101 |
| 25 | 109 |
| 26 | 120 |
| 27 | 131 |
| 28 | 142 |
| 29 | 153 |
| 30 | 164 |
| 31 | 178 |
| 32 | 193 |
| 33 | 207 |
| 34 | 221 |
| 35 | 237 |
| 36 | 254 |
| 37 | 273 |
| 38 | 291 |
| 39 | 310 |
| 40 | 327 |
| 41 | 354 |
| 42 | 383 |
| 43 | 409 |
| 44 | 437 |
| 45 | 463 |
| 46 | 500 |
| 47 | 536 |
| 48 | 629 |
| 49 | 749 |
| 50 | 878 |
| 51 | 1,033 |
| 52 | 1,198 |
| 53 | 1,376 |
| 54 | 1,566 |
| 55 | 1,769 |
| 56 | 2,003 |
| 57 | 2,252 |
| 58 | 2,515 |
| 59 | 2,793 |
| 60 | 3,086 |
| 61 | 3,419 |
| 62 | 3,770 |
| 63 | 4,137 |

PENALTY CONVERSION TABLE—Continued

| Points | Penalty (\$) |
|--------|--------------|
| 64 | 4,521 |
| 65 | 4,856 |
| 66 | 5,099 |
| 67 | 5,342 |
| 68 | 5,585 |
| 69 | 5,828 |
| 70 | 6,071 |
| 71 | 6,374 |
| 72 | 6,678 |
| 73 | 6,981 |
| 74 | 7,285 |
| 75 | 7,588 |
| 76 | 7,892 |
| 77 | 8,499 |
| 78 | 9,106 |
| 79 | 9,713 |
| 80 | 10,321 |
| 81 | 11,535 |
| 82 | 12,749 |
| 83 | 13,963 |
| 84 | 15,177 |
| 85 | 16,392 |
| 86 | 18,213 |
| 87 | 20,642 |
| 88 | 23,070 |
| 89 | 25,498 |
| 90 | 27,927 |
| 91 | 30,355 |
| 92 | 33,391 |
| 93 | 36,427 |
| 94 | 39,462 |
| 95 | 42,498 |
| 96 | 45,533 |
| 97 | 48,569 |
| 98 | 51,605 |
| 99 | 54,640 |
| 100 | 60,000 |

* * * * *

3. Section 100.4 is amended by revising paragraph (a) to read as follows:

§ 100.4 Determination of penalty; single penalty assessment.

(a) An assessment of \$60 may be imposed as the civil penalty where the violation is not reasonably likely to result in a reasonably serious injury or illness (non-S&S) and is abated within the time set by the inspector.

(1) If the violation is not abated within the time set by the inspector, the violation will not be eligible for the \$60 single penalty and will be processed through either the regular assessment provision (§ 100.3) or special assessment provision (§ 100.5).

(2) If the violation meets the criteria for excessive history under paragraph (b) of this section, the violation will not be eligible for the \$60 single penalty and will be processed through the regular assessment provision (§ 100.3).

* * * * *

4. Section 100.5 is amended by revising paragraph (c) to read as follows:

§ 100.5 Determination of penalty; special assessment.

* * * * *

(c) Any operator who fails to correct a violation for which a citation has been issued under section 104(a) of the Mine Act within the period permitted for its correction may be assessed a civil penalty of not more than \$6,500 for each day during which such failure or violation continues.

* * * * *

[FR Doc. 03-3160 Filed 2-7-03; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA34

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Currency Dealers and Exchangers Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: This document contains amendments to the regulations implementing the statute generally referred to as the Bank Secrecy Act. The amendments require currency dealers and exchangers to report suspicious transactions to the Department of the Treasury. Further, the amendments require all money services businesses to which the suspicious transaction reporting rule applies to report transactions involving suspected use of the money services business to facilitate criminal activity. The amendments constitute a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury. This document also contains a technical correction to 31 CFR 103.19, changing the name of the form by which brokers and dealers in securities shall report suspicious transactions.

DATES: *Effective Date:* March 12, 2003.

Applicability Date: The applicability date is August 11, 2003.

FOR FURTHER INFORMATION CONTACT: David M. Vogt, Acting Executive Associate Director, Office of Regulatory Programs, FinCEN, (202) 354-6400; and Judith R. Starr, Chief Counsel, and Christine L. Schuetz, Attorney-Advisor,