

laws, despite the inability to comply with the requirements of Rule 14a-3(b) and Rule 14c-3(a) under the Exchange Act. Although these situations are infrequent, we recognize the need to flexibly address this conflict in limited circumstances.

Section 36(a) provides that "the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors."<sup>2</sup> Section 4A(a) of the Exchange Act grants the Commission "the authority to delegate, by published order or rule, any of its functions to a division of the Commission."<sup>3</sup>

The delegation of authority to the Director is intended to conserve Commission resources by permitting the staff, pursuant to Section 36(a), to review and act on applications for exemption from Rule 14a-3(b) and Rule 14c-3(a) in cases where upon examination, the matter does not appear to present significant issues that have not been addressed previously or to raise questions of fact or policy indicating that the public interest or the interest of investors warrants that the Commission consider the matter. Nevertheless, the staff may submit matters to the Commission for consideration as it deems appropriate. In addition, under Section 4A(b) of the Exchange Act, the Commission retains discretionary authority to review upon its own initiative or, pursuant to Commission Rule 430, upon application by a party adversely affected, any exemption granted or denied by the Director pursuant to delegated authority.<sup>4</sup>

The Commission finds, in accordance with Section 553(b)(3)(A) of the Administrative Procedure Act,<sup>5</sup> that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication of the amendment prior to its effective date are unnecessary.

<sup>2</sup> 15 U.S.C. 78mm(a).

<sup>3</sup> 15 U.S.C. 78d-1(a).

<sup>4</sup> For information concerning the filing of exemptive relief applications, see Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998); 17 CFR 240.0-12.

<sup>5</sup> 5 U.S.C. 553(b)(3)(A).

### List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

### Text of Amendment

■ In accordance with the preamble, the Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for part 200, subpart A, continues to read in part as follows:

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202, unless otherwise noted.  
\* \* \* \* \*

■ 2. Section 200.30-1 is amended by adding paragraph (e)(18) to read as follows:

#### § 200.30-1 Delegation of authority to Director of Division of Corporation Finance.

\* \* \* \* \*  
(e) \* \* \*

(18) To review and, either unconditionally or upon specified terms and conditions, grant or deny exemptions from the requirements of Rules 14a-3(b) and 14c-3(a) (§§ 240.14a-3(b) and 240.14c-3(a) of this chapter) under the Act pursuant to Section 36 of the Act, in cases where upon examination, the matter does not appear to the Director to present significant issues that have not been addressed previously or to raise questions of fact or policy indicating that the public interest or the interest of investors warrants that the Commission consider the matter, where an applicant demonstrates that it:

(i) Is required to hold a meeting of security holders as a result of an action taken by one or more of the applicant's security holders pursuant to state law;

(ii) Is unable to comply with the requirements of Rule 14a-3(b) or Rule 14c-3(a) under the Act for audited financial statements to be included in the annual report to security holders to be furnished to security holders in connection with the security holder meeting required to be held as a result of the security holder demand under state law;

(iii) Has made a good faith effort to furnish the audited financial statements before holding the security holder meeting;

(iv) Has made a determination that it has disclosed to security holders all

available material information necessary for the security holders to make an informed voting decision in accordance with Regulation 14A or Regulation 14C (§§ 240.14a-1-240.14b-2 or §§ 240.14c-1-240.14c-101 of this chapter); and

(v) Absent a grant of exemptive relief, it would be forced to violate either state law or the rules and regulations administered by the Commission.

\* \* \* \* \*

Dated: February 4, 2008.

By the Commission.

Nancy M. Morris,

Secretary.

[FR Doc. E8-2246 Filed 2-6-08; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 100

RIN 1219-AB57

#### Criteria and Procedures for Proposed Assessment of Civil Penalties

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

**ACTION:** 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). The revised penalties apply to citations and orders issued on or after the effective date of this rule.

**DATES:** This final rule is effective on March 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209-3939, [silvey.patricia@dol.gov](mailto:silvey.patricia@dol.gov), 202-693-9440 (telephone), or 202-693-9441 (facsimile).

#### SUPPLEMENTARY INFORMATION:

##### I. Final Rule

The Administrative Procedure Act (APA) requires that rulemakings be published in the **Federal Register** and requires generally that agencies provide an opportunity for public comment. However, notice and an opportunity for public comment are not required 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 Inflation Adjustment Act, as amended by the DCIA, requires MSHA to review and, where appropriate, adjust its civil penalties for inflation at least once every four years. The DCIA prescribes the formula for any such adjustments. The decision whether to make adjustments and the amount of any adjustments are not within MSHA’s discretion. MSHA is required to perform mathematical computations based on published cost-of-living data and adjust its maximum penalties accordingly. For this reason, MSHA has determined for good cause that public notice and comment are unnecessary, impractical, or contrary to the public interest and that this rule should be published in final form. In accordance with the APA, this rule is effective 30 days after the date of publication in the **Federal Register**.

