requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 15, 2021, the Office of Management and Budget issued memorandum M–22–07 on implementation of the 2022 annual inflation adjustment pursuant to the 2015 act.[3] The memorandum provides agencies with the cost-of-living adjustment multiplier for 2022, which is based on the Consumer Price Index (CPI–U) for the month of October 2021, not seasonally adjusted. The multiplier for 2022 is 1.06222. The adjusted maximum amounts are $2,400 for section 4071 penalties and $320 for section 4302 penalties.

Compliance With Regulatory Requirements

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

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

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

List of Subjects

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

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

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

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

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

[3] See M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, *https://www.whitehouse.gov/wp-content/uploads/2021/12/M-22-07.pdf.*

§ 4071.3 [Amended]

■ 2. In § 4071.3, remove the number ''$2,259'' and add in its place the number ''$2,400''.

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

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

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

§ 4302.3 [Amended]

■ 4. In § 4302.3, remove the number ''$301'' and add its place the number ''$320''.

Issued in Washington, DC, by

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–00778 Filed 1–13–22; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 870 and 872

[Docket ID: OSM 2021–0008; S1D1S SS08011000 SX064A000 221S180110; S2D2S SS08011000 SX064A000 22XS501520]

RIN 1029–AC83

Abandoned Mine Land Reclamation Fee

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

ACTION: Interim final rule, request for comments.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are revising our regulations for the Abandoned Mine Reclamation Fund (AML Fund). This rule revises our regulations to be consistent with the Infrastructure Investment and Jobs Act (IIJA), which was signed into law on November 15, 2021, and which included the Abandoned Mine Land Reclamation Amendments of 2021 (the 2021 amendments). The rule reflects the extension of our statutory authority to collect reclamation fees for an additional thirteen years and to reduce the fee rates. In addition, we are revising our rule provisions to reflect the statutory extension of the dates when moneys derived from these fees will be available to eligible States and Tribes for grant distributions.

DATES: Effective January 14, 2022. Comments will be accepted until February 14, 2022.

ADDRESSES: You may submit comments by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments to Docket No. OSM–2021–0008. Please note that if you are using the Federal eRulemaking Portal, the deadline for submitting electronic comments is 11:59 p.m. Eastern Standard Time on the comment due date.

Mail: Address comment to Public Comments Processing, Attn: Docket No. OSM–2021–0008; Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4558, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Harry Payne, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4558, Washington, DC 20240; Telephone (202) 208–5683. Email: *hpayne@osmre.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. How did the reclamation fee work before the 2021 amendments?

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA)

created the AML Fund, which is funded primarily by a reclamation fee (also known as the AML fee) assessed on each ton of coal produced in the United States and which, among other things, provides funding to eligible States and Tribes for the reclamation of coal mining sites abandoned or left in an inadequate reclamation status as of August 3, 1977. As originally enacted, section 402(a) of SMCRA fixed the reclamation fee at 35 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced by surface mining methods, 15 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced from underground mines, and 10 cents per ton (or 2 percent of the value of the coal, whichever was less) for lignite. Section 402(b) of SMCRA first authorized collection of reclamation fees for 15 years following the date of SMCRA's enactment (August 3, 1977). Congress extended our fee collection authority through September 30, 1995, in the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, 104 Stat. 1388, § 6003(a)). The Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776, 3056, § 19143(b)(1) of Title XIX), extended our fee collection authority through September 30, 2004. A series of short interim extensions in appropriations and other acts extended our fee collection authority through September 30, 2007.

The Surface Mining Control and Reclamation Act Amendments of 2006 (the 2006 amendments) were signed into law on December 20, 2006, as part of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922). The 2006 amendments extended our fee collection authority under section 402(b) through September 30, 2021, and reduced the reclamation fee rates in section 402(a) by 10 percent for the period from October 1, 2007, through September 30, 2012, and an additional 10 percent from the original levels for the period from October 1, 2012, through September 30, 2021. Therefore, the fee rates from October 1, 2012, through September 30, 2021, required coal mine operators to pay 28 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced by surface mining methods, 12 cents per ton (or 10 percent of the value of the coal, whichever was less) for coal other than lignite produced from underground mines, and 8 cents per ton (or 2 percent of the value of the coal, whichever was less) for lignite. OSMRE notified operators of the change in fee rates resulting from the 2006 amendments in January and September 2007. On November 14, 2008, OSMRE promulgated final regulations at 30 CFR part 870 and 872 to codify these changes and other revisions made by the 2006 amendments (73 FR 67576).

