provided in paragraphs (b)(1) and (b)(2) of this section:

(1) In the case of a previous contract terminated by an event described in section 15(a)(3) of the Act (15 U.S.C. 80a–15(a)(3)), by the failure to renew the previous contract, or by an assignment (other than an assignment by an investment adviser or a controlling person of the investment adviser in connection with which assignment the investment adviser or a controlling person directly or indirectly receives money or other benefit):

(i) The compensation to be received under the interim contract is no greater than the compensation the adviser would have received under the previous contract; and

(ii) The fund's board of directors, including a majority of the directors who are not interested persons of the fund, has approved the interim contract within seven calendar days after the termination, at a meeting in which directors may participate by any means of communication that allows all directors participating to hear each other simultaneously during the meeting.

(2) In the case of a previous contract terminated by an assignment by an investment adviser or a controlling person of the investment adviser in connection with which assignment the investment adviser or a controlling person directly or indirectly receives money or other benefit:

(i) The compensation to be received under the interim contract is no greater than the compensation the adviser would have received under the previous contract;

(ii) The board of directors, including a majority of the directors who are not interested persons of the fund, has voted in person to approve the interim contract before the previous contract is terminated;

(iii) The board of directors, including a majority of the directors who are not interested persons of the fund, determines that the scope and quality of services to be provided to the fund under the interim contract will be at least equivalent to the scope and quality of services provided under the previous contract;

(iv) The interim contract provides that the fund's board of directors or a majority of the fund's outstanding voting securities may terminate the contract at any time, without the payment of any penalty, on not more than 10 calendar days' written notice to the investment adviser;

(v) The interim contract contains the same terms and conditions as the previous contract, with the exception of its effective and termination dates, provisions governed by paragraphs (b)(2)(i), (b)(2)(iv), and (b)(2)(vi) of this section, and any other differences in terms and conditions that the board of directors, including a majority of the directors who are not interested persons of the fund, finds to be immaterial; and

(vi) The interim contract contains the following provisions:

(A) The compensation earned under the contract will be held in an interest-bearing escrow account with the fund's custodian or a bank.

(B) If a majority of the fund's outstanding voting securities approve a contract with the investment adviser by the end of the 150–day period, the amount in the escrow account (including interest earned) will be paid to the investment adviser.

(C) If a majority of the fund's outstanding voting securities do not approve a contract with the investment adviser, the investment adviser will be paid, out of the escrow account, the lesser of:

(*1*) Any costs incurred in performing the interim contract (plus interest earned on that amount while in escrow); or

(*2*) The total amount in the escrow account (plus interest earned).

Dated: July 22, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–20088 Filed 7–27–98; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–121–FOR]

Pennsylvania Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment adds a new section ''F'' entitled Government Financed Construction Contracts (GFCC) to authorize the incidental removal of coal at AML sites that would not otherwise be mined and reclaimed under the Title V program. The proposed amendment also includes the Program Requirements and Monitoring Requirements related to the use of GFCC for that purpose. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed construction exemption in Section 528 of SMCRA to be applied in cases involving less than 50% government financing only in the limited situation where the construction constitutes a government approved and administered abandoned mine land reclamation project under Title IV of SMCRA.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.] August 12, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Robert Biggi, Field Office Director, at the address listed below. Copies of the Pennsylvania program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782–4036.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments, can be found in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the AMLR program amendments are identified at 30 CFR 938.20 and 938.25.

II. Description of the Proposed Amendment

By letter dated November 21, 1997 (Administrative Record No. PA–855.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted proposed Program Amendment No. 2 to the Pennsylvania Abandoned Mine Reclamation Plan. In addition, PADEP also submitted the following documents: Basis of Authority for the Proposed Amendment, AML Amendment Conformance with 30 CFR Section 884.13, Assistant Counsel's Opinion of Authority for GFCC, PADEP Organization Chart and the Office of Mineral Resources Management Organization Chart. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed construction exemption in Section 528 of SMCRA to be applied in certain cases involving less than 50% government financing. The inspection forms and related instructions to be utilized to monitor the GFCC program are part of the amendment. Pennsylvania submitted the proposed amendment at its own initiative.

OSM announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67590) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 28, 1998. However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on three items was sent to Pennsylvania dated June 5, 1998 (Administrative Record No. PA–855.08). Pennsylvania initially responded in its letter dated June 17, 1998, (Administrative Record No. PA 855.09), that it would require additional time to respond to OSM's request, and that it expected to provide a response by July 15. A response was received from Pennsylvania in its letter dated July 7, 1998 (Administrative Record No. PA–855.10). Therefore, OSM is reopening the public comment period regarding the following clarifications to Pennsylvanians proposed amendments:

Pennsylvania was asked to clarify how it would fund projects in cases where the operator defaults on the contract or otherwise fails to perform the necessary reclamation. OSM noted that the proposed amendment at page 15 requires that a performance bond shall be submitted for the GFCC where required, but it does not state the authority for requiring a bond, nor does it state the conditions under which a bond would be required. Pennsylvania responded that it has developed a bond rate schedule to be used to establish the bond amount for each GFCC. The bond rate schedule is based on acreage involved and PADEP's experience in reclaiming abandoned mine lands. Should a contractor default on a GFCC or otherwise fail to perform the required reclamation, PADEP will make a demand upon the surety to fulfill its performance bond obligations to either complete the reclamation required by the GFCC or to pay that amount of bond money necessary for PADEP to hire another contractor to complete the remaining contract reclamation work. A consent order and agreement, in conjunction with a permit condition, will be used to ensure AML sites which receive excess spoil from a Title V site are fully reclaimed. The permit condition will provide that the operator will use no more than that amount of excess spoil than is necessary to reclaim the AML site, and that the operator's failure to complete the required reclamation of the AML site prohibits release of the bond on the Title V permit. An operator's failure to complete reclamation of the AML site would be a violation of its permit, exposing the operator to civil penalties and/or bond forfeiture. Additionally, the consent order and agreement will make it possible for the PADEP to have a court enforce the consent order and agreement and require the operator to complete the reclamation. Pennsylvania also responded that the authority for requiring a bond is contained in the statutes cited in the legal opinion attached to the proposed program amendment initially submitted. Pennsylvania revised pages 15 and 16 of its proposed amendment to include these clarifications.

Pennsylvania was also asked to clarify which requirements in the approved program will apply to the placement of excess spoil on abandoned mine lands as referenced in the proposed amendment at page 7 where it is stated that the placement of excess spoil on adjacent AML lands would be approved AML reclamation projects and would therefore encompass the same time-tested administrative, financial, contractual and environmental safeguards as any other approved AML projects in the Commonwealth. OSM requested that Pennsylvania either require that these projects be handled in the same manner as Federally-funded AML projects, or otherwise identify the administrative, financial, contractual and environmental safeguards that will be applied to these ''no-cost'' GFCC's, and show how these safeguards will ensure the same level of environmental protection as that which is provided by Federally-funded AML projects. Pennsylvania responded that these projects will be handled in the same manner as Federally-funded AML projects. Furthermore, projects that involve the support and involvement of the District Mining Offices will be subject to the additional administrative requirements designed to address the coordination between the Bureau of Abandoned Mine Reclamation and the District Mining Offices. Pennsylvania revised page 7 of its proposed amendment to include these clarifications.

Pennsylvania was requested to include in its AML Plan provisions to ensure that excess spoil from Title V operations will not be placed on approved AML sites in amounts greater than necessary to address the AML impacts and problems. Pennsylvania responded that it modified its amendment by adding the following sentence to the end of the first paragraph on page 6, C.1; after the fourth sentence of the first full paragraph on page 7; after the first sentence of the last paragraph on page 9; after the first sentence of Part F(2) on page 13; and after the first sentence of the third paragraph under Program Requirements on page 15: ''The amount of excess spoil from Title V operations will not exceed that amount necessary to address the AML impacts and problems.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15, OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of State AMLR program amendments. Specifically, OSM is seeking comments on the clarifications to the State's AML Plan that were submitted on July 7, 1998 (Administrative Record No. PA 855.10). Comments should address whether the proposed amendment with these clarifications satisfies the applicable program approval criteria of 30 CFR 884.15. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations.

Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 Executive Order 12988 (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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB 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 corresponding 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. Accordingly, 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 in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 21, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–20163 Filed 7–27–98; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300693; FRL–6020–6]

RIN 2070–AC18

Spinosad; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a time-limited tolerance for residues of spinosad in or on coffee at 0.02 parts per million (ppm). This action is being initiated by EPA under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170). The United States Department of Agriculture/Agricultural Research Service (USDA/ARS) has requested that EPA establish a time-limited tolerance on coffee in order for USDA/ARS to conduct efficacy testing of spinosad to control the Mediterranean Fruit Fly. This testing will be conducted on 80 acres in Hawaii under an Experimental Use Permit (EUP).

DATES: Comments, identified by the docket conrol number [OPP–300693], must be received by EPA on or before August 11, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VI of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lewis, Registration Division [7505C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–7448, e-mail: lewis.susan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 15, 1998 (63 FR 18329)(FRL–5785–7), EPA established permanent tolerances by removing the time limitation for the tolerance for residues of the insecticide spinosad in or on cottonseed at 0.02 ppm and by establishing tolerances in or on almonds at 0.02 ppm; almond hulls at 2.0 ppm; apples at 0.2 ppm; apple pomace, wet at 0.5 ppm; citrus fruits group at 0.3 ppm; dried citrus pulp at 0.5 ppm; citrus oil at 3.0 ppm; cotton gin byproducts at 1.5 ppm; fruiting vegetables (except cucurbits) group at 0.4 ppm; leafy vegetables (except Brassica vegetables) group at 8.0 ppm; Brassica (cole), leafy vegetables, head and stem subgroup at 2.0 ppm; Brassica (cole), leafy vegetables, greens subgroup at 15.0 ppm; fat of cattle, goats, hogs, horses, and sheep at 0.7 ppm; meat of cattle, goats, hogs, horses, and sheep at 0.04 ppm; meat byproducts of cattle, goats, hogs, horses, and sheep at 0.2