Issued in Washington, DC on May 20, 1994.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 94-12752 Filed 5-25-94; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[TD 8335]

RIN 1545-AO88

OMB Control Numbers Under the Paperwork Reduction Act; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the technical amendments to § 602.101(c) published as TD 8335 on Monday, March 4, 1991 (56 FR 8912). This regulation collects and displays the control numbers assigned to regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and the Paperwork Reduction Reauthorization Act of 1986, which require that agencies display control numbers assigned by that Office to regulations that solicit or obtain information from the public.

EFFECTIVE DATE: March 4, 1991.

FOR FURTHER INFORMATION CONTACT: Carol Savage, (202) 622-8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The technical amendments to § 602.101(c) that are the subject of these corrections comply with the requirements of §§ 1320.7(f), 1320.12 and 1320.15 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act and amendments thereto by the Paperwork Reduction Reauthorization Act of 1986), for display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations.

Need for Correction

As published, the technical amendments to TD 8335 contains errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 602

Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 602 is corrected as follows:

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Paragraph 1. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Corrected]

Par. 2. The table under § 602.101(c) is amended by removing the entry for "1.1-1" and amending the entry for "1.6012-1" by adding in numerical order under "Current OMB Control No." the number "1545-0067."

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 94-12563 Filed 5-25-94; 8:45 am]

BILLING CODE: 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Regulatory Program Amendment

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval, with an exception, of a proposed program amendment to the Kentucky regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed modifications to Kentucky Administrative Regulations (KAR) relating to surface and underground coal mining permits, and fish and wildlife resources, and replaces two earlier proposed program amendments submitted on June 28, 1991 (Administrative Record No. KY-1059), and March 13, 1992 (Administrative Record No. KY-1119).

EFFECTIVE DATE: May 26, 1994.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone (606) 233-2896.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in May 18, 1992, **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16 and 917.17.

II. Submission of the Proposed Amendments

By letter of July 21, 1992 (Administrative Record No. KY-1167), Kentucky resubmitted a proposed program amendment that completed the Kentucky promulgation process under the Kentucky Revised Statutes (KRS) Chapter 13A. This proposed amendment replaces two earlier proposed program amendments dated March 13, 1992 (Administrative Record No. KY-1119), and June 28, 1991 (Administrative Record No. KY-1059).

The July 21, 1992, resubmission contains revisions to 405 KAR 8:030 (Surface coal mining permits), 405 KAR 8:040 (Underground coal mining permits), and 405 KAR 16:180/18:180 (Protection of fish, wildlife, and related environmental values). The proposed revisions pertaining to fish and wildlife resources as set forth at 405 KAR 8:030 and 8:040 sections 20 and 36, and 405 KAR 16:180 and 18:180 sections 1, 2, and 3, were previously considered by OSM, and the Director's decision on those provisions are discussed in the final rule dated December 9, 1992 (57 FR 58139-58144). However, OSM inadvertently failed to finalize the portion of the amendment dealing with non-fish and wildlife resource revisions to 405 KAR 8:030/8:040 contained in Kentucky's submissions dated June 28, 1991, March 13, 1992, and July 21, 1992.

In order to insure that appropriate opportunity for comment on the revisions has been provided, OSM reopened the public comment period in the October 27, 1993, **Federal Register** (58 FR 57767), and in the same notice, provided opportunity for a public hearing on the adequacy of the proposed amendments to 405 KAR 8:030/8:040, other than the revisions to fish and wildlife resources.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR

732.15 ad 732.17 are the Director's findings concerning the proposed amendments.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. 405 KAR 8:030/8:040 Section 1

Kentucky proposes to delete 8:030 section 1(4) (a) and (b), and 8:040 section 1(3) (a) and (b), which contain a listing of the required permit application forms and the location at which they may be obtained. Since the information contained in these subsections is generally duplicative of information currently set forth at 405 KAR 8:010 section 5(1) (c) and (d), the Director finds that the proposed deletions will not render the State's program less effective than the Federal regulations.