B. How did the 2021 amendments change the reclamation fee and the annual AML grant distributions?

The 2021 amendments, signed into law on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (Pub. L. 117–58, 135 Stat. 429), extended our fee collection authority under section 402(b) through September 30, 2034, and reduced reclamation fee rates in section 402(a) by 20 percent from the prior rates. Therefore, for the calendar quarter beginning October 1, 2021, the current rates require operators to pay 22.4 cents per ton (or 10 percent of the value of the coal, whichever is less) for coal other than lignite produced by surface mining methods, 9.6 cents per ton (or 10 percent of the value of the coal, whichever is less) for coal other than lignite produced from underground mines, and 6.4 cents per ton (or 2 percent of the value of the coal, whichever is less) for lignite.

In addition, the 2021 amendments extended the current annual AML grant distributions to both uncertified and certified States and Tribes. (A State or Tribe ''certifies'' under section 411(a) of SMCRA (30 U.S.C. 1240a) when it has completed all known coal AML priorities.) Specifically, the 2021 amendments revised section 401(f)(2) of SMCRA to extend our annual grant distributions from the AML Fund to eligible uncertified States and Tribes by 13 years. The extension of our fee collection authority in section 402(b) also had the effect of extending the AML grant distributions from general Treasury funds (*i.e.,* certified in lieu funds) to certified States and Tribes by 13 years as provided in sections 402(i)(2) and 411(h)(2) of SMCRA (30 U.S.C. 1232(i)(2) and 1240a(h)(2)).

While we consider the 2021 amendments to be self-executing, some of our current regulations are inconsistent with these provisions. To provide consistency between our regulations and the 2021 amendments and to clarify that fee collections continue without interruption at the reduced rates and annual AML grant distributions to eligible States and Tribes based on fee collections continue using the formula described in section 401(f) of SMCRA and 402(i)(2), we are publishing an interim final rule, which will be effective immediately upon publication. The interim final rule we are promulgating today will revise 30 CFR parts 870 and 872 to reflect the reduction in reclamation fee rates and the extension of our fee collection authority and annual AML grant distributions.

The purpose of this interim final rule is to codify these revisions to make the regulations consistent with SMCRA, as amended by the Infrastructure Investment and Jobs Act, and allow the public to comment on the rule. As we are amending our regulations under an interim final rule, we will forgo issuing a proposed rule. The interim final rule will take effect on the date specified above in **DATES**, with public comment to conclude as set forth in **DATES**. If necessary, the interim final rule may be revised based on public comments received. Any final rule will contain responses to comments received on the interim final rule, state the final regulatory provisions, and provide the justification for those provisions.

II. Administrative Procedure Act

A. Why is the rule being published on an interim final basis?

OSMRE is promulgating this interim final rule solely to accurately reflect the requirements of sections 40702 and 40703 of the Infrastructure Investment and Jobs Act. These provisions amended subsections (a) and (b) of section 402 of SMCRA (30 U.S.C. 1232) to reduce reclamation fee rates by 20 percent and extend our fee collection authority through September 30, 2034, which extends AML grants to eligible States and Tribes from Treasury funds as provided in sections 402(i)(2) and 411(h)(2). The 2021 amendments further changed subparagraphs (A) and (B) of section 401(f)(2) of SMCRA (30 U.S.C. 1231(f)(2)) to extend the annual AML distribution dates for grants to eligible States and Tribes from the AML Fund. To avoid confusion, OSMRE is also making a clarifying change to the introductory section of 30 CFR 872.27(a)(2). OSMRE is not making any other changes to the regulations at 30 CFR subchapter R.

As previously noted, OSMRE is promulgating this rule on an interim final basis as authorized by the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(3)(B). This provision of the APA provides a ''good cause'' exemption that allows an agency to issue a rule without prior notice or opportunity for public comment ''when the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public

interest.'' An additional exemption at 5 U.S.C. 553(d)(3) allows an agency to publish a rule less than 30 days before its effective date ''for good cause found and published with the rule.''