## II. Rulemaking Background

On March 22, 2007 (72 FR 13592), MSHA published the final rule, Criteria and Procedures for Proposed Assessment of Civil Penalties (Civil Penalties), that implemented the civil penalty provisions in Sections 5 and 8 of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) and revised existing civil penalty regulations in part 100 of Title 30 in the Code of Federal Regulations (CFR). Although MSHA significantly increased civil penalties in the final rule, the Agency retained the \$60,000 maximum for non-flagrant civil penalties. The Agency also retained the \$6,500 maximum daily penalty and the \$275 maximum penalty for smoking or carrying smoking materials.

## III. Discussion of the Final Rule

### A. General Discussion

In passing the Inflation Adjustment Act, Congress noted a concern for civil penalties to keep pace with inflation. Section 5 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 3(3) defines the term “Consumer Price Index” (CPI) to mean “the Consumer Price Index for all-urban

consumers published by the Department of Labor.”

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.

This final rule makes a cost-of-living adjustment to MSHA’s proposed civil penalty assessment amounts in accordance with the Inflation Adjustment Act. MSHA is adjusting the following three civil penalties in 30 CFR part 100: The maximum civil penalty, the maximum daily penalty, and the maximum miner smoking penalty. These penalties were last adjusted, as appropriate, in 2003 based on the CPI of the previous year. MSHA adjusted the maximum civil penalty and the maximum daily penalty. The maximum smoking penalty was last adjusted in 1998 from \$250 to \$275. It was not adjusted in 2003 because the increase under the inflation adjustment formula rounded to zero.

MSHA is adjusting the maximum civil penalty and the maximum daily penalty based on the percentage change in the CPI between June of 2003 and June of 2007. MSHA is adjusting the maximum smoking penalty based on the percentage change in the CPI between June 1998 and June 2007.

During the four-year period from June 2003 to June 2007, inflation was approximately 13.4%. During the nine-year period from June 1998 to June 2007, inflation was approximately 27.8%. In the final rule, MSHA has adjusted the maximum civil penalty and the maximum daily penalty by 13.4% and the maximum smoking penalty by 27.8%, and rounded each increase in accordance with the Congressional rounding formula.

### B. Section-by-Section Analysis

The following is an analysis of the final rule’s effect on existing civil penalty amounts.

### Section 100.3 Determination of Penalty Amount; Regular Assessment

This section addresses the determination of a penalty amount for violations of the Mine Act, as amended, and MSHA’s safety and health regulations, under the regular civil penalty assessment provision.

Final § 100.3(a)(1) provides the criteria for determining penalty assessments and specifies a maximum dollar amount for a proposed civil penalty assessment. To adjust the existing maximum civil penalty assessment of \$60,000 for inflation, MSHA applied the 13.4% inflation increase, which resulted in \$8,052. MSHA rounded the increase to \$10,000 in accordance with the Inflation Adjustment Act. This final rule increases the maximum civil penalty to \$70,000.

Section 100.3(g) contains a penalty conversion table that correlates the total points assigned for each criterion listed in this section with a proposed civil penalty dollar amount. The existing rule provides a penalty range of \$112 to \$60,000, and violations assessed through the regular formula receive the maximum penalty only if they receive 140 points or more. The final rule provides a penalty range of \$112 to \$70,000, and violations receive the maximum penalty if they receive 144 points or more.

Violations receiving 140 or fewer points have no penalty increase because MSHA last adjusted these penalties in March 2007, and the average penalty increase at that time was greater than the amount of inflation.

Under the existing penalty conversion table, assessments for violations with 133 to 140 points increase at a constant rate of \$3,071 per point. Final § 100.3(g) provides that assessments for violations with 141 or more points increase at the same constant rate of \$3,071 per point until the new maximum penalty is reached. The final rule assigns a regularly assessed violation with more than 140 points new penalty amounts of: 141 points, \$63,071; 142 points, \$66,142; 143 points, \$69,213; and 144 or more points, \$70,000.

