

Accordingly, for the reasons given above, the Commission concludes that the number of small entities that market products subject to the rule requiring special packaging for mouthwashes containing 3 g or more of ethanol is not substantial. Also, the economic effects on such firms will not be significant.

G. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the Poison Prevention Packaging Act (PPPA) packaging requirements for ethanol-containing products. [4]

The Commission's regulations at 16 CFR 1021.5(c)(3) state that rules requiring special packaging for consumer products normally have little or no potential for affecting the human environment. Analysis of the impact of this rule indicates that CRP for these mouthwash preparations will have no significant effects on the environment. This is because the rule will not significantly increase the total amount of CRP in use and, in any event, the manufacture, use, and disposal of CRP presents the same environmental effects as do the currently used non-CRP.

Therefore, because the rule will have no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

For the reasons given above, the Commission amends 16 CFR part 1700 as follows:

PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

Authority: Pub. L. 91-601, secs. 1-9, 84 Stat. 1670-74, 15 U.S.C. 1471-76. Secs. 1700.1 and 1700.14 also issued under Pub. L. 92-573, sec. 30(a), 88 Stat. 1231, 15 U.S.C. 2079(a).

2. Section 1700.14 is amended by adding new paragraph (a)(22), reading as follows (although unchanged, the introductory text of paragraph (a) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of

the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(22) *Mouthwash.* Except as provided in the following sentence, mouthwash preparations for human use and containing 3 g or more of ethanol in a single package shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c). Mouthwash products with nonremovable pump dispensers that contain at least 7% on a weight-to-weight basis of mint or cinnamon flavoring oils, that dispense no more than 0.03 grams of absolute ethanol per pump actuation, and that contain less than 15 grams of ethanol in a single unit are exempt from this requirement. The term "mouthwash" includes liquid products that are variously called mouthwashes, mouthrinses, oral antiseptics, gargles, fluoride rinses, anti-plaque rinses, and breath fresheners. It does not include throat sprays or aerosol breath fresheners.

* * * * *

Dated: January 18, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Relevant Documents

(Note. This list of relevant documents will not be printed in the Code of Federal Regulations.)

1. Briefing Memorandum with attached briefing package, September 30, 1993.

2. Memorandum from Jacqueline Ferrante, Ph.D., HSPS, to James F. Hoebel, Acting Associate Executive Director for Health Sciences, "Recommendation for the level of regulation of mouthwash with ethanol," January 10, 1994.

3. Memorandum from Terry Kissinger, Ph.D., EPA, to Jacqueline Ferrante, Ph.D., HSPS, "Injury Data Related to the Toxicity of Ethanol-containing Mouthwash," January 31, 1994.

4. Memorandum from Marcia P. Robins, ECSS, to Jacqueline Ferrante, Ph.D., HSPS, "Preliminary Assessment of Economic and Environmental Effects of a Proposal to Require Child-Resistant Packaging for Mouthwash Containing Ethanol," February 24, 1994.

5. Memorandum from Charles Wilbur, HSPS, to Jacqueline Ferrante, Ph.D., HSPS, "Technical Feasibility, Practicability, and Appropriateness Determination for the Proposal to Require CRP for Mouthwash Preparations Containing Ethanol," February 24, 1994.

6. Memorandum from Marcia P. Robins, ECSS, to Ronald L. Medford, EXHR, "Economic Effects of an Earlier Effective Date for CR Packaging of Mouthwash Preparations Containing Ethanol," April 6, 1994.

7. Briefing memorandum from Jacqueline N. Ferrante, Ph.D., HSPS, to the Commission, "Proposed Special Packaging Standard for Mouthwash Products with Ethanol," with Tabs A-E, April 11, 1994.

8. NDMA/CTFA Joint Voluntary Program on Child Resistant Packaging for Alcohol Containing Mouthwashes (Revised).

9. Memorandum from Jacqueline Ferrante, Ph.D., HSPS, to the Commission, "Revised industry voluntary program for child-resistant packaging of mouthwashes with ethanol," April 21, 1994.

10. Memorandum from Harleigh Ewell, GCRA, to the Commission, transmitting a revised **Federal Register** notice, April 21, 1994.

11. Letter from Eric A. Rubel, CPSC General Counsel, to Ms. Doris S. Freedman, Acting Chief Counsel for Advocacy, Small Business Administration, transmitting Regulatory Flexibility Act finding, May 4, 1994.

12. Proposed rule, 59 FR 24386 (May 11, 1994).

13. Public comments on proposed rule, Nos. CP94-2-1 through CP94-2-9.

14. Memorandum from Dr. Terry Kissinger, EPA, to Jacqueline Ferrante, Ph.D., HSPS, "Update of injury Data Related to the Toxicity of Ethanol-Containing Mouthwash," September 1, 1994.

15. Letter from David J. Aupperlee, Amway Corporation, to Jacqueline Ferrante, Ph.D., requesting an exemption for Amway Glister Anti-Plaque Oral Rinse [contains some claimed confidential information], October 19, 1994.

16. Memorandum from Marcia P. Robins, ECSS, to Jacqueline Ferrante, Ph.D., HSPS, "Final Regulatory Flexibility Analysis: Child-Resistant Packaging for Mouthwash Containing Ethanol," October 27, 1994.

17. Memorandum from Charles Wilbur, HSPS, "Technical Feasibility, Practicability, and Appropriateness Determination for the Final Rule to Require Child-Resistant Packaging for Mouthwash Preparations Containing Ethanol," November 1, 1994.

18. Memorandum from Catherine A. Sedney, EPHF, to Jacqueline Ferrante, Ph.D., HSPS, "Request for Exemption from Requirements for Special Packaging for Mouthwash," November 17, 1994.

19. Briefing paper from Jacqueline Ferrante, Ph.D., HSPS, to the Commission, with Tabs A-G, November 29, 1994.

20. Memorandum from Jacqueline Ferrante, Ph.D., to the Commission, "Supplemental information concerning a PPPA requirement for mouthwash with ethanol," December 12, 1994.

21. Letter from George Andrassy, Dep Corporation, to Sadye Dunn, Secretary of the CPSC, November 14, 1994.

[FR Doc. 95-1691 Filed 1-23-95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Louisiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Louisiana regulatory program (hereinafter referred to as the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposed revisions to its rules and provided a clarifying policy statement, both of which pertain to revegetation success standards on reclaimed land developed for use as forestry. The amendment is intended to revise the Louisiana program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: January 24, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. General background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Louisiana program can be found in the October 10, 1980, *Federal Register* (45 FR 67340). Subsequent actions concerning Louisiana's program and program amendments can be found at 30 CFR 918.15 and 918.16.

II. Proposed Amendment

By letter dated November 2, 1994, Louisiana submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. LA-351). Louisiana submitted the proposed amendment in response to the required program amendments at 30 CFR 918.16 (a) and (b). The provision of the Louisiana Surface Mining Regulations (LSMR) that Louisiana proposed to revise was LSMR 5423.B.4.a, concerning standards for success of revegetation at final bond release on reclaimed lands developed for forestry. Louisiana also proposed an associated Policy Statement No. PS-5, Revegetation Success Standards for Tree and Shrub

Stocking on Lands With a Postmining Land Use of Forestry. In addition, Louisiana proposed to recodify LSMR 53101 through 53139 as LSMR 5401 through 5439, and LSMR 67101 through 67139 as LSMR 6801 through 6839.

OSM announced receipt of the proposed amendment in the November 23, 1994, *Federal Register* (59 FR 60342), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. LA-351.02). Because no one requested a public hearing or meeting, none was held. The public comment period ended on December 23, 1994.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Louisiana on November 2, 1994, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to Louisiana's Rules

Louisiana proposed revisions to the following previously-approved rules that are nonsubstantive in nature.

a. *Recodification of Louisiana's rules.* In order to be consistent with the Louisiana State Code, Louisiana proposed recodification of segments of its rules. In Chapter 53, permanent program performance standards for surface mining activities, LSMR 53101 through 53139 were recodified as LSMR 5401 through 5439. In Chapter 67, special rules applicable to surface coal mining review hearings and appeals, LSMR 67101 through 67139 were recodified as LSMR 6801 through 6839. No revisions of the text of these rules, with the exception of those discussed in finding No. 2 below, were proposed by Louisiana.

Because the proposed recodification is nonsubstantive in nature, the Director finds that the recodification does not cause Louisiana's rules at LSMR 5401 through 5439 and LSMR 6801 through 6839 to be less effective than the counterpart Federal regulations at 30 CFR Part 816 and the Federal administrative procedures at 43 CFR Part 4. The Director approves the recodification.

b. *LSMR 5423.B.4.* At LSMR 5423.B.4, Louisiana proposed to delete the phrase "technical documents." LSMR 5423.B.4.a (discussed below) specifies technical success standards for areas developed for forestry. At LSMR

5423.B.1 through 3, for land uses other than commercial forestry, an applicant is given the option of developing revegetation success standards from reference areas, historic records, or technical documents. Because Louisiana, at LSMR 5423.B.4, does not allow for the development of success standards based on technical documents, the proposed deletion of the phrase "technical documents" is an editorial revision that eliminates confusion.

Because this proposed revision is nonsubstantive in nature, the Director finds that this proposed rule is no less effective than the counterpart Federal regulations at 30 CFR 816.116(b)(3). The Director approves this rule.

2. *LSMR 5423.B.4.a and Policy Statement PS-5, Standards for Success of Revegetation at Final Bond Release on Reclaimed Lands Developed for Use as Forestry*

At 30 CFR 918.16(a), OSM required that Louisiana revise LSMR 5423.B.4.a (previously codified as 53123.B.4.a), or otherwise modify its program, to require that trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall (1) have utility for the approved postmining land use and (2) be healthy. At 30 CFR 918.16(b), OSM required that Louisiana revise LSMR 5423.B.4.a, or otherwise modify its program, to either (1) clarify, by policy statement, that proposed LSMR 5423.B.4.a requires that 100 percent (i.e., all countable stems) of the trees must be in place for a minimum of 60 percent of the responsibility period or (2) add the requirement that at least 80 percent of the trees and shrubs used to determine success of revegetation shall have been in place for 60 percent of the applicable minimum period of responsibility (finding Nos. 1.b and 1.c, 59 FR 48171, September 20, 1994). Louisiana's proposed revisions in response to these required amendments are discussed below.

a. *LSMR 5423.B.4.a.* Louisiana proposed to revise LSMR 5423.B.4.a by adding the requirements that the trees that will be used in determining the success of stocking and the adequacy of the plant arrangement shall (1) "have utility for the approved postmining land use" and (2) "be healthy."

The Federal regulations at 30 CFR 816.116(b)(3)(ii) include the requirements that the trees and shrubs used in determining the success of stocking and the adequacy of the plant arrangement shall (1) have utility for the approved postmining land use and (2) be healthy.

The Director finds that Louisiana's proposed revision of LSMR 5423.B.4.a is substantively identical to and no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(ii) in meeting SMCRA's requirements. Therefore, the Director approves the proposed revisions and removes the required amendment at 30 CFR 918.16(a).

b. *Policy Statement PS-5.* Louisiana's existing LSMR 5423.B.4.a requires that the technical success standards for revegetation success on lands reclaimed for use as forestry shall be 450 well-distributed free to grow live pine trees per acre of the same age or 250 well-distributed live hardwood trees per acre of the same age and the countable stems shall be a minimum of 3 years old.

Louisiana proposed Policy Statement, PS-5, Revegetation Success Standards for Tree and Shrub Stocking on Lands with a Postmining Land Use of Forestry, to clarify that the requirements in LSMR 5423.B.4.a mean that 100 percent (i.e., all countable stems) must be in place for a minimum of 60 percent of the responsibility period (i.e., 3 of the 5 year minimum period of responsibility).

The Federal regulations at 30 CFR 816.116(b)(3)(ii) include the requirement that, at the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility.

The Director finds that Louisiana's proposed LSMR 5423.B.4.a, as clarified by its Policy Statement PS-5, is no less effective than the Federal Regulations at 30 CFR 816.116(b)(3)(ii) in meeting SMCRA's requirements. Therefore, the Director approves the proposed Policy Statement PS-5 and removes the required amendment at 30 CFR 918.16(b).

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's response to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Louisiana program (administrative record No. LA-351.01).

The U.S. Bureau of Mines responded on November 30, 1994, that it had no comments (administrative record No. LA-351.03).

The U.S. Army Corps of Engineers responded on December 1, 1994, that the proposed amendment was satisfactory (administrative record no. LA-351.04).

The U.S. Fish and Wildlife Service responded on December 2, 1994, that it had no objection to implementation of the proposed amendment (administrative record No. LA-351.05).

The U.S. Natural Resources Conservation Service (NRCS) responded on December 9, 1994, that Louisiana's requirement for 70 percent ground cover is 5 percent below the NRCS standard for ground cover of 75 percent (administrative record No. LA-351.08). Louisiana's requirement at LSMR 5423.B.4.a, that vegetative ground cover shall not be less than 70 percent, was previously approved by OSM (57 FR 48726, October 28, 1992). Louisiana's existing LSMR 5417.A.4, applicable to revegetation on land reclaimed for any use, requires that a vegetative cover be established that is capable of stabilizing the soil surface from erosion. Therefore, the requirement for 70 percent ground cover on land developed for forestry is a minimum standard that must be increased if it is insufficient to control erosion. In addition, Louisiana requires at LSMR 5421.A that suitable mulch and other soil stabilizing practices shall be used on all regarded and topsoiled areas to control erosion, promote germination of seeds, or increase the moisture content of soil. LSMR 5417.A.4 and LSMR 5421.A are no less effective than the requirements of the counterpart Federal regulations at, respectively, 30 CFR 816.111(a)(4) and 816.114. The Federal regulations at 30 CFR 816.116(b)(3)(iii) require, for areas to be developed for forestry, that vegetative ground cover shall not be less than that required to achieve the approved postmining land use. Louisiana's standard for ground cover at LSMR 5423.B.4.a, in conjunction with the requirements at LSMR 5417.A.4 and LSMR 5421.A, is consistent with and no less effective in meeting SMCRA's requirements than the Federal regulations at 30 CFR 816.116(b)(3)(iii). Therefore, the Director is not, in response to this comment, requiring that Louisiana revise the standard at LSMR 5423.B.4.a for ground cover on areas to be developed for forestry.

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written

concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Louisiana proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. LA-351.01). EPA responded on December 8, 1994, that it had no objections to OSM's approval of the proposed amendment (administrative record No. LA-351.07).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. LA-351.01). ACHP did not respond to OSM's request. The SHPO responded on December 8, 1994, that it had no comments (administrative record No. LA-351.06).

V. Director's Decision

Based on the above findings, the Director approves Louisiana's proposed amendment as submitted on November 2, 1994.

The Director approves, as discussed in: finding No. 1.a, recodification of a segment of Louisiana's rules; finding No. 1.b, a nonsubstantive editorial revision at LSMR 5423.B.4; finding No. 2.a, LSMR 5423.B.4.a, concerning trees that will be used in determining the success of stocking and the adequacy of the plant arrangement on reclaimed lands developed for use as forestry; and finding No. 2.b, Policy Statement PS-5, concerning clarification of the revegetation success standards in LSMR 5423.B.4.a.

The Director approves the rules as proposed by Louisiana with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 918, codifying decisions concerning the Louisiana 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.

VI. Procedural Determinations

1. Executive Order 12866

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

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that 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 SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 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.

3. 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 of 1969 (42 U.S.C. 4332(2)(C)).

4. 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.*).

5. 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 that 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. 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 for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 13, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western 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 918—LOUISIANA

1. The authority citation for part 918 continues to read as follows:

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

2. Section 918.15 is amended by adding paragraph (e) to read as follows:

§ 918.15 Approval of amendments to the Louisiana regulatory program.

* * * * *

(e) Revisions to the following rules, as submitted to OSM on November 2, 1994, are approved effective January 24, 1995:

LSMR 5423.B.4.a, revegetation success standards on reclaimed land developed for use as forestry, and Policy Statement PS-5, Revegetation Success Standards for Tree and Shrub Stocking on Lands with a Postmining Land Use of Forestry.

3. Section 918.16 is amended by revising the introductory paragraph, removing and reserving paragraph (a), and removing paragraph (b) to read as follows:

§ 918.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), Louisiana is required to submit to OSM by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed, that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Louisiana's established administrative or legislative procedures.

(a) [Reserved].

[FR Doc. 95-1707 Filed 1-23-95; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 23

RIN 0790-AF87

Grants and Agreements—Military Recruiting on Campus

AGENCY: Office of the Secretary, DoD.

ACTION: Interim rule.

SUMMARY: The Department of Defense adopts this interim rule to implement Section 558 of the National Defense Authorization Act for Fiscal Year 1995 [Public Law 103-337 (1994)], as it applies to grants. Section 558 states that funds available to the Department of Defense may not be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses; access to students on campuses; or access to directory information pertaining to students. The rule implements the law, as it applies to grants, by requiring inclusion of an appropriate clause in DoD grants with institutions of higher education. It also extends the requirement, as a matter of policy, to DoD cooperative agreements, because they are very similar to grants.

DATES: This interim rule is effective on January 24, 1995. Written comments on this rule must be received by March 27, 1995.

ADDRESSES: Forward comments to the Director for Research, 3080 Defense Pentagon, Washington, DC 20301-3080.

FOR FURTHER INFORMATION CONTACT: Mark Herbst, (703) 614-0205.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is not a "significant regulatory action," as defined by Executive Order 12866. The Department of Defense believes that it will not: (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