2. 405 KAR 8:030/8:040 Section 2

Kentudky proposes to revise subsections (3), (4) and (5)(a) (405 KAR 8:030 only) by deleting cross-references to 405 KAR 7:020 dealing with the definitions of terms. Inasmuch as the Director previously approved the deletion of 405 KAR 7:020 and the relocation of the definition of terms regulations to the specific regulation chapters in which terms are used (57 FR 45295, October 1, 1992), the Director finds that the deletion of these cross-references will not render Kentucky's program inconsistent with the requirements of SMCRA or the Federal regulations.

Kentucky proposes to delete Subsection (6), which requires a statement identifying any pending permit applications, as well as any current or previous coal mining permits held during the preceding five years by the permit applicant or of an owner/controller of the applicant. Section 507(b)(3) requires that the permit applicant identify any permits held or previously held by the applicant and any pending permit applications. The Director agrees with the commenter who asserted that SMCRA requires that this information be supplied by the permit applicant. The Director acknowledges that the information concerning pending applications is requested in Kentucky's permit application. A question in a permit application, by itself without an accompanying regulation, does not satisfy the statutory requirement of 507(b)(3) of SMCRA. Therefore, the Director finds that the deletion of section 2(6) would render that portion of the Kentucky program less stringent than 507(b)(3) of SMCRA and cannot approve the deletion of this requirement.

Kentucky proposes to add subsection (11) which requires the permittee to notify the State immediately of any changes in the permittee's address, if changed at any point prior to final bond release. Kentucky also proposes to add a new subsection (12) which: (1) Requires the permittee to submit updates of certain information within thirty days of the effective date of any such changes, (2) discusses the effect of failure to provide the updates, and (3) provides for suspension of the permit, after opportunity for hearing, for failure to provide updated information upon request. While there are no direct Federal counterparts for these provisions, the Director finds that the proposed revisions will assist Kentucky in having the most current information on the applicant and will not render Kentucky's program inconsistent with the requirements of SMCRA or the Federal regulations.

Finally, Kentucky proposes to delete former subsection (12) which required the applicant to submit required information on appropriate forms which were incorporated by reference in section 1(4) which also has been deleted. These forms are now among those forms listed at 405 KAR 8:010 section 5(1) (c) and (d). Therefore, the Director finds that the deletion of subsection (12) will not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations.

The Director notes that on September 23, 1991, he found subsection (12) to be less effective than 30 CFR 778.13(j) to the extent that subsection (12) did not require the use of a format prescribed by OSM for the submission of information required under 30 CFR 778.13 and 778.14 (56 FR 47907, September 23, 1991). Consistent with the Director's findings, he required Kentucky, at 30 CFR 917.16(f), to amend its program. Since that 1991 finding, the Director has approved 405 KAR 8:010 section 5(1)(c). See 58 FR 3833, January 12, 1993. As stated above, 405 KAR 8:010 section 5(1)(c) includes the forms of former subsection (12). Therefore, the Director is amending his required amendment found at 30 CFR 917.16(f) to delete any reference to subsection (12) and replacing that reference with 405 KAR 8:010 section 5(1) (c) and (d).

3. 405 KAR 8:030/8:040 Section 3

Kentucky proposes to revise subsection (5) by deleting a cross-reference to the definition of "small operator" in KRS 350.450(4)(d). Since this cross-reference is duplicative of the one contained in 405 KAR 8:001 (106), the Director finds that the proposed deletion will not render Kentucky's program inconsistent with the requirements of SMCRA or the Federal regulations.

4. 405 KAR 8:030/8:040 Section 4

Kentucky proposes to revise subsection (2) regarding the information required to be submitted with the permit application if the private mineral estate to be mined has been severed from the private surface estate. As revised, subsection (2) is substantively identical to the Federal rule set forth at 30 CFR 778.15(b). Therefore, the Director finds that the proposal is no less effective than the Federal counterpart.

5. 405 KAR 8:030/8:040 Section 5

Kentucky proposes to add a new subsection (4) which states that the requirements of 405 KAR 24:040 section 2(6) must be met if the applicant proposes to conduct surface mining activities within 100 feet of a public road. The proposal is substantively identical to that portion of the Federal rule concerning public roads as set forth at 30 CFR 778.16(c). Therefore, the Director finds that the proposal is no less effective than its Federal counterpart.