OSMRE finds that promulgation of this interim final rule, effective upon publication and without prior notice or opportunity to comment, meets the good cause threshold because those procedures are ''impracticable, unnecessary, or contrary to the public interest'' with respect to this rule and also meets the good cause threshold for exempting the rule from the 30-day waiting period before a rule goes into effect. 5 U.S.C. 553(b)(3)(B); 553(d)(3). The revisions to our regulations made by this interim final rule are made only to conform our existing regulations to the changes to the AML fee rate and our fee collection authority, as well as the extension of the annual AML grants, made by the Infrastructure Investment and Jobs Act. With this interim final rule, OSMRE is not exercising any discretion and is simply conforming its rules to the requirements contained within the new statute; therefore, public notice and comment is impracticable and unnecessary.

Furthermore, it is in the public interest because this rule revises out-of-date regulations to conform to the changes made by the 2021 amendments. These changes provide clarity and avoid the confusion that might otherwise result from stale regulatory provisions that are inconsistent with current law. The concurrent extension of our fee collection authority and reduction in reclamation fee rates, if not clearly understood by coal mine operators, could result in delayed payment of reclamation fees, which could subject operators to late payment penalties and potentially affect annual AML grant distributions to States and Tribes (30 U.S.C. 1231(f) and 1232(i)(2)) or estimated interest payments to the UMWA Health and Retirement Funds' health care plans (30 U.S.C. 1232(h)). Conversely, confusion over reclamation fee rates could also result in overpayments based on the previous, higher reclamation fee rate, which may require OSMRE to process refunds and reduce administrative efficiency. For these reasons, we are availing ourselves of the good cause exemptions at 5 U.S.C. 553(b)(3)(B) and 553(d)(3) and providing notice and an opportunity for public comment after the effective date of this interim final rule, which will be considered in the development of any subsequent final rule.

B. How does the rule operate?

This interim final rule revises our regulations to be consistent with the 2021 amendments, which extend our statutory authority to collect reclamation fees for an additional 13 years, reduce reclamation fee rates, and extend the dates when annual grant funding will be available to eligible States and Tribes. Similar to the explanation in the proposed rule for the 2006 SMCRA amendments, this rule retains certain expired fee rates at 30 CFR 870.13 for historical purposes and for use in future audits of production from the years in which those rates applied. *See* 73 FR 35214, 35219 (June 20, 2008). This rule also makes a clarifying change to 30 CFR 872.27(a)(2).

III. Procedural Matters

A. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) has determined that this rulemaking is not a major rulemaking, as defined by 5 U.S.C. 804(2), because this rulemaking has not resulted in, and is unlikely to result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

As noted above, this rulemaking merely reflects the IIJA's updates to the reclamation fee rates, continuation of the collection of AML fees, and extension of the annual AML grant distributions. Although OSMRE typically collects over $100 million annually in reclamation fees and distributes over $100 million in annual AML grants to eligible States and Tribes, the change resulting from the IIJA's lower fee rates is anticipated to be less than $100 million a year compared to fees we collected and grants we distributed in the fiscal years since fiscal year 2013, when the fee rate last changed. And because the 2021 amendments are self-executing, any effects come not from requirements imposed by this rule, but rather from the extension of our fee collection authority and concurrent reduction in reclamation fee rates by Congress. As a result, this rule is not considered a major rulemaking.

B. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the OIRA will review all significant rules. Because this final rule merely reflects the IIJA's updates to the reclamation fee rates, continuation of the collection of AML fees, and extension of the annual AML grant distributions, OIRA has concluded that this rulemaking is not a significant regulatory action under Executive Order 12866. Pursuant to Executive Order 12866, an action is a ''significant regulatory action'' if it ''is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.''

