

denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The draft EIS expected to be completed in April 2000. The comment period on the draft EIS will be 45 days from the date of the Environmental Protection Agency publishes the notice of availability in the **Federal Register**,

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed in November 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the TwoBee Landscape Management Project.

The Forest Service is the lead agency. John Allen, District Ranger, is the Responsible Official. As the Responsible Official, he will decide whether to implement the project. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: June 16, 1999.

**John Allen**,  
District Ranger.

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BILLING CODE 3410-11-M

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### Mining Specifications for Prime Farmland

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Final notice.

**SUMMARY:** The Natural Resources Conservation Service (NRCS) of the Department of Agriculture (USDA) is issuing specifications for soil handling in relation to mining activities on prime farmland, as provided for in the Surface Mining Control and Reclamation Act of 1977 (SMCRA). SMCRA requires the Secretary of Agriculture to establish specifications for the removal, storage, replacement, and reconstruction of prime farmland soils.

The Soil Conservation Service, now called the Natural Resources Conservation Service, first proposed these specifications on February 19, 1988 (53 FR 4989). Beginning in 1997, NRCS and the Office of Surface Mining (OSM) began reviewing and updating these specifications to be published as a rule in the **Federal Register**. The process included reviewing comments received from the 1988 **Federal Register**, knowledge gained from field experiences since 1988, and field reviews conducted with state regulatory authorities.

During the process of developing these specifications, we concluded that these specifications should be published through a notice rather than a rule because the specifications are not regulatory. These specifications serve as guidelines to NRCS State Conservationists for developing state-specific specifications and may assist the various states in developing state standards. They will also help the mining industry, state regulatory authority, and OSM develop

reclamation plans, which if implemented, will provide the best opportunity to meet the post-reclamation crop production standards required by SMCRA.

### General Background on Proposed Specifications

Section 515(b)(7) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1265(b)(7), authorizes the Secretary of Agriculture to establish specifications for soil removal, storage, replacement, and reconstruction for all prime farmlands, as identified in Section 507(b)(16) of the Act 30 U.S.C. 1257(b)(16), to be mined and reclaimed. This authority is delegated to NRCS in 7 CFR 2.61(a)(22).

NRCS determined that national specifications for soil handling must allow for consideration of the wide diversity of soils, geology, climate, mining equipment, and crops in coal mining areas across the nation. These differences are recognized in the permanent program regulations published by the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, specifically in 30 CFR 823.4(a) which states that "NRCS within each State shall establish specifications for prime farmland soil removal, storage, replacement, and reconstruction."

Accordingly, NRCS developed the specifications set forth in this notice to ensure that local and site-specific factors are considered. Within the individual States, each NRCS State Conservationist will maintain and make available a local version of these specifications that incorporates the general criteria set forth in these specifications and any modifications made for the respective State. To the fullest extent possible, the basic specifications and the applicable modifications for individual States reflect the latest scientific information and experience regarding reclamation techniques.

During the development of these specifications, NRCS' national office provided certain general guidelines to assist the NRCS State staffs in developing specifications at the local level. These guidelines were set out in the advance notice of the proposed rule published on August 26, 1985 (50 FR 34490). The first version of these proposed specifications was published on February 19, 1988 (53 FR 4989). The specifications set forth in this notice reflect comments received as a result of the 1988 publication and include technical revisions based on research results and improvements in

technology, which have occurred since the 1988 publication.

### Discussion of These Specifications

The Soil Removal section provides guidance on the identification of prime farmland soils where a published survey is not available and outlines how a soil scientist should proceed with identifying and sampling the soils to be removed for later replacement and reconstruction. This section identifies needed documentation of field conditions, including rooting zones; surface relief; pre-mining drainage conditions (including subsurface); flood frequency; physical, chemical, and morphological soil properties of the soils to be removed; and the procedures to be used in soil removal. The soil removal specifications address the handling of the various soil horizons encountered on prime farmland and the procedures to be followed if substitute materials are to be used. NRCS recognizes that compaction of prime farmland soils during removal and reconstruction is a significant factor in prime farmland reclamation and therefore, the specifications include guidance to avoid compaction problems.

In the Soil Stockpiling section, NRCS recognizes that stockpiling of soil horizons, while not the preferred procedure for reclamation, is often necessary because of weather conditions, limitations or availability of equipment, or the reclamation method utilized. These specifications provide guidance to ensure that if stockpiling is utilized, the soil resources will be protected until reconstruction begins. This section provides criteria for stockpile site selection, protection against contamination and loss, and temporary distribution if long-term stockpiling is required.

In the Soil Reconstruction section, NRCS incorporates the principle of SMCRA that the reclamation of prime farmland requires the re-establishment of the pre-mining productivity of the disturbed soils. The soil reconstruction specifications provide a framework which, if followed and the required conditions are achieved, should maximize the probability that the reconstructed soil will achieve the required productivity.

Many factors contribute to the pre-mining productivity of prime farmland, including the chemical and physical characteristics of the soil horizons, the soil depth, the soil slope, and the drainage conditions. Research has shown that when the post-mining soil characteristics are similar to the pre-mining characteristics, pre-mining productivity can be achieved. These

specifications provide for documentation of the characteristics of original soil, as required by SMCRA, 30 U.S.C. 1257 and 1258, and provide that the reconstructed soils should achieve these characteristics to the greatest extent possible. These specifications provide guidance on how to utilize pre-mining information in the development of a reconstruction plan for successful reclamation. This guidance includes provisions regarding rooting depths, chemical and physical characteristics of the soil horizons, and site conditions. These specifications also include erosion control measures to ensure that the reconstructed soils remain in place after reclamation.

NRCS has attached appendices A and B for informational and compliance assistance. These appendices do not establish an obligation not otherwise imposed by other rules and regulations, nor do they detract from obligations imposed by other rules and regulations. Appendix A contains information describing the procedures for determining the rooting zone of the pre-mined prime farmland soil. Appendix B contains information describing the procedure and quantitative specifications, which can be used to evaluate the rooting zone of the reconstructed soil in relation to the pre-mined soil.