6. 405 KAR 8:030/8:040 Section 10

Kentucky proposes to revise section 10 to clarify that the rule pertains to applications for a permit, major revision, amendment, transfer, or renewal of a permit, and to require that any proof of publication which is filed must be acceptable to the cabinet. The revision to section 10 is substantively identical to the Federal rule set forth at 30 CFR 778.21 except that the Federal rule doesn't require proof of publication for permit transfers. There is no Federal counterpart for proof of publication of a permit transfer, but this is consistent with 30 CFR 774.17 which requires advertisement of the transfer. Therefore, the Director finds that the proposal is no less effective than its Federal counterparts.

7. 405 KAR 8;030/8:040 Section 37

Kentucky proposes to revise the information required in the postmining land use mining and reclamation plan, to include a discussion of how the proposed postmining land use is to be achieved, including management practices to be conducted during the liability period for the commercial forestland, cropland (including hayland), and pastureland land uses.

There is no direct Federal counterpart. However, the proposal is consistent with 30 CFR 780.23(a)(2).

Additionally, Kentucky proposes to delete former subsection (1)(d) which required that the reclamation plan include detailed management practices when the postmining land use was grazing. Pursuant to 405 KAR 16:210, grazing is not one of the approved land uses in Kentucky. Therefore, the Director finds that the deletion of this subsection does not render the State's program inconsistent with the requirements of SMCRA or the Federal regulations and is approving the deletion.

8. 405 KAR 8:030/8:040 Section 38

Kentucky proposes to delete section 38 which deals with the mining and reclamation plan for transportation of coal on public roads. This deletion was appropriate since Kentucky had deleted the statutory authority for this regulation. On August 10, 1990, OSM approved (55 FR 32619) the deletion of this statutory authority, which was previously found at KRS 350.060(11). In addition, there is no corresponding requirement in either SMCRA or the Federal rule. The Director finds that the proposed deletion will not render Kentucky's program inconsistent with SMCRA or the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The public comment periods and opportunities to request a public hearing were announced as follows: (1) For the submission dated June 28, 1991 (Administrative Record Number KY–1059), in the July 22, 1991, **Federal Register** (56 FR 33398); (2) For the submission dated March 13, 1992 (Administrative Record Number KY–1119), in the April 23, 1992, **Federal Register** (57 FR 14818); (3) For the submission dated July 21, 1992 (Administrative Record Number KY–1167), in the September 23, 1992, **Federal Register** (57 FR 43946); and (4) The proposed revisions were reopened for public comment in the October 27, 1993, **Federal Register** (58 FR 57767). The public comment periods closed on August 21, 1991, May 8, 1992, October 8, 1992, and November 26, 1993, respectively. No one requested an opportunity to testify at the scheduled public hearings so no hearings were held.

The Kentucky Resources Council (KRC) filed comments regarding Kentucky's proposed deletion of 405 KAR 8:030/8:040 sections 2(6) and 38. In regard to the deletion of section 2(6), the Director has considered the concerns raised by KRC as discussed in Finding III.2. herein, and determined that the proposed deletion would render Kentucky's program less effective than the Federal program.

With regard to the proposed deletion of section 38, KRC questioned the wisdom of the deletion since KRC felt that information required by section 38 "provided an important source of information linking numerous contract mines to the companies who controlled the extraction and the processing of the coal." KRC stated that "[T]he maps have provided information that has resulted in the imposition of reclamation liability on companies that owned or controlled the contract mines, based on linkages that might otherwise not have been possible to support absent such information." In addition to the reasons discussed in the Director's Findings, there are no comparable requirements in the Federal regulations for the submission of such information. OSM cannot require states to enforce provisions for which there are no Federal requirements. Therefore, the Director is approving the proposed deletion. The Director notes that he found Kentucky's ownership and/or control information requirements, with two exceptions, to be no less effective than the Federal regulations. See 56 FR 47907, September 23, 1991).