### Section 100.5 Determination of Penalty Amount; Special Assessment

Section 100.5 provides for a special assessment for violations that MSHA determines should not be processed under the regular assessment provision. Once MSHA determines that a special assessment is appropriate, the Agency will base the proposed penalty on the criteria listed in § 100.3(a).

Section 100.5(c) addresses penalties which may be assessed daily to an

operator who fails to correct a violation for which a citation has been issued under Section 104(a) of the Mine Act within the time allowed. The existing maximum daily penalty assessment is \$6,500. MSHA applied the 13.4% inflation increase, which resulted in \$872. MSHA rounded the increase to \$1,000 in accordance with the Inflation Adjustment Act. This final rule increases the maximum daily penalty to \$7,500.

Section 100.5(d) addresses penalties for miners who violate mandatory safety standards relating to smoking and smoking materials underground. The existing maximum smoking penalty is \$275. MSHA applied the 27.8% inflation increase, which resulted in \$77. MSHA rounded the increase to \$100 in accordance with the Inflation Adjustment Act. This final rule raises the maximum smoking penalty to \$375.

**IV. Executive Order 12866**

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. This rule is not classified as a “significant” regulatory action. MSHA, however, is providing the following summary of the costs and benefits of this regulatory action.

**A. Population at Risk**

This final rule will apply to the entire mining industry. Based on 2006 data, this rule covers 2,113 coal mines

employing 81,985 miners and 3,708 office workers; and 12,772 metal and nonmetal mines employing 157,850 miners and 26,727 office workers. In addition, this rule covers 2,724 independent contractors in coal mines employing 37,282 workers, and 4,686 independent contractors in metal and nonmetal mines employing 55,945 workers.

**B. Benefits**

MSHA has qualitatively determined that this final rule will yield health and safety benefits by keeping civil penalties at a constant level, adjusted for inflation, in accordance with the Inflation Adjustment Act.

**C. Compliance Costs**

**1. Summary**

For purposes of analyzing the economic effects of this final rule, MSHA focuses on the likely change in costs to mine operators and independent contractors that receive civil penalties.

The estimated cost of this final rule is the change in dollar amounts paid for civil penalties. There is no real cost of the rule because the increase in the amount of civil penalties adjusts for inflation. However, there is a “nominal” cost attributable to the rule. A nominal cost reflects the increase in absolute dollars, unadjusted for any change in the price level. MSHA addresses the nominal cost of the rule below.

**2. Analysis of Impact of Increased Civil Penalty Assessments**

This final rule raises the maximum civil penalty, the maximum daily penalty, and the maximum smoking penalty. In its cost analysis, based upon experience, MSHA estimates that the final rule will not have a significant cost impact due to the adjustment of the

maximum civil penalty. MSHA has not estimated costs for increases in the maximum daily penalty and maximum smoking penalty. The Agency concludes that they will result in a de minimis cost impact.

Three types of violations are affected by an increase in the maximum civil penalty:

(1) Violations processed as special assessments that receive the maximum penalty. Based on historical data on special assessments for the maximum penalty, MSHA estimates an average of 13 violations per year. MSHA assumes that the increased cost would be \$10,000 for each special assessment receiving the maximum penalty.

(2) Violations processed as regular assessments with 141 or more points that do not receive a 10% discount for timely abatement. MSHA estimates that five violations per year will be of this type. Violations that receive 141–143 points will receive an average increase of \$6,142 under this final rule; violations that receive 144 or more points will receive an increase of \$10,000. MSHA estimates that two violations will receive 141–143 points and three will receive 144 or more points, for an average increase of \$8,457.

(3) Violations processed as regular assessments with 141 or more points that receive a 10% discount for timely abatement. MSHA estimates that approximately 11 violations per year will be of this type. Violations that receive 141–143 points will receive an average increase of \$5,528; violations that receive 144 or more penalty points will receive an increase of \$9,000. MSHA estimates that four violations will receive 141–143 points and seven will receive 144 or more points, for an average increase of \$7,737.

Table IV–1 summarizes MSHA’s analysis.

**TABLE IV–1. ANNUAL PENALTY INCREASE BY VIOLATION TYPE**

Type of assessment	Violations per year	Average increase per violation	Annual increase in nominal penalties
Special .....	13	\$10000	\$130,000
Regular (No Discount) .....	5	8,457	42,285
Regular (10% Discount) .....	11	7,737	85,107
<b>Total .....</b>	<b>29</b>	<b>8,876</b>	<b>257,392</b>

**V. Feasibility**

MSHA has concluded that the requirements of this final rule are technologically and economically feasible.

