

regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a partnership fails to file a partnership return on magnetic media in the manner required and when required to do so by this section, the partnership will be deemed to have failed to file the return in the manner prescribed for purposes of the information return penalty under section 6721. See § 301.6724-1(c)(3) for rules regarding the waiver of penalties for undue economic hardship relating to filing returns on magnetic media.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media (such as electronic filing) specifically permitted under the applicable regulations, procedures, or publications.

(2) *Partnership.* The term *partnership* means a partnership as defined in § 1.761-1(a) of this chapter.

(3) *Partner.* The term *partner* means a member of a partnership as defined in section 7701(a)(2).

(4) *Partnership return.* The term *partnership return* means a form in Series 1065 (including Form 1065, U.S. Partnership Return of Income, and Form 1065-B, U.S. Return of Income for Electing Large Partnerships), along with the corresponding Schedules K-1 and all other related forms and schedules that are required to be attached to the Series 1065 form.

(5) *Partnerships with more than 100 partners.* A partnership has more than 100 partners if, over the course of the partnership's taxable year, the partnership had more than 100 partners, regardless of whether a partner was a partner for the entire year or whether the partnership had over 100 partners on any particular day in the year. For purposes of this paragraph (d)(5), however, only those persons having a direct interest in the partnership must be considered partners for purposes of determining the number of partners during the partnership's taxable year.

(e) *Examples.* The following examples illustrate the provisions of paragraph (d)(5) of this section. In the examples, the partnerships utilize the calendar year, and the taxable year in question is 2000:

*Example 1.* Partnership P had five general partners and 90 limited partners on January 1, 2000. On March 15, 2000, 10 more limited partners acquired an interest in P. On September 29, 2000, the 10 newest partners

sold their individual partnership interests to C, a corporation which was one of the original 90 limited partners. On December 31, 2000, P had the same five general partners and 90 limited partners it had on January 1, 2000. P had a total of 105 partners over the course of partnership taxable year 2000. Therefore, P must file its 2000 partnership return on magnetic media.

*Example 2.* Partnership Q is a general partnership that had 95 partners on January 1, 2000. On March 15, 2000, 10 partners sold their individual partnership interests to corporation D, which was not previously a partner in Q. On September 29, 2000, corporation D sold one-half of its partnership interest in equal shares to five individuals, who were not previously partners in Q. On December 31, 2000, Q had a total of 91 partners, and on no date in the year did Q have more than 100 partners. Over the course of the year, however, Q had 101 partners. Therefore, Q must file its 2000 partnership return on magnetic media.

*Example 3.* Partnership G is a general partnership with 100 partners on January 1, 2000. There are no new partners added to G in 2000. One of G's partners, A, is a partnership with 53 partners. A is one partner, regardless of the number of partners A has. Therefore, G has 100 partners and is not required to file its 2000 partnership return on magnetic media.

(f) *Effective date.* In general, this section applies to partnership returns for taxable years ending on or after December 31, 2000. However, electing large partnerships under section 775 and partnerships using foreign addresses on their Series 1065 forms are not required to file using magnetic media for taxable years ending before January 1, 2001.

**Par. 3.** Section 301.6721-1 is amended by removing the third, fourth, and fifth sentences of paragraph (a)(2)(ii) and adding four sentences in their place to read as follows:

**§ 301.6721-1 Failure to file correct information returns.**

(a) \* \* \*

(2) \* \* \*

(ii) \* \* \* However, no penalty is imposed under paragraph (a)(1) of this section solely by reason of any failure to comply with the requirements of section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns (the 250-threshold requirement) or in the case of a partnership with more than 100 partners, more than 100 information returns (the 100-threshold requirement) (collectively, the threshold requirements). Each Schedule K-1 considered in applying the 100-threshold requirement will be treated as a separate information return. These threshold requirements apply separately to each type of information return required to be filed. Further, these

threshold requirements apply separately to original and corrected returns. \* \* \*

\* \* \* \* \*

Approved: October 29, 1999.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

**Jonathan Talisman,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 99-29087 Filed 11-10-99; 8:45 am]

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Parts 1917 and 1918**

**Office of Management and Budget (OMB) Control Numbers Assigned Under the Paperwork Reduction Act of 1995**

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is notifying the public that the Office of Management and Budget (OMB) recently approved a number of information collection requirements in OSHA's regulations on Marine Terminals and Safety and Health Regulations for Longshoring. OSHA requested OMB approval for these requirements under the Paperwork Reduction Act of 1995. The Agency is now publishing the control numbers assigned by OMB to the approved requirements, as well as their expiration dates, in new sections of the regulations in table format.

**EFFECTIVE DATE:** November 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Bielaski, Office of Regulatory Analysis, Directorate of Policy, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3627; 200 Constitution Avenue, NW., Washington, DC 20210; telephone: 202-693-2444; FAX: 202-693-1641.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

OSHA has a number of provisions in its occupational safety and health standards that require employers to collect or prepare information. The Paperwork Reduction Act of 1995 specifies that the Office of Management and Budget (OMB) must approve these information collection requirements at least once every three years; the Agency cannot impose a penalty on employers

for violating collection of information requirements unless these requirements have OMB approval. When OMB approves collection of information requirements, it assigns them control numbers and expiration dates. The Agency must then notify the public of OMB's approval of the information collection requirements by publishing the assigned control numbers and expiration dates.

In the past, OSHA listed the OMB control numbers and expiration dates in 29 CFR parts 1917 (Marine Terminals) and 1918 (Safety and Health Regulations for Longshoring) by printing them at the end of each section or subpart in which they appeared. However, to make the collection of information requirements easily accessible and readily identifiable, OSHA is adding new sections to 29 CFR parts 1917 and 1918 that provide the expiration dates, as well as a list of the sections and paragraphs containing these requirements and their OMB control numbers.

**II. Exemption From Notice-and-Comment Rulemaking**

OSHA has determined that it is not necessary to provide for public notice and comment on this action under either section 4 of the Administrative Procedures Act (5 U.S.C. 553) or under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655(b)) because this action does not affect the substantive requirements or coverage of the affected standards. Accordingly, this document does not modify or revoke existing rights or obligations, nor does it establish new ones. With this action, the Agency is only providing information to the public. OSHA, therefore, concludes that rulemaking within the meaning of 5 U.S.C. 553(b)(3)(B) is unnecessary and that, consistent with 29 CFR 1911.5, good cause exists for dispensing with the public-comment provisions of section 6(b) of the Occupational Safety and Health Act of 1970.

**III. Exemption From the Requirement To Delay the Effective Date**

OSHA finds that this final rule provides control numbers and expiration dates that will be helpful to the regulated community in determining the status of existing information collection requirements, and that this final rule accomplishes this purpose without increasing employer burden or decreasing employee protection. Therefore, the Agency concludes that, consistent with 5 U.S.C. 553(d)(3) and 29 CFR 1911.5, good cause exists for making this final rule effective upon publication in the **Federal Register**.

**IV. Authority**

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Secs. 4, 6(b), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), Sec. 41 of the Longshore and Harbor Workers' Act (33 U.S.C. 941), the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 6-96 (62 FR 111), as applicable; and 29 CFR 1911.5.

**List of Subjects**

*29 CFR Part 1917*

Hazardous substances, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping requirements.

*12 CFR Part 1918*

Freight, Hazardous substances, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

Signed at Washington, DC this 20th day of October 1999.

**Charles N. Jeffress,**  
*Assistant Secretary of Labor.*

OSHA amends 29 CFR parts 1917 and 1918 as follows:

**PART 1917—MARINE TERMINALS**

1. The authority citation for part 1917 is revised to read as follows:

**Authority:** Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 6-96 (62 FR 111), as applicable; and 29 CFR part 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

Section 1917.29 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. 1801-1819 and 5 U.S.C. 553).

2. The heading of subpart A is revised to read as follows:

**Subpart A—General Provisions**

3. Section 1917.4 is added to subpart A to read as follows:

**§ 1917.4 OMB control numbers under the Paperwork Reduction Act.**

The following list identifies the 29 CFR citations for sections or paragraphs in this part that contain a collection of information requirement approved by

the Office of Management and Budget (OMB). The list also provides the control number assigned by OMB to each approved requirement; control number 1218-0196 expires on May 31, 2002 and control number 1218-0003 expires on July 31, 2001. The list follows:

29 CFR citation	OMB control number.
1917.17(n) .....	1218-0196
1917.17(o) .....	1218-0196
1917.23(b)(1) .....	1218-0196
1917.23(b)(2) .....	1218-0196
1917.23(d)(4) .....	1218-0196
1917.24(b) .....	1218-0196
1917.24(d) .....	1218-0196
1917.25(a) .....	1218-0196
1917.25(b) .....	1218-0196
1917.25(c) .....	1218-0196
1917.25(f) .....	1218-0196
1917.26(d)(7) .....	1218-0196
1917.30(a)(1) .....	1218-0196
1917.30(a)(5)(iii) .....	1218-0196
1917.42(b)(1) .....	1218-0196
1917.42(b)(4) .....	1218-0196
1917.42(c)(1) .....	1218-0196
1917.42(d)(1) .....	1218-0196
1917.42(g)(3) .....	1218-0003
1917.42(h)(1) .....	1218-0196
1917.42(h)(4) .....	1218-0003
1917.42(h)(5) .....	1218-0196
1917.44(e) .....	1218-0196
1917.44(h) .....	1218-0196
1917.45(f)(1)(i) .....	1218-0196
1917.45(f)(4)(iv) .....	1218-0196
1917.45(f)(6) .....	1218-0196
1917.45(g)(2) .....	1218-0196
1917.45(g)(3)(iii) .....	1218-0196
1917.45(g)(8) .....	1218-0196
1917.45(k)(1) .....	1218-0196
1917.45(k)(4) .....	1218-0196
1917.46(a)(1)(v) .....	1218-0196
1917.50(c)(1) .....	1218-0003
1917.50(c)(3) .....	1218-0003
1917.50(c)(4)(i) .....	1218-0003
1917.50(c)(5)(ii) .....	1218-0003
1917.50(c)(5)(iii) .....	1218-0003
1917.50(e) .....	1218-0003
1917.50(g)(1) .....	1218-0003
1917.50(h) .....	1218-0003
1917.71(a) .....	1218-0196
1917.71(b)(2)(i) .....	1218-0196
1917.71(b)(2)(ii) .....	1218-0196
1917.71(b)(6)(ii) .....	1218-0196
1917.71(f)(4) .....	1218-0196
1917.111(b) .....	1218-0196
1917.113 .....	1218-0196
1917.115(c) .....	1218-0196
1917.116(e) .....	1218-0196
1917.116(g) .....	1218-0196
1917.117(a) .....	1218-0196
1917.117(b) .....	1218-0196
1917.117(d) .....	1218-0196
1917.117(e) .....	1218-0196
1917.117(f) .....	1218-0196
1917.117(l) .....	1218-0196
1917.118(e)(4)(i) .....	1218-0196
1917.119(e) .....	1218-0196
1917.122(a) .....	1218-0196
1917.122(b) .....	1218-0196
1917.128(b)(1)-(b)(4) .....	1218-0196
1917.151(e)(5) .....	1218-0196

29 CFR citation	OMB control number.
1917.152(d)(2)(v) .....	1218-0196
1917.152(d)(2)(vi) .....	1218-0196

**Subpart C—Cargo Handling Gear and Equipment**

**§ 1917.50 [Amended]**

4. In § 1917.50, the OMB parenthetical at the end of the section is removed.

**PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING**

1. The authority citation for part 1918 is revised to read as follows:

**Authority:** Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), or 6-96 (62 FR 111), as applicable; and 29 CFR part 1911.

Section 1918.90 also issued under 5 U.S.C. 553.

Section 1918.100 also issued under Sec. 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. 1801-1819 and 5 U.S.C. 553).

2. The heading for subpart A is revised to read as follows:

**Subpart A—General Provisions**

3. New § 1918.4 is added to subpart A to read as follows:

**§ 1918.4 OMB control numbers under the Paperwork Reduction Act.**

The following list identifies the 29 CFR citations for sections or paragraphs in this part that contain a collection of information requirement approved by the Office of Management and Budget (OMB). The list also provides the control number assigned by OMB to each approved requirement; control number 1218-0196 expires on May 31, 2002 and control number 1218-0003 expires on July 31, 2001. The list follows:

29 CFR citation	OMB control No.
1918.22(g) .....	1218-0196
1918.24(i)(1) .....	1218-0196
1918.61(b)(2) .....	1218-0196
1918.61(c) .....	1218-0196
1918.61(f)(1) .....	1218-0003
1918.61(f)(2) .....	1218-0003
1918.61(g) .....	1218-0003
1918.61(h) .....	1218-0003
1918.61(i) .....	1218-0003
1918.62(b)(1) .....	1218-0196
1918.62(b)(5) .....	1218-0196
1918.62(c)(1) .....	1218-0196
1918.62(d)(1) .....	1218-0196
1918.62(g)(3) .....	1218-0196
1918.62(g)(4) .....	1218-0196

29 CFR citation	OMB control No.
1918.62(h)(1) .....	1218-0196
1918.62(h)(3)(ii) .....	1218-0196
1918.62(h)(4) .....	1218-0196
1918.64(k)(1) .....	1218-0196
1918.64(k)(2) .....	1218-0196
1918.65(b)(1) .....	1218-0196
1918.66(a)(2) .....	1218-0196
1918.66(a)(8) .....	1218-0196
1918.66(a)(9) .....	1218-0196
1918.66(a)(11) .....	1218-0196
1918.66(a)(15) .....	1218-0196
1918.66(d)(2) .....	1218-0196
1918.66(d)(4) .....	1218-0196
1918.66(f)(1)(v) .....	1218-0196
1918.85(a) .....	1218-0196
1918.85(b)(4)(ii) .....	1218-0196
1918.85(k)(13) .....	1218-0196
1918.86(b) .....	1218-0196
1918.86(e) .....	1218-0196
1918.86(g) .....	1218-0196
1918.86(h) .....	1218-0196
1918.93(b) .....	1218-0196
1918.93(d)(4) .....	1218-0196
1918.94(c) .....	1218-0196
1918.96(e)(2) .....	1218-0196
1918.97(d)(7) .....	1218-0196
1918.100(a) .....	1218-0196
1918.100(e)(3) .....	1218-0196

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 948**

[WV-074-FOR]

**West Virginia Regulatory Program**

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

**ACTION:** Final rule; correction.

**SUMMARY:** This notice corrects OSM's decision on an amendment submitted by the State of West Virginia as a modification to its permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM published its decision on the provision in the October 4, 1995, **Federal Register** (60 FR 51900). The decision being corrected concerns bond forfeiture, and specifically concerns the liability for reclamation costs that are in excess of the amount of bond forfeited. This correction is intended to comply with the decision of the United States District Court for the Southern District of West Virginia in *Cat Run Coal Co. v. Babbitt*, No. 2: 95-1063 (S.D. W.Va. Aug. 8, 1996).

**EFFECTIVE DATE:** November 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

**SUPPLEMENTARY INFORMATION:**

**Background**

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Numbers WV-888, WV-889, and WV-893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program. The amendment included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act, and the West Virginia Surface Mining Reclamation Regulations (CSR 38-2-1 *et seq.*). OSM grouped the proposed revisions that concern reclamation bonding into one amendment that was approved, with exceptions, in the October 4, 1995, **Federal Register** (60 FR 51900). In that notice, OSM approved an amendment to CSR 38-2-12.4.e. concerning the forfeiture of reclamation bonds. Specifically, subsection 12.4.e. concerns the liability for reclamation costs that are in excess of the amount of bond forfeited. The provision that OSM approved provided, in part, that "[t]he operator, permittee, or other responsible party shall be liable for all costs in excess of the amount forfeited."

**Need for Correction**

On August 8, 1996, the Court in *Cat Run Coal Co. v. Babbitt* vacated OSM's decision to approve CSR 38-2-12.4.e. Specifically, the Court vacated OSM's approval of the phrase "other responsible party," because it determined that the approval violated the notice and comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 500 *et seq.*, as well as the APA requirement to "adopt a concise general statement of \* \* \* [the rule's] basis and purpose." *Cat Run*, Slip op. at 9 through 15. The Court also found that OSM failed to ascertain the precise meaning and scope of the term "other responsible parties," and that, as a result, could not reach a reasoned and informed conclusion as to whether the proposal was consistent with SMCRA. Slip op. at 12 through 14. Finally, the Court found that CSR 38-2.12.4.e. was inconsistent with SMCRA's objective of internalizing the liability for reclamation of surface coal mining operations, because it purported to hold parties other than surface coal mining permittees and operators liable for reclamation costs in excess of site specific reclamation performance bond