On November 23, 1993, CONSOL, Inc. filed comments regarding the proposed addition of 405 KAR 8:030/8:040 section 2(12), expressing its concern regarding the proposed 30-day time limit for submitting updated ownership and control information. CONSOL, Inc. recommended that the proposal be changed for large corporations, to allow for the submittal of updated information within thirty days of the date when it is released by the corporate secretary rather than thirty days from the effective date.

In responding to CONSOL's comments, the Kentucky Natural Resources and Environmental Protection Cabinet (Cabinet) indicated that it understood the commenter's concern that the proposed language could be read to allow sanctions to be imposed for failure to submit ownership and control updates within thirty days. The Cabinet went on the state that it recognized that "multi-level corporate entities require a reasonable amount of time in which to submit corporate changes. The failure for an entity to submit updated information within the thirty (30) day timeframe does not automatically constitute a violation. The Cabinet does not intend to initiate suspension procedures unless a permittee has refused or failed to submit information to the Cabinet upon request." The proposed language in 405 KAR 8:030/8:040 section 2(12) provides that "[A]fter the permittee's refusal or failure to timely submit the information to the cabinet upon request, the Cabinet may suspend the permit after opportunity for hearing * * *." The Director feels that Kentucky's response to the concerns raised by CONSOL, Inc. is adequate and he has approved the proposed language herein.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various government agencies with an actual or potential interest in the Kentucky program. The Kentucky Heritage Council, Soil Conservation Service, Tennessee Valley Authority, Bureau of Land Management, Maine Safety and Health Administration, U.S. Forest Service, and the Bureau of Mines generally considered the amendment to be acceptable or submitted an acknowledgement with no comment.

Environmental Protection Agency (EPA) Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (22 U.S.C. 1251 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

V. Director's Decision

Based on the above findings, the Director is approving, with the exception discussed in Finding 2, the program amendment submitted by Kentucky on June 28, 1991, and modified and resubmitted on March 13, 1992, and July 21, 1992, consisting of revisions to various provisions of 405 KAR 8:030 and 8:040, other than fish and wildlife resources. In addition, as discussed in Finding 2, the Director is continuing his required amendment.

The Federal regulations at 30 CFR Part 917 codifying decisions concerning the Kentucky program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved programs. In the oversight of the Kentucky program, the Director will recognize only the approved program, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Kentucky of such provisions.

VI. Procedural Determinations

Executive Order No. 12866

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

Executive Order 12778

The Department of the Interior has conducted the review required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 19, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

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

2. Section 917.15, is revised to add paragraph (tt) to read as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * * * *

(tt) The following amendments submitted to OSM on June 28, 1991, and on March 13, 1992, and replaced with the July 21, 1992, submittal are approved, with an exception, effective May 26, 1994. The amendments consist of the following modifications or deletions to the Kentucky program:

Revisions to the following provisions of the Kentucky Administrative Regulations (KAR):

8:030 Section 1(4) (a) & (b)—General
8:040 Section 1(3) (a) & (b)—General
8:030/8:040 Section 2 (3), (4), (5)(a) (8:030 only), (11) and (12)—Identification of interests
8:030/8:040 Section 3(5)—Violation information
8:030/8:040 Section 4(2)—Right of entry and right to surface mine
8:030/8:040 Section 5(4)—Relationship to areas designated unsuitable for mining
8:030/8:040 Section 10—Newspaper advertisement and proof of publication
8:030/8:040 Section 37—MRP; postmining land use
8:030/8:040 Section 38—MRP; transportation on public roads
405 KAR 8:030/8:040 Section 2(6) is not approved.

* * * * * * *

3. Section 917.16(f) is revised to read as follows:

§ 917.16 Required program amendments.

* * * * * * *

(f) By July 25, 1994 Kentucky shall submit either an amendment or a description of a proposed amendment with a timetable for adoption, that would amend its rules at 405 KAR 8:010 section 5(1) (c) and (d) to require that information required by sections 2 and 3 of 405 KAR 8:030 and 8:040 shall be submitted on any format prescribed by OSM as well as any format prescribed by the Cabinet.

* * * * * * *

[FR Doc. 94–12860 Filed 5–25–94; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 917

Permanent Program Amendment

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

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final rule that was published on Friday, April 15, 1994, (59 FR 17928). The regulations related to technical revisions throughout 30 CFR chapter VII, subchapter T. This document corrects addresses for the Kentucky abandoned mine land reclamation plan.