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

The Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA),

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 notice and public comment are not

required for this rule, a regulatory flexibility analysis is not required. However, MSHA did analyze the impact of this final rule on small entities.

The annual cost of the rule for coal mines is \$229,286, of which \$201,180 would be for coal mines with 1–500 employees. The annual cost of the rule for metal and nonmetal mines is \$28,106, of which \$23,668 would be for metal and nonmetal mines with 1–500 employees. MSHA has concluded that the final rule will not have a significant impact on a substantial number of small entities.

#### VII. Paperwork Reduction Act of 1995

This final rule does not require any paperwork or information collection.

#### VIII. Other Regulatory Considerations

##### A. The Unfunded Mandates Reform Act of 1995

This final rule 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, § 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 § 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. Insofar as this final rule will result in added yearly civil penalty assessments of approximately \$229,000 to the coal mining industry, relative to annual revenues of \$28.9 billion in 2006, it 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 \* \* \* (including a shortfall in supply, price increases, and increased use of foreign supplies).” Accordingly, Executive Order 13211, Actions Concerning

Regulations That Significantly Affect Energy Supply, Distribution, or Use, 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. MSHA has determined and certified that the final rule will not have a significant economic impact on a substantial number of small entities.

##### 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” for this purpose. 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: January 31, 2008.

**Richard E. Stickler,**

*Acting 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 revised to read 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 paragraph (a)(1) introductory text and Table XIV in paragraph (g), to read as follows:

#### **§ 100.3 Determination of penalty amount; regular assessment.**

(a) *General.* (1) Except as provided in § 100.5(e), 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, as amended, shall be assessed a civil penalty of not more than \$70,000. Each occurrence of a violation of a mandatory

safety or health standard may constitute a separate offense. The amount of the proposed civil penalty shall be based on the criteria set forth in sections 105(b) and 110(i) of the Mine Act. These criteria are:

\* \* \* \* \*

TABLE XIV.—PENALTY CONVERSION TABLE

Points	Penalty (\$)
60 or fewer	112
61	121
62	131
63	142
64	154
65	167
66	181
67	196
68	212
69	230
70	249
71	270
72	293
73	317
74	343
75	372
76	403
77	436
78	473
79	512
80	555
81	601
82	651
83	705
84	764
85	828
86	897
87	971
88	1,052
89	1,140
90	1,235
91	1,337
92	1,449
93	1,569
94	1,700
95	1,842
96	1,995
97	2,161
98	2,341
99	2,536
100	2,748
101	2,976
102	3,224
103	3,493
104	3,784
105	4,099
106	4,440
107	4,810
108	5,211
109	5,645
110	6,115
111	6,624
112	7,176
113	7,774
114	8,421
115	9,122
116	9,882
117	10,705
118	11,597
119	12,563
120	13,609

TABLE XIV.—PENALTY CONVERSION TABLE—Continued

Points	Penalty (\$)
121	14,743
122	15,971
123	17,301
124	18,742
125	20,302
126	21,993
127	23,825
128	25,810
129	27,959
130	30,288
131	32,810
132	35,543
133	38,503
134	41,574
135	44,645
136	47,716
137	50,787
138	53,858
139	56,929
140	60,000
141	63,071
142	66,142
143	69,213
144 or more	70,000

\* \* \* \* \*

■ 3. Section 100.5 is amended by revising paragraphs (c) and (d) to read as follows:

**§ 100.5 Determination of penalty amount; 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 \$7,500 for each day during which such failure or violation continues.

(d) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty of not more than \$375 for each occurrence of such violation.

\* \* \* \* \*

[FR Doc. E8-2226 Filed 2-6-08; 8:45 am]

BILLING CODE 4510-43-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2002-0034; FRL-8522-4]

RIN 2060-AM85

**National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing amendments to the national emission standards for hazardous air pollutants (NESHAP) for iron and steel foundries. These final amendments add alternative compliance options for cupolas at existing foundries and clarify several provisions to increase operational flexibility and improve understanding of the final rule requirements.

**DATES:** These final amendments are effective on February 7, 2008. The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of February 7, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2002-0034. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Phil Mulrine, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5289; fax number: (919) 541-3207; e-mail address: [mulrine.phil@epa.gov](mailto:mulrine.phil@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Outline**

The information presented in this preamble is organized as follows:

- I. General Information
  - A. Does this action apply to me?
  - B. Where can I get a copy of this document?
  - C. Judicial Review
- II. Background Information