Although the reclamation fees collected and AML grants distributed typically total over $100 million annually, this rule merely acknowledges a continuation of an existing program mandated by Congress and is therefore not a change with a significant monetary impact. In addition, because the administrative and procedural provisions of this rule would reflect an annual impact of less than $100 million, it is not significant under Executive Order 12866. For the same reasons, to the extent that this rulemaking reflects the IIJA's extension of grants to eligible States and Tribes, it merely corresponds with the IIJA's continuation of an existing program for an additional 13 years. Furthermore, as OSMRE has collected reclamation fees and distributed annual AML grants for four decades, the agency is not aware of any inconsistencies with other agency actions or novel legal or policy issues that could arise as a result of the reauthorization of the reclamation fee and the extension of AML grants.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for

achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements, to the extent permitted by statute.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), which requires an agency to prepare a regulatory flexibility analysis for all rules, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities applies only where an agency is required to publish a general notice of proposed rulemaking for any proposed rule. *See* 5 U.S.C. 601(2), 603(a), and 604(a). As OSMRE is not required to publish a notice of proposed rulemaking for this interim final rule, the RFA does not apply.

D. 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. As explained in section III.A. above, this rule:

(a) Will not have an annual effect on the economy of $100 million or more;

(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) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) requires that, before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that may result in the expenditure by a State, Tribal, or local government, in the aggregate, or by the private sector of $100 million, adjusted annually for inflation, in any 1 year, an agency must prepare a written statement that assesses the effects on State, Tribal, and local governments and the private sector. *See* 2 U.S.C. 1532(a). As OSMRE is not required to promulgate a notice of proposed rulemaking for this interim final rule, the UMRA does not apply.

F. Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

G. Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (Executive Order 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy, under Departmental Manual Part 512, Chapters 4 and 5, and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on Federally-recognized Tribes or Alaska Native Claims Settlement Act (ANCSA) Corporations, and that consultation under the Department's Tribal consultation policy is not required. OSMRE will conduct informal listening sessions with Tribes with eligible AML programs to provide an overview of the IIJA as it relates to the AML program.

J. Paperwork Reduction Act

The collection of information contained in this rule has been previously approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The existing control number for 30 CFR part 870 is 1029–0063 and the expiration date is February 29, 2024. The existing control number for 30 CFR part 872 is 1029–0054 and the expiration date is February 29, 2024. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative and financial nature. *See* 43 CFR 46.210(i). In addition, any environmental effects of this rulemaking as a whole are too broad, speculative, and conjectural because the nature of AML problems vary, they occur in numerous locations throughout the country, and will be reclaimed at different times, and NEPA review is completed on each project completed with these funds closer to the time that the project is undertaken. *Id.* We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on Energy Supply, Distribution, and Use (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

M. Clarity of this Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) use the active voice to address readers directly;

(c) use common, everyday words and clear language rather than jargon;

(d) be divided into short sections and sentences; and

(e) use lists and tables wherever possible.

If you believe that we have not met these requirements in issuing this final rule, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. Your comments should be as specific as possible in

order to help us determine whether any future revisions to the rule are necessary. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

N. Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

O. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 note *et seq.*) directs Federal agencies to use voluntary consensus standards when implementing regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This final rule is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA, and the requirements would not be applicable to this final rulemaking.

P. Protection of Children From Environmental Health Risks and Safety Risks (Executive Order 13045)

Executive Order 13045 requires that environmental and related rules separately evaluate the potential impact to children. However, Executive Order 13045 is inapplicable to this rulemaking because this is not a substantive rulemaking and a notice of proposed rulemaking was neither required nor prepared. *See* section 2–202 and 5–501 of Executive order 13045.

List of Subjects

30 CFR Part 870

Abandoned Mine Reclamation Fund, Fee collection and coal production reporting, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 872

Indians—land, Moneys available to eligible States and Indian tribes.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

The action taken herein is pursuant to an existing delegation of authority.

For the reasons given in the preamble, the Department of the Interior amends 30 CFR parts 870 and 872 as set forth below:

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

■ 1. The authority citation at part 870 is revised to read as follows:

Authority: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.,* Pub. L. 105–277 and Pub. L. 117–58.

■ 2. Amend § 870.13 by:

■ a. Removing paragraph (a);

■ b. Revising paragraph (b); and

■ c. Redesignating paragraph (c) as paragraph (a).

The revision reads as follows:

§ 870.13 Fee rates.