### Response to Comments

We received 17 comments. A majority of the commentors had multiple responses to the notice. Therefore, we have grouped the responses by issue to address each of the comments received.

*Comment:* One commenter stated that NRCS should withdraw this national guidance and proceed with state specific guidance. The commenter apparently believes that these specifications were to be implemented as national standards for removal, storage, replacement and reconstruction of prime farmland soils. The commenter also believes NRCS has no reason for proposing national guidance. Furthermore, commentor states that national guidance is contradictory to NRCS long-standing position that national specifications are not possible or appropriate.

*Response:* We agree with the commenter that national specifications are not appropriate. These specifications will not be published in 7 CFR 652 as national specifications. As stated in the preamble of the *Mining Specifications for Prime Farmland* (63 FR 57651) this guidance is advisory in nature, not regulatory. These specifications are intended only to serve as guidance for development of state specific

specifications for the removal, storage, replacement and reconstruction of prime farmland soils.

*Comment:* This same commenter also argued that NRCS is not obligated to publish a national "rule" or guidance.

*Response:* We disagree. SMCRA at Sec. 515(b)(7) requires the Secretary of Agriculture to publish specifications for removal, storage, replacement and reconstruction of prime farmland soils. We see these specifications as necessary guidance and an integral part of the process that will result in state specific prime farmland specifications. To reiterate, these specifications are not intended to be implemented as they stand; they are to be used as a basis for developing state specific prime farmland specifications.

*Comment:* Commenters suggested that the specifications should not use binding language.

*Response:* We agree and the mandatory or binding language has been changed in this final document to better indicate the advisory nature of the specifications.

*Comment:* Commenters questioned whether specifications and performance standards are both necessary.

*Response:* The specifications are required by the SMCRA to address soil removal, storage, replacement and reconstruction. Both the establishment of specifications and the achievement of performance standards (crop production) are required by SMCRA and the OSM regulations.

*Comment:* Commenters questioned why a soil scientist, as defined in these guidelines, should locate and mark on the ground and on the plan map the boundaries of prime farmland soils that will be removed during mining.

*Response:* As used in this final notice, a soil scientist "means a technical specialist with the academic credentials or work experience, which enables the specialist to use established procedures to collect the required soil information." We believe this is a very liberal definition of soil scientist, which allows anyone with the appropriate knowledge to carry out the required operations. Several commenters argued that only certified professional soil scientists should be considered soil scientists for the purposes of these specifications. These specifications are guidelines and individual states may set their own standards for who qualifies as a soil scientist under their own state specific specifications.

*Comment:* Commenters identified a potential conflict in the discussion of removal of topsoils less than six inches thick.

*Response:* We agree with the comments and we have removed that discussion from these specifications.

*Comment:* Commenters objected to the requirement under item (iii) in section entitled "Specifications for Soil Removal" that says "In no case will prime farmland topsoil be mixed with topsoil containing rocks larger than 2mm."

*Response:* This section has been rewritten in the final guidance to require that prime farmland topsoil not be mixed with topsoil, which will result in an increase in the amount of rock fragments in the resulting soil mix.

*Comment:* Commenters objected to the specification at part a (v) of "Soil Removal Specifications" that states "soil removal should occur only in water state classes that are slightly dry or dryer." The commenters also contend that this specification contradicts the goal of restoring prime farmland and is impossible to comply with.

*Response:* We disagree with this comment. We recognize that prime farmland soils will be handled in other water state classes, however, this results in a greater degradation in the quality of the replaced prime farmland soil. Collectively these specifications are designed to maximize the probability of reclamation success.

*Comment:* One respondent commented that the provision of "Soil Stockpiling," stating that stockpiling is permitted only if the soil removal and reclamation cannot occur at the same time, is not consistent with SMCRA.

*Response:* The sentence has been reworded to reflect the advisory nature of these guidelines.

*Comment:* Commenters pointed out that there appeared to be language missing from paragraph (b) of "Soil Stockpiling."

*Response:* The missing language has been replaced.

*Comment:* One commenter noted that paragraph (f) of "Soil Stockpiling" is unclear.

*Response:* This paragraph has been revised to allow topsoil and topsoil substitutes and subsoil and subsoil substitutes to be handled together.

*Comment:* One commenter stated that the language of paragraph (b) of "Soil Replacement and Reconstruction," which states that the depth and quality of the replaced subsoil should be verified before replacement of topsoil, may conflict with contemporaneous mining operations where such activity would be impractical.

*Response:* We disagree. The specification is intended to prevent topsoil from being placed over subsoil not meeting the reclamation plan

requirements. This could result in having to remove the topsoil. It does not conflict with the direct haul back situation.

*Comment:* Several commenters stated that they were not able to understand the meaning of the section on Root Permissive Structure in Appendix B.

*Response:* This section describes a soil test that is applicable only under semiarid conditions and may not be familiar to some persons involved in coal mining and reclamation. However, it is a legitimate test under some reclamation conditions. This section has been retained.

*Comment:* Several commenters pointed out conflict between the soil strength discussions in the original Appendices A and B.

*Response:* We accept the comment and have removed the soil strength discussion from Appendix A. The soil strength discussion in Appendix B has been simplified.

*Comment:* Commenters requested that the references and sources of values given in Appendices A and B be included.

*Response:* This has been done.

*Comment:* One commenter stated that we have not provided needed references for data, research or other scientific information that was relied on to establish these specifications. The commenter also states that an agency must disclose this type of information to afford interested parties a reasonable opportunity to comment on the agency's proposal. They further stated that "(i) interested persons, as well as reviewing courts, have great difficulty analyzing agency decisions when there is no indication in the rulemaking record as to how the agency arrived at its decisions."