EFFECTIVE DATE: May 26, 1994.

FOR FURTHER INFORMATION CONTACT: Gloria Prettiman, Branch of Environmental and Economic Analysis, Office of Surface Mining Reclamation and Enforcement, Headquarters, 1951 Constitution Ave NW., Washington, DC 20240; Telephone: 202–343–5143.

SUPPLEMENTARY INFORMATION:

I. Background

Since July 1, 1993, the date of the most recent revision to the *Code of Federal Regulations* (30 CFR part 700 to End), the addresses of certain State and Federal offices involved in the State regulatory program have changed. The addresses were corrected in order to indicate where copies of the State programs are available for inspection in accordance with the provisions of 30 CFR 900.12(a).

Need for Correction

As published the final regulation contained incorrect information for Kentucky's Abandoned Mine Land Reclamation Plan.

Correction of Publication

Accordingly, the final rule technical amendment which was published on April 15, 1994 (State Program Amendments; Alabama et al.), at 59 FR 17928 is corrected as follows:

1. On page 17929, in the second column, in § 917.20, paragraph (b) is corrected to read as follows:

§ 917.20 Approval of the Kentucky abandoned mine reclamation plan.

* * * * *

(b) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

2. On page 17929, in the third column, in § 917.21, paragraphs (a)(1) and (b)(1) are corrected to read as follows:

§ 917.21 Amendment to approved Kentucky abandoned mine land reclamation plan.

(a) * * *

(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

* * * * *

(b) * * *

(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

* * * * *

Dated: May 19, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–12861 Filed 5–25–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS MERRILL (DD 976) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MERRILL (DD 976) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific rule of 72 COLREGS: In that portion of Annex I, Section 3(a) pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. The entry for USS MERRILL (DD 976) in Table Five of 706.2 is revised to read as follows:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MERRILL	DD 976			X	46.1

Date: May 9, 1994.

Approved:

R.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 94-12841 Filed 5-25-94; 8:45 am]

BILLING CODE 3810-AE-P

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval patrol vessels. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Rule 23(a)(ii), pertaining to display of a masthead light and a second (after) masthead light on vessels exceeding 50 meters in length; Annex I, paragraph 2(k), pertaining to the vertical distance between the forward and after anchor lights and the height of the forward anchor light above the hull; Rule 21(c), pertaining to location of the sternlight, without interfering with their special functions as naval patrol vessels. The Judge Advocate General of the Navy has also certified that the number of masthead lights displayed and the location of the other mentioned lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the number and placement of lights on USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) in a manner differently from that prescribed herein will adversely affect the vessels ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Three of 706.2 is amended by revising the column headings and adding the following ships:

TABLE THREE

Vessel	No.	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters §3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; §2(K) annex 1	Anchor lights relationship of aft light to forward light in meters §2 (K) annex 1
USS SQUALL	PC 7					[1] 25.5	3.0	1.0
USS ZEPHYR	PC 8					[1] 25.5	3.0	1.0
USS CHINOOK	PC 9					[1] 25.5	3.0	1.0
USS FIREBOLT	PC 10					[1] 25.5	3.0	1.0
USS WHIRLWIND	PC 11					[1] 25.5	3.0	1.0
USS THUNDERBOLT	PC 12					[1] 25.5	3.0	1.0
USS SHAMAL	PC 13					[1] 25.5	3.0	1.0

[1] Only when towing.

Date: May 6, 1994.

Approved:

H.E. Grant,

Rear Admiral, JACG, U.S. Navy, Judge Advocate General.

[FR Doc. 94-12842 Filed 5-25-94; 8:45 am]

BILLING CODE 3810-AE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 940381-4144; I.D. 031194B]

RIN 0648-AG09

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement allocative regulations governing fishing for halibut in Regulatory Area 4B as recommended by the North Pacific Fishery Management Council (Council). This action is necessary to enhance the fishing opportunities of small, locally based vessels in Area 4B. It is intended to further the conservation and management objectives of the Council with respect to the Pacific halibut fishery.