* * * * *

(b) *Fees for coal produced for sale, transfer, or use from October 1, 2021, through September 30, 2034.* Fees for coal produced for sale, transfer, or use from October 1, 2021, through September 30, 2034, are shown in the following table:

Type of fee	Type of coal	Amount of fee
(1) Surface mining fee	Anthracite, bituminous, and subbituminous, including reclaimed.	(i) If value of coal is $2.24 per ton or more, fee is 22.4 cents per ton. (ii) If value of coal is less than $2.24 per ton, fee is 10 percent of the value.
(2) Underground mining fee	Anthracite, bituminous, and subbituminous.	(i) If value of coal is $0.96 per ton or more, fee is 9.6 cents per ton. (ii) If value of coal is less than $0.96 per ton, fee is 10 percent of the value.
(3) Surface and underground mining fee.	Lignite	(i) If value of coal is $3.20 per ton or more, fee is 6.4 cents per ton. (ii) If value of coal is less than $3.20 per ton, fee is 2 percent of the value.
(4) In situ coal mining fee	All types other than lignite ..	9.6 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory.
(5) In situ coal mining fee	Lignite	6.4 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

* * * * *

PART 872—MONEYS AVAILABLE TO ELIGIBLE STATES AND INDIAN TRIBES

■ 3. The authority citation at part 872 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.,* Pub. L. 117–58.

■ 4. Amend § 872.15 by revising paragraph (b)(1) to read as follows:

§ 872.15 How does OSM distribute and award State share funds?

* * * * *

(b) * * *

(1) We annually distribute State share funds to you as shown in the following table:

For the Federal fiscal year(s) beginning . . .	The amount of State share funds we annually distribute to you will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(ii) October 1, 2009 and October 1, 2010	75 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iv) October 1, 2035 (fiscal year 2036)	The amount remaining in your State share of the Fund.

* * * * *

■ 5. Amend § 872.18 by revising paragraph (b)(1) to read as follows:

§ 872.18 How will OSM distribute and award Tribal share funds?

* * * * *

(b) * * *

(1) We annually distribute Tribal share funds to you as shown in the following table:

For the Federal fiscal year(s) beginning . . .	The amount of Tribal share funds we annually distribute to you will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(ii) October 1, 2009 and October 1, 2010	75 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iv) October 1, 2035 (fiscal year 2036)	The amount remaining in your Tribal share of the Fund.

* * * * *

■ 6. Amend § 872.21 by revising paragraphs (b)(1) and (2) to read as follows:

§ 872.21 What are historic coal funds?

* * * * *

(b) * * *

(1) The moneys we reallocate based on prior balance replacement funds distributed under § 872.29, which will be available to supplement grants beginning with Federal fiscal year 2036; and

(2) The moneys we reallocate based on certified in lieu funds distributed under § 872.32, which will be available to supplement grants in Federal fiscal years 2009 through 2035.

■ 7. Amend § 872.22 by revising paragraph (c) to read as follows:

§ 872.22 How does OSM distribute and award historic coal funds?

* * * * *

(c) We annually distribute historic coal funds to you as shown in the following table:

For the Federal fiscal years beginning . . .	The amount of historic coal funds we annually distribute to you will be . . .
(1) October 1, 2007 and October 1, 2008	50 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(2) October 1, 2009 and October 1, 2010	75 percent of the amount we calculated using the formula described in paragraph (b) of this section.
(3) October 1, 2011 and continuing through September 30, 2035.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(4) October 1, 2035 (fiscal year 2036), and thereafter.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section until funds are no longer available or you have reclaimed your remaining Priority 1 and 2 coal problems.

* * * * *

■ 8. Amend § 872.27 by revising paragraph (a)(2) to read as follows:

§ 872.27 How does OSM distribute and award minimum program make up funds?

* * * * *

(a) * * *

(2) For each Federal fiscal year, we add minimum program make up funds to your combined distribution of prior balance replacement, State or Tribal share, and historic coal funds as shown in the following table:

For each of the Federal fiscal years beginning . . .	The amount of minimum program make up funds we add to your distribution will be . . .
(i) October 1, 2007 and October 1, 2008	50 percent of the amount that we calculated should be added under paragraph (a)(1) of this section.
(ii) October 1, 2009 and October 1, 2010	75 percent of the amount that we calculated should be added under paragraph (a)(1) of this section.
(iii) October 1, 2011 and continuing through September 30, 2035.	100 percent of the amount that we calculated should be added under paragraph (a)(1) of this section as long as you have at least $3 million of Priority 1 and 2 coal problems remaining.
(iv) October 1, 2035 and thereafter	to the extent funds are available, 100 percent of the amount that we calculated should be added under paragraph (a)(1) until you have less than $3 million of Priority 1 and 2 coal problems remaining.

* * * * *

■ 9. Amend § 872.30 by revising paragraph (c) to read as follows:

§ 872.30 How does OSM distribute and award prior balance replacement funds?

* * * * *

(c) At the same time we distribute prior balance replacement funds to you under this section, we transfer the same amount to historic coal funds from moneys in your State or Tribal share of the Fund that were allocated to you before October 1, 2007. The transferred funds will be available for annual grants under § 872.21 for the Federal fiscal year beginning October 1, 2035, and annually thereafter. We will allocate, distribute, and award the transferred

funds according to the provisions of §§ 872.21, 872.22, and 872.23.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0021]

RIN 1625–AA00

Safety Zone; Potomac River, Between Charles County, MD and King George County, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. This action is necessary to provide for the safety of persons, and the marine environment from the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge, which will occur from 8 p.m. on January 15, 2022 through 8 p.m. on January 22, 2022. This rule will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 8 p.m. on January 15, 2022 until 8 p.m. on January 22, 2022 .

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0021 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
§ Section
TFR Temporary Final Rule
U.S.C. United States Code

II. Background Information and Regulatory History

On January 5, 2022, Skanska-Corman-McLean, Joint Venture, notified the Coast Guard that the company will be setting structural steel sections across the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge. The bridge contractor stated the work required to set structural steel across the channel, originally scheduled to occur in November 2021, and rescheduled to December 2021, was scheduled to occur from January 3, 2022, through January 15, 2022. However, the unexpected and unprecedented impacts to the southern Maryland and northern Virginia region from the major snow storm on January 3, 2022 halted operations and caused additional delays. The work is now scheduled to occur from January 11, 2022, through January 22, 2022. The work described by the contractor requires the movement in and anchoring at multiple points of a large crane barge within the federal navigation channel. This crane can accommodate all of the steel to be hoisted and placed, which will streamline the operation by avoiding multiple reloads of steel and reducing the time in the channel by multiple days. This operation will impede vessels requiring the use of the channel. Note, the Coast Guard has previously issued other temporary safety zones at this location for placement of fender ring elements in association with construction of the new bridge (USCG–2021–0127; USCG–2021–0650; USCG–2021–0745; and USCG–2021–0906).

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Construction operations involving large crane heavy lifts at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge must occur within the federal navigation channel. Immediate action is needed to respond to the potential safety hazards associated with bridge construction. Hazards from the construction operations include low-hanging or falling ropes, cables, large piles and cement cast portions, dangerous projectiles, and or other debris. We must establish this safety zone by January 15, 2022 to guard against these hazards.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with construction operations at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge to be conducted within the federal navigation channel.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with bridge construction starting January 15, 2022, will be a safety concern for anyone within the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge construction site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being constructed.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 8 p.m. on January 15, 2022, through 8 p.m. on January 22, 2022. The safety zone will cover all navigable waters of the Potomac River encompassed by a line connecting the following points beginning at 38°21′50.96″ N, 076°59′22.04″ W, thence south to 38°21′43.08″ N, 076°59′20.55″ W, thence west to 38°21′41.00″ N, 076°59′34.90″ W, thence north to 38°21′48.90″ N, 076°59′36.80″ W, and east back to the beginning point, located between Charles County, MD and King George County, VA.

The duration of the zone is intended to protect personnel and the marine environment in these navigable waters while structural steel is being set across the federal navigation channel at the new Governor Harry W. Nice/Senator Thomas ''Mac'' Middleton Memorial (US–301) Bridge.

Except for marine equipment and vessels operated by Skanska-Corman-McLean, Joint Venture, or its