*Response:* We have provided appropriate references in this final notice.

*Comment:* One commenter states that there is no indication that the agency has complied with the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Paperwork Reduction Act, or Executive Order 12866.

*Response:* NRCS reviewed the Environmental Impact Statement developed by the Department of the Interior for the SMCRA regulatory program and determined that this action is covered by that document. Based on the amount of time since the SMCRA EIS, the agency, though it is not necessary for publication of guidelines, developed an Environmental Assessment (EA). This EA is on file at

the agency's headquarters. As with the NEPA requirements, the other requirements identified by the commenter are not necessary for the publication of these guidelines.

*Comment:* One commenter felt that the guidelines are written with detailed specifications that undermine the stated purpose of providing a national guideline to support state specific guidelines.

*Response:* We do not agree with this comment because the specific parameter values and guidance are included to provide a basis for developing state specific specifications, as stated in the preamble. Some of the specific examples they identify in the comment letter contain items that have been addressed in the response to other commenters. The purpose of the appendices is given in the section titled "Discussion of the Proposed Specifications."

*Comment:* Commenters questioned the use of 0.06 inches per inch of available water capacity to determine the limit for fragipans or other root inhibiting layers in Appendix A: Criteria for Determining Pre-Mining Rooting Zone.

*Response:* We have not changed this value because it is generally accepted by NRCS, and the guidance provided by this document may be modified to accommodate state specific conditions.

*Comment:* Commenters felt that the listing of root inhibiting layers and repetition of statements was not necessary.

*Response:* We agree with this comment and have removed the language.

*Comment:* Commenters felt that the lack of comparability of chemical property values specified in Appendix A and Appendix B was inappropriate.

*Response:* We disagree with this comment because the values in Appendix A address root inhibiting horizons in undisturbed soils, whereas values in Appendix B address desirable chemical properties of reconstructed soils.

*Comment:* One commenter felt that the list of physical and chemical properties in these guidelines should be expanded to include additional soil properties.

*Response:* We have not made this change. These guidelines were not developed to be all inclusive, but to serve as the basis for state specific specifications.

*Comment:* One commenter requested that the guidelines include a mechanism to resolve soil mapping differences when a soil survey is done for

permitting and may be more detailed than the published soil survey.

*Response:* We feel that this issue is better addressed by the regulatory authority consulting with the appropriate NRCS State Conservationist.

*Comment:* Some commenters suggested that the SAR values in these guidelines be changed, based on experience in their respective states.

*Response:* This was not done because the stated values provide a greater chance of achieving performance standards.

*Comment:* One commenter suggested that inclusion of Bw and Bt horizons in "Specifications for Soil Removal" should be conditioned on the structure and texture being similar to the topsoil.

*Response:* We agree and the language has been changed.

*Comment:* One commenter noted the difficulty in interpreting Table 2 of Appendix B.

*Response:* We have simplified the table and accompanying explanation.

*Comment:* One commenter expressed concern about the definition of prime farmland.

*Response:* To address this concern, we have clarified the definition of prime farmland as used in this document. The definition is consistent with Office of Surface Mining regulations at 30 CFR, Part 700. Office of Surface Mining regulations protect prime farmland soils (defined in 7 CFR 657) which have been historically used for crop production. These definitions are found at 30 CFR 701.5, which can be accessed on the OSM internet home page ([www.osmre.gov](http://www.osmre.gov)).

*Comment:* One commenter stated that "Section 507(b)(16) of the Surface Mining Control and Reclamation Act of 1977 contemplate that the Secretary of Agriculture will establish standards for the conducting of soil surveys.

*Response:* With regard to the conducting of soil surveys, OSM regulations require that soil surveys meet the standards of the National Cooperative Soil Survey. Therefore, the standards for the soil survey have been established by the Secretary of Agriculture.

*Comment:* This same commenter also stated that Sec. 515(b)(7) mandates that specifications for soil removal, storage, replacement and reconstruction shall be established. The commenter further states that these standards are substantive rules under the Administrative Procedure Act in that they require actions to be taken by regulated entities, and effect the rights of third-party landowners by establishing the standards for handling and replacement of the soil in prime

farmland mining situations. The commenter asserts that the specifications are not merely interpretive in nature, but are intended to bind the regulated entities through the vehicle of surface coal mining permit and reclamation plan.

*Response:* We agree with the commenter that Section 515(b)(7) of SMCRA, 30 U.S.C. 1265(b)(7), is the authority that requires the Secretary of Agriculture to establish specifications for the removal, storage, replacement, and reconstruction of prime farmland soils that are disturbed by coal mining. This section also outlines certain minimum requirements for soil handling and replacement. However, we disagree with the next assertions of the commenter. These specifications are not substantive rules and do not bind the RA to issue permits under these specifications. Section 515(b)(7) does not, nor does any section of SMCRA, establish these specifications as law or regulation that is binding on OSM or any other RA. Section 510(d)(1) of SMCRA, 30 U.S.C. 1260(d)(1), states that permits for mining of prime farmland will be issued under regulations issued by the Secretary of the Interior (OSM) after consultation with the Secretary of Agriculture (NRCS). SMCRA and its regulations, found at 30 CFR Chapter 7, consistently rely on the Secretary of Agriculture (NRCS) for concurrence or advice, not regulation, on matters dealing with mining and reclamation of prime farmland. In conclusion, the prime farmland specifications published here are a useful tool for reclamation planning in that they are all known components of a soil's capacity to support crop yields and not the basis for measuring successful restoration of capacity.

#### **Implementation Issues**

It is important that the implementation and administration of the specifications be understood by everyone with an interest in the successful reclamation of surface mined prime farmlands. Once these specifications are finalized, NRCS will distribute these specifications to each NRCS State Office for use in the development or revision of State specifications. NRCS will send copies to each State Regulatory Authority (RA) and each OSM office so that the specifications can be used in carrying out their responsibilities for prime farmland reclamation. The applicant for a mining permit on prime farmland will prepare a reclamation plan, as required by sections 507 and 508 of SMCRA, 30 U.S.C. 1257 and 1258, based upon the particular prime farmland soils

proposed to be mined, the equipment to be used, and the physical characteristics of the site. Because these conditions vary considerably among sites, the mining and reclamation plans will also vary.

The RA must rely on its technical staff to assure the proposed reclamation plan will likely yield the required results. The RA technical staff will utilize NRCS specifications in making their recommendations for approving, disapproving, or revising the proposed reclamation plan. In addition to the plan review by the RA technical staff, the RA will consult with the NRCS State Conservationist on the plan prior to a final decision. The NRCS State Conservationist will review and comment on the proposed reclamation plan and, if the plan does not reflect NRCS specifications, the NRCS State Conservationist will suggest appropriate plan revisions to the RA.

The RA will make a final decision on the reclamation plan based, in part, on its review of NRCS specifications and consideration of comments received from the NRCS State Conservationist. The decision will be specific to the particular permit under review.

If a NRCS State Conservationist determines that a revision in the State reconstruction specifications is desirable, then NRCS, in consultation and cooperation with the RA, will utilize a public outreach process to obtain comments on the proposed revision. Under no circumstances will the State reconstruction specifications be less effective than the National specifications. After a public comment process, including publication in the **Federal Register** and internal review by NRCS and RA, the NRCS State Conservationist will incorporate the changes into the specifications and distribute them to the NRCS local offices within the State and to the RA. The RA will make the revised specifications available to mine operators and other interested parties.

#### **Questions and Answers**

NRCS lists below questions related to implementation of NRCS specifications, which have arisen during their development along with answers to those questions.

*Question 1:* Are the RAs required to incorporate the NRCS specifications into their approved state program through the formal amendment process?

*Answer:* The RA will use the specifications in making their determinations on prime farmland reclamation plans, but NRCS specifications are not required to be a part of the approved state program.

**Question 2:** What if the RA decides not to incorporate the State Conservationist's recommendations into a reclamation plan?

**Answer:** The RA is required, under 30 U.S.C. 1260(d)(1), to consult with the State Conservationist and to consider any suggested revisions. It is not mandatory that NRCS recommendations be adopted on the permit application and reclamation plan. Under the OSM regulations, 30 CFR 823.15, success of prime farmland reclamation is based on crop production. NRCS specifications are provided to aid the permittee and RA in reviewing and approving reclamation plans and in achieving productivity standards. The specifications are not performance standards. Section, 30 U.S.C. 1265(6)(7), sets forth the general performance standards for mining and reclamation activities on prime farmland. Under the OSM regulation, the ultimate standard, which must be met, is the production standard. The specifications were not developed to restrict prime farmland reclamation, but rather to provide a basis upon which a prime farmland reclamation plan can be developed. A reclamation plan that differs from the specification can be approved if, in consultation with NRCS, the RA determines that a plan takes into consideration the particular soil conditions, equipment, and mining reclamation methods applicable to a site and will yield the desired results.

**Question 3:** The proposed specifications would require permit applicants to submit information which may not be required under the current RA regulations or in the current permit application form. What will be required of the RA's to address this issue?

**Answer:** The proposed specifications allow for a variety of options in the area of needed information. This approach is consistent with the variable site conditions, mining and reclamation equipment, and procedures inherent in mining. Individual State RA's will determine their informational needs using NRCS specifications. Some RA's, at their discretion, may wish to change permit information requirements.

**Question 4:** How will the adoption of NRCS Soil Reconstruction Specifications change the manner in which prime farmland plans are currently being approved?

**Answer:** Adoption of these specifications will formalize the knowledge and expertise that NRCS has brought to prime farmland reclamation for over 20 years. State and Federal RA's and mine operators have always relied upon NRCS for technical advice relating to prime farmland reconstruction. State

RA's have been required to consult with NRCS on every acre of non-exempted prime farmland which has been mined since enactment of SMCRA. Prior to the enactment of SMCRA, many State RAs with a large amount of prime farmland being mined, such as Illinois, have included NRCS in their mine plan review. Because of this long relationship and prior history of consultation, we anticipate that adoption of the specifications will not change the manner in which plans are approved. Formalization of the specifications will provide a written framework developed during many years of experience and research, from which RA's and permittee can operate. The specifications will be available to all that have an interest in prime farmland restoration.

#### **Applicability**

The specifications apply to the removal, stockpiling, replacement, and reconstruction of soil materials during surface coal mining and reclamation operations on prime farmland, as defined and regulated by the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* These specifications are to be used in conjunction with the permanent program performance standards of the Office of Surface Mining Regulation and Enforcement, Department of the Interior, which are set forth in 30 CFR 785.17, 816.22, and part 823. These specifications apply to prime farmlands as defined by the Secretary of Agriculture in 7 CFR part 657 and historically used for cropland.

#### **Definitions**

The following definitions apply to all documents issued in accordance with these specifications, unless specified otherwise:

**Prime farmland** (as used in this document) means those lands which are defined by the Secretary of Agriculture in 7 CFR part 657 and which have historically been used for cropland.

**Reclamation Plan** means the part of a permit application that details the actions a mine operator will take to restore the area to be mined to an approved post-mining land use.

**Rooting zone** means the part of the soil that can be penetrated by plant roots. The rooting zone of a soil can be obtained from a published NRCS soil survey or determined in the field by a soil scientist in accordance with procedures.

**Soil characteristics** mean properties of the soil, which can be described or measured by field or laboratory observations, such as color,

temperature, water content, structure, pH, and exchangeable cations.

**Soil morphology** means:

(a) The physical constitution of a soil profile as exhibited by the kinds, thickness, and arrangement of the horizons in the profile, and by the texture, structure, consistence, and porosity of each horizon; or

(b) The visible characteristics of the soil or any of its parts.

**State regulatory authority** means the agency in each State, which has the primary responsibility at the state level for administering the initial or permanent state regulatory program relating to mining of prime farmland.

**Soil scientist** means a technical specialist with the academic credentials or work experience, which enables the specialist to use, established procedures to collect the required information about soils.

**Soil survey** means field and other investigations which result in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use, and which meets the standards of the National Cooperative Soil Survey as incorporated by reference in 30 CFR 785.17(c)(1).

#### **Soil Removal**

Specifications for designating prime farmland soils for removal.

(a) A soil scientist should locate and mark, on the ground and on the plan map, the boundaries of prime farmland soils that will be removed during mining. Prime farmland soils on the proposed mining site will be identified from a published NRCS soil survey. If a soil survey is not available or does not provide the physical, chemical, and morphological soil properties described in 30 CFR 785.17(c)(1), a soil scientist should sample and document those properties for the identified prime farmland soils using the following procedures:

(i) Soil laboratory analysis for testing any sample will use the procedures described in Soil Survey Investigations Report No. 42.

(ii) Identify the rooting zone of the undisturbed prime farmland soils in the reclamation plan.

(iii) Identify the original topography of prime farmland soils to be mined in the reclamation plan.

(iv) Identify the pre-mining surface and internal drainage conditions, flooding frequency, and surface or subsurface drainage systems of the prime farmland in the reclamation plan.

(v) Identify the equipment that will be used for soil removal in the reclamation plan.

#### *Specifications for Soil Removal*

(a) Soil removal should be accomplished with adherence to the following principles;

(i) Minimize pre-mining compaction and destruction of the soil structure by using equipment that will have the least impact on the natural soil.

(ii) Route soil removal equipment and adjust removal depth with each cycle of that equipment to minimize the compaction and destruction of soil structure in the natural soil.

(iii) Remove the topsoil layer (A, AP, AE, AB, E horizons and where the structure and texture are similar to the A horizon, dark noncalcareous Bw and Bt horizons). If there is not an area to use the topsoil, place it in a designated stockpile. The topsoil of prime farmlands may be mixed with other topsoils or substitute materials only if the resulting topsoil will have greater productivity. In no case should prime farmland topsoil be mixed with other material that will result in an increase in the amount of rock fragments.

(iv) Remove the B horizon and/or C horizon, or an RA approved substitute rooting media and, if there is not a currently or a recently mined area to concurrently place the rooting media, place it in a designated stockpile.

(v) Soil removal should occur only in water state classes that are slightly dry or dryer, as defined in the Soil Survey Manual, United States Department of Agriculture, Handbook No. 18, October 1993.

(b) Substitution of any material for naturally occurring prime farmland topsoil should be approved by the RA, in consultation with the NRCS, only when the substitute material will have a demonstrated productivity that is higher than the original topsoil. Substitution of any material, or mixing of the existing layers, for a naturally occurring prime farmland subsoil should be approved by the RA, in consultation with the NRCS, only when the substitute material will have a demonstrated productivity that is equal to or higher than the original subsoil.

#### **Soil Stockpiling**

Specifications For Stockpiling: Stockpiling should only occur only if the soil removal and reconstruction operations cannot be carried out concurrently.

(a) Stockpiled materials should:

(i) Be placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the regulatory authority; and

(iv) Not be moved until required for redistribution.

(b) Where long-term surface disturbances will result from facilities, such as support facilities and preparation plants, and where stockpiling of soils would be detrimental to the quality or quantity of those soils, the RA may approve the temporary distribution of the removed soil materials to an approved site within the permit area to enhance the current use of that site until needed for later reclamation, provided that it does not diminish the capability of host site and the soil material will be retained in a condition more suitable for redistribution than if stockpiled.

(c) Sites subject to flooding or slippage are to be avoided for stockpiling of soil. The soil survey map for the proposed stockpiling site, as well as a field investigation, should be used to determine if a proposed soil stockpile location will be subject to flooding or slippage.

(d) Ponding of water should be avoided on all stockpiles.

(e) All woody vegetation and any other materials on the stockpile site that may degrade the quality of stored material or interfere with placement or removal of stockpiled soils should be removed.

(f) The topsoil, or approved substitute material, should be stockpiled separately from the subsoil or approved substitute material.

(g) If possible, topsoil and subsoil stockpiles should not be located on prime farmland soils. If prime farmland must be used as a stockpile site, actions should be taken to avoid and mitigate any adverse effects such as compaction.

#### **Soil Replacement and Reconstruction**

Specifications for soil replacement and reconstruction are as follows:

(a) The minimum depth of soil and substitute soil material to be reconstructed should be 48 inches; or (1) a lesser depth equal to the depth of a sub-surface horizon in the natural soil that inhibits or prevents root penetration; or (2) a greater depth if determined by the RA, in consultation with the NRCS, to be necessary to restore the original soil productive capacity.

(b) The rooting zone of the pre-mining soils will be used as a basis for determining the replacement soil depth. Appendix A provides guidance for establishing the pre-mining rooting zone depth. The depth and quality of the rooting zone of the reconstructed prime farmland soils should be equal to or greater than the pre-mined soil rooting zone. The depth and quality of the replaced subsoil should be verified, using characteristics in Appendix B, before replacement of the topsoil.

(c) Topsoil, or the approved substitute material, should be returned to the mined area to a thickness not less than that of the pre-mined topsoil.

(d) The reconstructed soil should have a hydraulic conductivity, texture, porosity, consistency, penetration resistance, and other physical properties which approximates the pre-mined soil or are more favorable for plant growth as outlined in Appendix B.

(e) The reaction (pH) and other chemical properties of the major horizon of the reconstructed soil must be within the ranges of the pre-mined soil or be more favorable for plant growth. (Appendix B provides additional guidance on desirable physical and chemical properties for the reconstructed soils).

(f) Final grading of the reconstructed soil should provide for adequate surface drainage and for slope gradients within the range of the pre-mined prime farmland mapping units. In semi-arid and arid regions, surface drainage patterns and slope gradients must be reestablished to ensure that reconstructed prime farmland soils receive approximately the same amount of surface water run-on from adjacent areas as they did in their pre-mined condition.

(g) Soon after topsoil replacement, the soil should be tilled at sufficient depth to encourage root and water penetration into the subsoil to reduce runoff and erosion.

(h) Erosion control measures contained in the approved reclamation plan should be implemented immediately after replacement of the topsoil. These erosion control measures should meet, at a minimum, the specifications found in Section IV of the local NRCS Field Office Technical Guide for seeding, mulching, and other appropriate erosion control methods.

All field observation and testing should be performed by a soil scientist or persons under the direction of a soil scientist.

**Appendices**

*An Introduction to Appendices A and B*

Appendices A and B illustrates the importance of soil chemical and physical properties during the reconstruction of prime farmland in the restoration of productivity. These appendices do not establish an obligation not otherwise imposed by other rules and regulations, nor do they detract from obligations imposed by other rules and regulations. Appendix A contains information describing the procedures for determining the rooting zone of the pre-mined farmland soil. Appendix B contains information describing the procedure and quantitative specifications, which can be used to evaluate the rooting zone of the reconstructed soil in relation to the pre-mined soil.

*Appendix A: Criteria for Determining Pre-Mining Rooting Zone*

Soil horizons are considered as preventing root penetration if their physical or chemical properties or water holding capacity cause them to prevent penetration by roots of plants common to the area. Soil features, e.g. tillage pan, formed during mechanical disturbance are not to be considered as root inhibiting for purposes of determining pre-mining rooting zone.

Most prime farmland soils have a favorable rooting depth of at least 48 inches and, for such soils, proper soil reconstruction to this depth will help in the restoration of

productivity. However, there may be some prime farmland soils for which reconstruction to a greater depth is needed. Where bedrock or approved root inhibiting horizons are at a depth of less than 48 inches, reconstruction is thus required to a lesser depth. Fragipans or other root inhibiting layers, in order to qualify for exclusion from reconstruction, must contribute little or nothing to the productive capacity of the soil. This contribution must be less than 0.06 inches per inch of available water capacity to qualify for such exclusion.

The rooting zone of the prime farmland soils before mining will be determined and documented in the reclamation plan. The rooting zone can be obtained from published soil surveys or field determination.

If a soil survey or field determination (observation of rooting depth in an excavation) is not used to determine the rooting zone, the following guidelines will be used to determine depth (below 20 inches) to a root inhibiting soil layer for each of the following factors.

*Sodium Adsorption Ratio (SAR):* This is a measure of the amount of sodium (Na<sup>+</sup>) relative to calcium (Ca<sup>++</sup>) and magnesium (Mg<sup>++</sup>) in the water extract from saturated soil paste. SAR is calculated from the following equation:

$$SAR = Na^+ / \sqrt{(Ca^{++} + Mg^{++})} / 2$$

Soils having the SAR values listed below will have increased dispersion of organic matter and clay particles, reduced permeability and aeration, and a degradation of soil structure.

**SAR Values**

A value of greater than 30 is a root inhibiting soil layer.

*Electrical Conductivity:* This is a measure of the concentration of water soluble salts in a soil (from an extract of saturated soil paste) and is used to indicate saline soils. High concentrations of neutral salts interfere with the absorption of water by plants because the osmotic pressure in the soil solution is higher than that in the plant cells.

Salts in a soil layer can interfere with the exchange capacity of nutrient ions, thereby resulting in nutritional deficiencies in plants. Soils having the following value will be root inhibiting: A value of greater than 8 mmho/cm.

*Aluminum Saturation:* Excess aluminum restricts plant root penetration and proliferation in acid subsoils by decreasing water uptake in plants. Aluminum toxicity damage roots to the extent that they cannot absorb adequate water. High concentrations of aluminum are linked to adverse interaction with other elements, e.g., iron and calcium. The relationship of aluminum and calcium is the most important factor affecting calcium uptake by plants. Aluminum toxicity is linked to phosphorus deficiency, and conversely, aluminum tolerance is related to the efficient use of phosphorus. A value of equal to or more than 55 percent aluminum saturation for cotton, peanuts, soybeans, and other similar crops and equal to or more than 60 percent aluminum saturation for corn, wheat, sorghum, and other similar crops is a root inhibiting soil layer using the following equation

$$\frac{\text{Potassium chloride (KCl) extractable aluminum} \times 100}{NH_4OA_c \text{ Extractable bases} + \text{KCl extractable aluminum}}$$

*Root Inhibiting Structures:* Any structural unit that prevents root penetration is considered root inhibiting. Structural units that have an average spacing of more than 4 inches on the horizontal dimension may be considered root inhibiting structures even though roots penetrate between the structural units. The determination of structures must occur at a consistency of firm or firmer. The kind and size of structure and consistency are always evaluated under moderately moist or very moist conditions.

*Moist Bulk Density:* Bulk density is an indicator of the soil's ability for root development, both vertically and horizontally. A soil having moist bulk density equal to or more than values shown in table 1 is considered having a soil root inhibiting layer:

TABLE 1.—ROOT-LIMITING BULK DENSITIES FOR EACH FAMILY TEXTURE CLASS

Family texture class	Rooting-limiting bulk density (g/cm <sup>3</sup> )
Sandy .....	1.85
Coarse loamy .....	1.80
Fine loamy .....	1.78
Coarse silty .....	1.79
Fine silty .....	1.65
Clayey: 35–45% clay .....	1.58
>45% clay .....	1.47

*Appendix B: Desirable Characteristics for Physical and Chemical Properties of Reconstructed Soils*

The reconstructed soils should have the following characteristics. These

characteristics will help ensure the success of meeting the performance standards. Terms used in this Appendix are explained in Appendix A. All rooting media must meet the following chemical and physical properties to have the minimal favorable environment for root growth:

**Sodium Adsorption Ratio**

$$SAR = Na^+ / \sqrt{(Ca^{++} + Mg^{++})} / 2$$

SAR: A value of less than 4.

*Electrical Conductivity:* A value of less than 4 mmho/cm.

*Aluminum Saturation:* Aluminum saturation value of less than 20 percent for cotton, peanuts, soybeans, and other similar crops and less than 35 percent aluminum saturation for corn, wheat sorghum, and other similar crops using the following equation—

$$\frac{\text{Potassium chloride (KCl) extractable aluminum} \times 100}{NH_4OA_c \text{ Extractable bases} + \text{KCl extractable aluminum}}$$

**Root Permissive Structure:** The reconstructed soil must have a root permissive structure after the soil material has been subject to the passage of at least 1.5 pore volumes of water in excess of the retention at 15 bar bringing all parts through the depth of consideration at least one time to very moist or wet. The pore volume is obtained by multiplying the depth zones by the water holding capacity volume fractions to follow: stratified by family particle-size class excluding the effect of those larger than 2 mm:

Family particle size <sup>a</sup>	Volume fraction
Sandy .....	0.10
Coarse-loamy .....	0.18
Fine-loamy .....	0.20
Coarse-silty .....	0.25

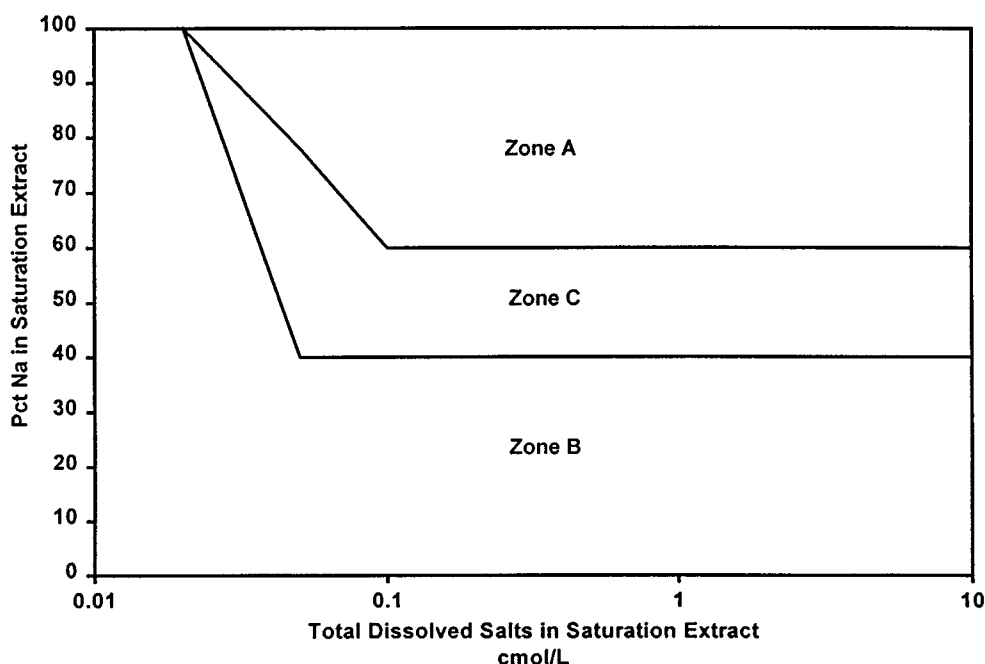
Family particle size <sup>a</sup>	Volume fraction
Fine-Silty .....	0.23
Clayey .....	0.15

<sup>a</sup>Family particle size classes defined in Soil Taxonomy Agriculture Handbook 436.

Alternative volume fractions may be substituted if documented. The volume of water for the family particle-size class is multiplied by the thickness of the zone and the amounts of zones are added through to 48 inches. Under raid fed conditions, the water addition is taken as the aggregate of successive monthly positive differences between precipitation and the evapotranspiration as computed by an acceptable method. Figure 1 is a method for determination of soluble salts and percent sodium for extract for identifying dispersive

soils. Irrigation *should be considered* when precipitation is insufficient to subject the reclaimed soil to the passage of at least one pore volume of water while all parts of the soil are very moist or wet. The water added must not change the soil solution chemistry from indicative of dispersion (zone A in figure 1) to non-dispersive (zone B).

*Figure 1.* The field of percent sodium and total dissolved solids, both for the saturation extract, divided into a non-dispersive part (zone A), a dispersive part (zone B), and a transitional part (zone C). From Flanagan, C.P. and G.G.S. Holmgren. 1977. Field methods for determination of soluble salts and percent sodium from extract for identifying dispersive soils. Am. Soc. Test Mat. STP 623. Reference Address: American Society of Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohcken, PA 19428-2959



Moist Bulk density is an indicator of the soil's ability to allow root development, both vertically and horizontally. Table 2 has values for bulk densities, by family soil texture class, that are non-limiting to root development. Soil handling methods can result in reclaimed soils that do not have continuity of pores or interpedal voids: therefore, values in table 2 are an important consideration during the reconstruction and reclamation of mined soils. A bulk density value above those shown may be associated with reduced crop yields.

TABLE 2.—NON-LIMITING BULK DENSITY FOR EACH FAMILY TEXTURE CLASS

Family texture class	Nonlimiting bulk density
Sandy .....	1.60
Coarse loamy .....	1.50
Fine loamy .....	1.46
Coarse silty .....	1.43
Fine silty .....	1.34
Clayey: 35-45% clay .....	1.40
≤45% clay .....	1.30

**Caution**—Because of the diversity of soil texture, rock fragments, climate, mining equipment, and other variables during reclamation, moist bulk density values are only a guide. In spite of overall high bulk density, there are cases where good root

deployment and targeted crop yields have been achieved, mainly because the pattern of pore spaces was favorable. On the other hand, there are cases in which the overall bulk density is not high and good root deployment was expected, but a very thin highly compacted layer that could not be detected in a standard test method prohibited the entry of plant roots.

**Soil Strength:** Soil strength is highly correlated to crop yields on reclaimed and reconstructed mined soils. The response is curvilinear with crop yield decreasing as soil strength increases. There appears to be a threshold where soil strength has an effect on crop yield. A soil strength value above 100 PSI may be associated with reduced crop yields. The PSI values are determined by inserting into the soil profile a 3/4 inch rod with a 300 right circular cone point on the end of the rod.

Even when soil strength is not the limiting factor (<100 PSI), the quality of rooting



material and the practices used during reconstruction and reclamation can have a significant impact on crop yields.

### References

- Grossman, R.B., E.C. Benham, D.S. Harms, and H.R. Sinclair, Jr. 1992. Physical Root Restriction Prediction in Mine Spoil Reclamation Protocol. P. 191-196. In R.E. Ducker et al. (ed.) Proc. of the 1992 Natl. Symp. on Prime Farmland Reclamation. Dep. Of Agron., Univ. of IL, Urbana, IL.
- Pierce, F.J., W.E. Larson, R.H. Dowdy, and W.A.P. Graham, 1983. Productivity of Soils: Assessing Long-term Changes Due to Erosion. J. Soil Water Conserv. 38: 39-44.
- Fehrenbacher, J.B. and H.J. Snider. 1954. Corn Root Penetration in Muscatine, Elliott, and Cisne Soils. Soil Sci. 77:281-291.
- Feherenbacher, J.B. and R.H. Rust. 1956. Corn Root Penetration in Soils Derived from Various Textures of Wisconsin Age Glacial Till. Soil Sci. 82:369-378.
- IL Agric. Exp. Stn. Spring 1967. Root Development of Corn, Soybeans, Wheat, and Meadow in Some Illinois Soils. Illinois Research, Univ. Of IL, Urbana, IL.
- McSweeney, K.M. and I.J. Jansen. 1984. Soil Structure and Associated Rooting Behavior. Soil Sci. Soc. Am. J. 48:607-612.
- Trans. Int. Congr. of Soil Sci., 7th, Madison, WI. 1960. J.B. Fehrenbacher, P.R. Johnson, R.T. Odell, and P.E. Johnson. Root Penetration and Development of Some Farm Crops as Related to Soil Physical and Chemical Properties. Volume III:248-252.ISSS.
- Soil Survey Staff. 1975. Soil Taxonomy: A basic system of soil classification for making and interpreting soil surveys. USDA-SCS Agric. Handb. 436. U.S. Gov. Print. Office, Washington, DC.
- Soil Survey Staff. 1993. Soil Survey Manual. USDA-SCS Agric. Handbook 436. U.S. Gov. Print Office, Washington, DC.
- Soil Survey Staff. 1996. National Soil Survey Handbook, title 430-VI. USDA-NRCS. U.S. Gov. Print. Office, Washington, DC.
- Soil Survey Staff. 1998. Keys to Soil Taxonomy. Eighth Edition. USDA-NRCS. Washington, DC.
- Vance, S.L., R.E. Dunker, C.L. Hooks, and R.G. Darmondy. 1992. Relationship of Soil Strength and Rowcrop Yields on Reconstructed Surface Mine Soils. P. 35-42. In R.E. Dunker, et al. (ed.) Proc. of the 1992 Natl. Symp. On Prime Farmland Reclamation. Dep. of Agron., Univ. Of IL, Urbana, IL.

Signed at Washington, DC on June 23, 1999.

### Danny D. Sells,

Associate Chief, Natural Resources Conservation Service.

[FR Doc. 99-16470 Filed 6-28-99; 8:45 am]

BILLING CODE 3410-16-P

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### Meeting

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, July 13-14, 1999, at the times and location noted below.

**DATES:** The schedule of events is as follows:

*Tuesday, July 13, 1999*

1:30 p.m.-3:30 p.m. Technical Programs Committee

3:30 p.m.-5:00 p.m. Planning and Budget Committee

*Wednesday, July 14, 1999*

9:00 a.m.-10:00 a.m. Committee of the Whole Meeting on Play Areas—Final Rule (Closed Meeting).

10:00 a.m.—Noon Ad Hoc Committee on Section 508—NPRM (Closed Meeting).

1:30 p.m.—3:00 p.m. Board Meeting.

**ADDRESSES:** The meetings will be held at the Marriott at Metro Center, 775 12th Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272-5434, ext. 14 (voice) and (202) 272-5449 (TTY).

**SUPPLEMENTARY INFORMATION:** At the Board meeting, the Access Board will consider the following agenda items.

### Open Meeting

- Executive Director's Report
- Approval of the Minutes of the May 12, 1999, Board Meeting
- Planning and Budget Committee Report—Fiscal Year 1999 Spending Plan and Fiscal Year 2000 Budget
- Technical Programs Committee Report—Status Report Fiscal Years 1998, 1999, and 2000 Projects

### Closed Meeting

- Committee of the Whole Report—Play Areas
- Committee of the Whole Report—Section 508

All meetings are accessible to persons with disabilities. Sign language interpreters and an

assistive listening system are available at all meetings.

**Lawrence W. Roffee,**

Executive Director.

[FR Doc. 99-16515 Filed 6-28-99; 8:45 am]

BILLING CODE 8150-01-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-846]

### Antidumping Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of antidumping duty order.

**EFFECTIVE DATES:** June 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** John Totaro at (202) 482-1374, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1, 1998).

### Scope of the Order

The products covered by this order are certain hot-rolled flat-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.