EFFECTIVE DATE: June 6, 1994, at 12:00 hours Alaska local time.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) may be obtained by contacting the Council, P.O. Box 103136, Anchorage, AK 99510, 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter, Fisheries Management Division, NMFS, Alaska Region, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The fishery for Pacific halibut (*Hippoglossus stenolepis*) off the coasts of Alaska, British Columbia, Washington, Oregon, and California is governed by the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention). The Convention is carried out by the International Pacific Halibut Commission (IPHC), which develops regulations to manage the fishery. The Northern Pacific Halibut Act of 1982 (Halibut Act) was subsequently enacted to give effect to the 1979 Protocol to the Convention.

Section 5(c) of the Halibut Act provides for the appropriate Regional Fishery Management Council under the Magnuson Fishery Conservation and Management Act to develop regulations, including limited access regulations, governing the United States portion of Convention waters and applicable to nationals or vessels of the United States, which are in addition to, and not in conflict with, regulations adopted by the IPHC. Since 1987, NMFS has interpreted this provision to mean that regulations having domestic allocation of the Pacific halibut resource as a primary purpose would be developed by the Council with respect to Alaska and by the Pacific Fishery Management Council with respect to Washington, Oregon, and California.

Area 4B Allocation

This action is designed to ameliorate the effects caused by the differing harvest abilities of vessels that catch and land all their halibut harvest in Area 4B, principally at the Aleutian Islands community of Atka (single-area vessels), and vessels that catch and land halibut in other areas as well as Area 4B (multiple-area vessels). Most single-area vessels are small relative to most multiple-area vessels. This size differential means that multiple-area vessel operators have an advantage in fishing power (i.e., a larger vessel has more space for fish, fuel, and crew) and in fishing time (i.e., a larger vessel can be fished in weather conditions that would prevent smaller vessels from being fished).

To limit this competitive disadvantage, the Council, after reviewing data presented in the EA/RIR/Initial Regulatory Flexibility Analysis and public testimony, decided at its January 1994 meeting to recommend to the Secretary of Commerce that 15 percent of the Area 4B catch limit be reserved for the early season fishery, in which there would be a 10,000 lb (4.5 mt) fishing period (trip) limit. The IPHC, at its meeting of January 25-28, 1994, established the 1994 halibut catch limit for Area 4B to be 2,100,000 lb (953 mt); 15 percent of this amount is 315,000 lb (143 mt). The IPHC also established the Area 4B early season to include one 24-hour period on June 6 through 7, 1994, followed by 31 12-hour periods to occur on every other day between June 15 and August 14, 1994. The IPHC will close all remaining 12-hour periods after the 315,000 lb (143 mt) early season catch limit is reached or add the unharvested remainder to the subsequent unrestricted fishing periods scheduled by the IPHC to begin on August 15, 1994.

A proposed rule to implement the Council's recommended action was published in the **Federal Register** April 4, 1994 (59 FR 15700). A complete description and justification for this action was presented in the preamble to the proposed rule. Additional information is also available in the EA/RIR/FRFA. Comments on the proposed rule were invited through April 28, 1994. No comments were received during the comment period.

Classification

Analysis supporting this action can be found in the EA/RIR/FRFA (see ADDRESSES).

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), has determined under section 553(d)(3) of the Administrative Procedure Act that good cause exists for waiving the 30-day delayed effectiveness period for this action. NMFS has proceeded with rulemaking expeditiously after receiving the EA/RIR/IRFA from the Council on February 7, 1994. The 10,000 pound (4.5 mt) fishing period (trip) limit established for the early season fishery in Regulatory Area 4B must be effective upon the opening date of that fishery (June 6, 1994). To delay the effective date beyond June 6 would severely undermine the intent of the Council to provide single-area vessels additional harvest opportunities in the halibut fishery of Regulatory Area 4B. To meet the intent of the Council for the 1994 fishery, the AA is waiving the 30-day delayed effectiveness period for this action.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: May 20, 1994.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 301 is amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

1. The authority citation for 50 CFR part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773-773k.

2. Section 301.7, paragraph (f) is revised to read as follows: