

**North Carolina Department of Labor
Division of Occupational Safety and Health**

Raleigh, NC

Chapter 7
Subchapter 7F

CFR Revision 108A

Field Information System

**Occupational Exposure to Hazardous Chemicals in Laboratories
29 CFR 1910.1450**

Final rule; technical amendment

A. Discussion.

On January 22, 2013, OSHA issued a technical update to a non-mandatory appendix in the Occupational Exposure to Hazardous Chemicals in Laboratories Standard. The non-mandatory appendix was updated to include the contents of the latest National Academy of Sciences publication entitled, “Prudent Practices in the Laboratory: Handling and Management of Chemical Hazards,” 2011 edition.

B. Action.

The N.C. Commissioner of Labor adopted this final rule with an effective date of February 5, 2013. Refer to the 1/22/2013 *Federal Register* (Vol. 78, No. 14) for the details related to these requirements.

Signed on Original
Allen McNeely
Director

2/15/2013
Date of Signature

NC Effective Date: February 5, 2013
NCAC Numbers: 13 NCAC 7F.0101

requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501, *et seq.*, and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 573

Enforcement, Enforcement actions, Gambling, Gaming, Indians, Indian gaming.

Text of the Rules

For the reasons discussed in the Preamble, the Commission corrects its regulations at 25 CFR part 573 as follows:

PART 573—COMPLIANCE AND ENFORCEMENT

- 1. The authority citation for part 573 continues to read as follows:

Authority: 25 U.S.C. 2706(b)(1); 2713; E.O. 13175, 65 FR 67249, 3 CFR 2000 Comp., p. 304.

- 2. In § 573.2, revise paragraph (c) to read as follows:

§ 573.2 When may a letter of concern be issued?

* * * * *

(c) A letter of concern issued under paragraph (a) of this section must provide a time period for the respondent to respond. If the letter of concern is resolved without enforcement action, NIGC staff may send an investigation completion letter pursuant to § 571.4 of this chapter.

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- 3. In § 573.4, revise paragraph (c)(3) to read as follows:

§ 573.4 When may the Chair issue an order of temporary closure?

* * * * *

(c) * * *

(3) Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Chair serves an order of temporary closure the respondent may appeal the order to the Commission under subchapter H of this chapter. Otherwise,

the order shall remain in effect unless rescinded by the Chair for good cause.

- 4. In § 573.5, revise paragraph (a) to read as follows:

§ 573.5 When does and enforcement action become final agency action?

* * * * *

(a) A respondent fails to appeal the enforcement action as provided for in subchapter H of this chapter and does not enter into a settlement agreement resolving the matter in its entirety; or

* * * * *

Dated: January 14, 2013, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2013-00946 Filed 1-18-13; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Hazardous Chemicals in Laboratories (Non-Mandatory Appendix); Technical Amendment

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Technical amendment.

SUMMARY: This document updates a non-mandatory appendix in OSHA's Occupational Exposure to Hazardous Chemicals in Laboratories Standard. The non-mandatory appendix is being updated to include the contents of the latest National Academy of Sciences publication entitled, "Prudent Practices in the Laboratory: Handling and Management of Chemical Hazards," 2011 edition. All revisions being made are minor and non-substantive.

DATES: The effective date of this technical amendment to the standard is January 22, 2013.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Frank Meilinger, Director, Office of Communications, OSHA, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1999.

General and technical information: Andrew Levinson, OSHA Directorate of Standards and Guidance, Office of Biological Hazards, Room N-3718, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1950.

SUPPLEMENTARY INFORMATION:

Background

When the OSHA Laboratory Standard was published in 1990, the non-mandatory Appendix A was based on the 1981 edition of "Prudent Practices for Handling Hazardous Chemicals in Laboratories" and the 1983 edition of "Prudent Practices for Disposal of Chemicals from Laboratories," both published by National Academy Press. Since then, there have been many changes in the culture of safety in laboratories. The National Academies of Science (NAS) recognized these changes and has revised and updated its earlier "Prudent Practices," reflected in the 2011 edition of "Prudent Practices in the Laboratory: Handling and Management of Chemical Hazards" (National Academies Press). The 2011 edition of "Prudent Practices" is being used by OSHA as the basis for non-mandatory Appendix A because of its wide distribution and acceptance and because of its preparation by recognized authorities in the laboratory community. OSHA has reviewed the 2011 edition and collaborated with the NAS to revise non-mandatory Appendix A. This new revision addresses current laboratory practices, security, and emergency response, as well as promoting safe handling of highly toxic and explosive chemicals and their waste products.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. OSHA has determined that there is good cause, pursuant to 5 U.S.C. 553(b)(3)(B), Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)), and 29 CFR 1911.5, for making this technical amendment final without prior proposal and opportunity for comment because the amendment does not modify or revoke existing rights or obligations, and does not establish new rights or obligations. Its revisions are non-mandatory and disseminated for informational purposes only. For the same reasons, the Agency finds good cause under 5 U.S.C. 553(d)(3) to make the amendments effective upon publication.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Laboratories.

Authority and Signature

David Michaels, Ph.D., MPH,
Assistant Secretary of Labor for
Occupational Safety and Health, U.S.
Department of Labor, 200 Constitution
Avenue NW., Washington, DC 20210,
authorized the preparation of this
document.

David Michaels,

*Assistant Secretary of Labor for Occupational
Safety and Health.*

Accordingly, OSHA is amending 29
CFR part 1910 by making the following
technical amendment:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart Z—[Amended]

■ 1. The authority citation for Part 1910
Subpart Z continues to read as follows:

Authority: Sections 4, 6, and 8 of the
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), 1–90 (55 FR
9033), 6–96 (62 FR 111), 3–2000 (65 FR
50017), or 5–2007 (72 FR 31159), 4–2010 (75
FR 55355) or 1–2012 (77 FR 3912), as
applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b)
of the Occupational Safety and Health Act of
1970, except those substances that have
exposure limits listed in Tables Z–1, Z–2,
and Z–3 of 29 CFR 1910.1000. The latter
were issued under section 6(a) (29 U.S.C.
655(a)).

Section 1910.1000, Tables Z–1, Z–2 and Z–
3 also issued under 5 U.S.C. 553, but not
under 29 CFR part 1911 except for the
arsenic (organic compounds), benzene,
cotton dust, and chromium (VI) listings.

Section 1910.1001 also issued under
section 107 of the Contract Work Hours and
Safety Standards Act (40 U.S.C. 3704) and 5
U.S.C. 553.

Section 1910.1002 also issued under 5
U.S.C. 553, but not under 29 U.S.C. 655 or
29 CFR part 1911.

Sections 1910.1018, 1910.1029, and
1910.1200 also issued under 29 U.S.C. 653.

Section 1910.1030 also issued under Pub.
L. 106–430, 114 Stat. 1901.

Section 1910.1201 also issued under 49
U.S.C. 1801–1819 and 5 U.S.C. 533.

■ 2. Amend § 1910.1450 by revising
Appendix A to read as follows:

§ 1910.1450 Occupational exposure to hazardous chemicals in laboratories.

* * * * *

APPENDIX A TO § 1910.1450— NATIONAL RESEARCH COUNCIL RECOMMENDATIONS CONCERNING CHEMICAL HYGIENE IN LABORATORIES (NON-MANDATORY)

To assist employers in developing an
appropriate laboratory Chemical Hygiene
Plan (CHP), the following non-mandatory

recommendations were based on the National
Research Council's (NRC) 2011 edition of
"Prudent Practices in the Laboratory:
Handling and Management of Chemical
Hazards." This reference, henceforth referred
to as "Prudent Practices," is available from
the National Academies Press, 500 Fifth
Street NW., Washington DC 20001
(www.nap.edu). "Prudent Practices" is cited
because of its wide distribution and
acceptance and because of its preparation by
recognized authorities in the laboratory
community through the sponsorship of the
NRC. However, these recommendations do
not modify any requirements of the OSHA
Laboratory standard. This appendix presents
pertinent recommendations from "Prudent
Practices," organized into a form convenient
for quick reference during operation of a
laboratory and during development and
application of a CHP. For a detailed
explanation and justification for each
recommendation, consult "Prudent
Practices."

"Prudent Practices" deals with both
general laboratory safety and many types of
chemical hazards, while the Laboratory
standard is concerned primarily with
chemical health hazards as a result of
chemical exposures. The recommendations
from "Prudent Practices" have been
paraphrased, combined, or otherwise
reorganized in order to adapt them for this
purpose. However, their sense has not been
changed.

Section F contains information from the
U.S. Chemical Safety Board's (CSB) Fiscal
Year 2011 Annual Performance and
Accountability report and Section F contains
recommendations extracted from the CSB's
2011 case study, "Texas Tech University
Laboratory Explosion," available from:
<http://www.csb.gov/>.

Culture of Safety

With the promulgation of the Occupational
Safety and Health Administration (OSHA)
Laboratory standard (29 CFR 1910.1450), a
culture of safety consciousness,
accountability, organization, and education
has developed in industrial, governmental,
and academic laboratories. Safety and
training programs have been implemented to
promote the safe handling of chemicals from
ordering to disposal, and to train laboratory
personnel in safe practices. Laboratory
personnel must realize that the welfare and
safety of each individual depends on clearly
defined attitudes of teamwork and personal
responsibility. Learning to participate in this
culture of habitual risk assessment,
experiment planning, and consideration of
worst-case possibilities—for oneself and
one's fellow workers—is as much part of a
scientific education as learning the
theoretical background of experiments or the
step-by-step protocols for doing them in a
professional manner. A crucial component of
chemical education for all personnel is to
nurture basic attitudes and habits of prudent
behavior so that safety is a valued and
inseparable part of all laboratory activities
throughout their career.

Over the years, special techniques have
been developed for handling chemicals
safely. Local, state, and federal regulations

hold institutions that sponsor chemical
laboratories accountable for providing safe
working environments. Beyond regulation,
employers and scientists also hold
themselves personally responsible for their
own safety, the safety of their colleagues and
the safety of the general public. A sound
safety organization that is respected by all
requires the participation and support of
laboratory administrators, workers, and
students. A successful health and safety
program requires a daily commitment from
everyone in the organization. To be most
effective, safety and health must be balanced
with, and incorporated into, laboratory
processes. A strong safety and health culture
is the result of positive workplace attitudes—
from the chief executive officer to the newest
hire; involvement and buy-in of all members
of the workforce; mutual, meaningful, and
measurable safety and health improvement
goals; and policies and procedures that serve
as reference tools, rather than obscure rules.

In order to perform their work in a prudent
manner, laboratory personnel must consider
the health, physical, and environmental
hazards of the chemicals they plan to use in
an experiment. However, the ability to
accurately identify and assess laboratory
hazards must be taught and encouraged
through training and ongoing organizational
support. This training must be at the core of
every good health and safety program. For
management to lead, personnel to assess
worksites hazards, and hazards to be
eliminated or controlled, everyone involved
must be trained.

A. General Principles

1. Minimize All Chemical Exposures and Risks

Because few laboratory chemicals are
without hazards, general precautions for
handling all laboratory chemicals should be
adopted. In addition to these general
guidelines, specific guidelines for chemicals
that are used frequently or are particularly
hazardous should be adopted.

Laboratory personnel should conduct their
work under conditions that minimize the
risks from both known and unknown
hazardous substances. Before beginning any
laboratory work, the hazards and risks
associated with an experiment or activity
should be determined and the necessary
safety precautions implemented. Every
laboratory should develop facility-specific
policies and procedures for the highest-risk
materials and procedures used in their
laboratory. To identify these, consideration
should be given to past accidents, process
conditions, chemicals used in large volumes,
and particularly hazardous chemicals.

Perform Risk Assessments for Hazardous
Chemicals and Procedures Prior to
Laboratory Work:

(a) Identify chemicals to be used, amounts
required, and circumstances of use in the
experiment. Consider any special employee
or laboratory conditions that could create or
increase a hazard. Consult sources of safety
and health information and experienced
scientists to ensure that those conducting the
risk assessment have sufficient expertise.

(b) Evaluate the hazards posed by the
chemicals and the experimental conditions.

The evaluation should cover toxic, physical, reactive, flammable, explosive, radiation, and biological hazards, as well as any other potential hazards posed by the chemicals.

(c) For a variety of physical and chemical reasons, reaction scale-ups pose special risks, which merit additional prior review and precautions.

(d) Select appropriate controls to minimize risk, including use of engineering controls, administrative controls, and personal protective equipment (PPE) to protect workers from hazards. The controls must ensure that OSHA's Permissible Exposure Limits (PELs) are not exceeded. Prepare for contingencies and be aware of the institutional procedures in the event of emergencies and accidents.

One sample approach to risk assessment is to answer these five questions:

(a) What are the hazards?

(b) What is the worst thing that could happen?

(c) What can be done to prevent this from happening?

(d) What can be done to protect from these hazards?

(e) What should be done if something goes wrong?

2. Avoid Underestimation of Risk

Even for substances of no known significant hazard, exposure should be minimized; when working with substances that present special hazards, special precautions should be taken. Reference should be made to the safety data sheet (SDS) that is provided for each chemical. Unless otherwise known, one should assume that any mixture will be more toxic than its most toxic component and that all substances of unknown toxicity are toxic.

Determine the physical and health hazards associated with chemicals before working with them. This determination may involve consulting literature references, laboratory chemical safety summaries (LCSSs), SDSs, or other reference materials. Consider how the chemicals will be processed and determine whether the changing states or forms will change the nature of the hazard. Review your plan, operating limits, chemical evaluations and detailed risk assessment with other chemists, especially those with experience with similar materials and protocols.

Before working with chemicals, know your facility's policies and procedures for how to handle an accidental spill or fire. Emergency telephone numbers should be posted in a prominent area. Know the location of all safety equipment and the nearest fire alarm and telephone.

3. Adhere to the Hierarchy of Controls

The hierarchy of controls prioritizes intervention strategies based on the premise that the best way to control a hazard is to systematically remove it from the workplace, rather than relying on employees to reduce their exposure. The types of measures that may be used to protect employees (listed from most effective to least effective) are: engineering controls, administrative controls, work practices, and PPE. Engineering controls, such as chemical hoods, physically separate the employee from the hazard. Administrative controls, such as employee

scheduling, are established by management to help minimize the employees' exposure time to hazardous chemicals. Work practice controls are tasks that are performed in a designated way to minimize or eliminate hazards. Personal protective equipment and apparel are additional protection provided under special circumstances and when exposure is unavoidable.

Face and eye protection is necessary to prevent ingestion and skin absorption of hazardous chemicals. At a minimum, safety glasses, with side shields, should be used for all laboratory work. Chemical splash goggles are more appropriate than regular safety glasses to protect against hazards such as projectiles, as well as when working with glassware under reduced or elevated pressures (e.g., sealed tube reactions), when handling potentially explosive compounds (particularly during distillations), and when using glassware in high-temperature operations. Do not allow laboratory chemicals to come in contact with skin. Select gloves carefully to ensure that they are impervious to the chemicals being used and are of correct thickness to allow reasonable dexterity while also ensuring adequate barrier protection.

Lab coats and gloves should be worn when working with hazardous materials in a laboratory. Wear closed-toe shoes and long pants or other clothing that covers the legs when in a laboratory where hazardous chemicals are used. Additional protective clothing should be used when there is significant potential for skin-contact exposure to chemicals. The protective characteristics of this clothing must be matched to the hazard. Never wear gloves or laboratory coats outside the laboratory or into areas where food is stored and consumed.

4. Provide Laboratory Ventilation

The best way to prevent exposure to airborne substances is to prevent their escape into the working atmosphere by the use of hoods and other ventilation devices. To determine the best choice for laboratory ventilation using engineering controls for personal protection, employers are referred to Table 9.3 of the 2011 edition of "Prudent Practices." Laboratory chemical hoods are the most important components used to protect laboratory personnel from exposure to hazardous chemicals.

(a) Toxic or corrosive chemicals that require vented storage should be stored in vented cabinets instead of in a chemical hood.

(b) Chemical waste should not be disposed of by evaporation in a chemical hood.

(c) Keep chemical hood areas clean and free of debris at all times.

(d) Solid objects and materials, such as paper, should be prevented from entering the exhaust ducts as they can reduce the air flow.

(e) Chemical hoods should be maintained, monitored and routinely tested for proper performance.

A laboratory ventilation system should include the following characteristics and practices:

(a) Heating and cooling should be adequate for the comfort of workers and operation of equipment. Before modification of any building HVAC, the impact on laboratory or

hood ventilation should be considered, as well as how laboratory ventilation changes may affect the building HVAC.

(b) A negative pressure differential should exist between the amount of air exhausted from the laboratory and the amount supplied to the laboratory to prevent uncontrolled chemical vapors from leaving the laboratory.

(c) Local exhaust ventilation devices should be appropriate to the materials and operations in the laboratory.

(d) The air in chemical laboratories should be continuously replaced so that concentrations of odoriferous or toxic substances do not increase during the workday.

(e) Laboratory air should not be recirculated but exhausted directly outdoors.

(f) Air pressure should be negative with respect to the rest of the building. Local capture equipment and systems should be designed only by an experienced engineer or industrial hygienist.

(g) Ventilation systems should be inspected and maintained on a regular basis. There should be no areas where air remains static or areas that have unusually high airflow velocities.

Before work begins, laboratory workers should be provided with proper training that includes how to use the ventilation equipment, how to ensure that it is functioning properly, the consequences of improper use, what to do in the event of a system failure or power outage, special considerations, and the importance of signage and postings.

5. Institute a Chemical Hygiene Program

A comprehensive chemical hygiene program is required. It should be designed to minimize exposures, injuries, illnesses and incidents. There should be a regular, continuing effort that includes program oversight, safe facilities, chemical hygiene planning, training, emergency preparedness and chemical security. The chemical hygiene program must be reviewed annually and updated as necessary whenever new processes, chemicals, or equipment is implemented. Its recommendations should be followed in all laboratories.

6. Observe the PELs and TLVs

OSHA's Permissible Exposure Limits (PELs) must not be exceeded. The American Conference of Governmental Industrial Hygienists' Threshold Limit Values (TLVs) should also not be exceeded.

B. Responsibilities

Persons responsible for chemical hygiene include, but are not limited to, the following:

1. Chemical Hygiene Officer

(a) Establishes, maintains, and revises the chemical hygiene plan (CHP).

(b) Creates and revises safety rules and regulations.

(c) Monitors procurement, use, storage, and disposal of chemicals.

(d) Conducts regular inspections of the laboratories, preparations rooms, and chemical storage rooms, and submits detailed laboratory inspection reports to administration.

(e) Maintains inspection, personnel training, and inventory records.

(f) Assists laboratory supervisors in developing and maintaining adequate facilities.

(g) Seeks ways to improve the chemical hygiene program.

2. Department Chairperson or Director

(a) Assumes responsibility for personnel engaged in the laboratory use of hazardous chemicals.

(b) Provides the chemical hygiene officer (CHO) with the support necessary to implement and maintain the CHP.

(c) After receipt of laboratory inspection report from the CHO, meets with laboratory supervisors to discuss cited violations and to ensure timely actions to protect trained laboratory personnel and facilities and to ensure that the department remains in compliance with all applicable federal, state, university, local and departmental codes and regulations.

(d) Provides budgetary arrangements to ensure the health and safety of the departmental personnel, visitors, and students.

3. Departmental Safety Committee reviews accident reports and makes appropriate recommendations to the department chairperson regarding proposed changes in the laboratory procedures.

4. Laboratory Supervisor or Principal Investigator has overall responsibility for chemical hygiene in the laboratory, including responsibility to:

(a) Ensure that laboratory personnel comply with the departmental CHP and do not operate equipment or handle hazardous chemicals without proper training and authorization.

(b) Always wear personal protective equipment (PPE) that is compatible to the degree of hazard of the chemical.

(c) Follow all pertinent safety rules when working in the laboratory to set an example.

(d) Review laboratory procedures for potential safety problems before assigning to other laboratory personnel.

(e) Ensure that visitors follow the laboratory rules and assumes responsibility for laboratory visitors.

(f) Ensure that PPE is available and properly used by each laboratory employee and visitor.

(g) Maintain and implement safe laboratory practices.

(h) Provide regular, formal chemical hygiene and housekeeping inspections, including routine inspections of emergency equipment;

(i) Monitor the facilities and the chemical fume hoods to ensure that they are maintained and function properly. Contact the appropriate person, as designated by the department chairperson, to report problems with the facilities or the chemical fume hoods.

5. Laboratory Personnel

(a) Read, understand, and follow all safety rules and regulations that apply to the work area;

(b) Plan and conduct each operation in accordance with the institutional chemical hygiene procedures;

(c) Promote good housekeeping practices in the laboratory or work area.

(d) Notify the supervisor of any hazardous conditions or unsafe work practices in the work area.

(e) Use PPE as appropriate for each procedure that involves hazardous chemicals.

C. The Laboratory Facility

General Laboratory Design Considerations

Wet chemical spaces and those with a higher degree of hazard should be separated from other spaces by a wall or protective barrier wherever possible. If the areas cannot be separated, then workers in lower hazard spaces may require additional protection from the hazards in connected spaces.

1. Laboratory Layout and Furnishing

(a) Work surfaces should be chemically resistant, smooth, and easy to clean.

(b) Hand washing sinks for hazardous materials may require elbow, foot, or electronic controls for safe operation.

(c) Wet laboratory areas should have chemically resistant, impermeable, slip-resistant flooring.

(d) Walls should be finished with a material that is easy to clean and maintain.

(e) Doors should have view panels to prevent accidents and should open in the direction of egress.

(f) Operable windows should not be present in laboratories, particularly if there are chemical hoods or other local ventilation systems present.

2. Safety Equipment and Utilities

(a) An adequate number and placement of safety showers, eyewash units, and fire extinguishers should be provided for the laboratory.

(b) Use of water sprinkler systems is resisted by some laboratories because of the presence of electrical equipment or water-reactive materials, but it is still generally safer to have sprinkler systems installed. A fire large enough to trigger the sprinkler system would have the potential to cause far more destruction than the local water damage.

D. Chemical Hygiene Plan (CHP)

The OSHA Laboratory standard defines a CHP as "a written program developed and implemented by the employer which sets forth procedures, equipment, personal protective equipment and work practices that are capable of protecting employees from the health hazards presented by hazardous chemicals used in that particular workplace." (29 CFR 1910.1450(b)). The Laboratory Standard requires a CHP: "Where hazardous chemicals as defined by this standard are used in the workplace, the employer shall develop and carry out the provisions of a written Chemical Hygiene Plan." (29 CFR 1910.1450(e)(1)). The CHP is the foundation of the laboratory safety program and must be reviewed and updated, as needed, and at least on an annual basis to reflect changes in policies and personnel. A CHP should be facility specific and can assist in promoting a culture of safety to protect workers from exposure to hazardous materials.

1. The Laboratory's CHP must be readily available to workers and capable of protecting workers from health hazards and

minimizing exposure. Include the following topics in the CHP:

(a) Individual chemical hygiene responsibilities;

(b) Standard operating procedures;

(c) Personal protective equipment, engineering controls and apparel;

(d) Laboratory equipment;

(e) Safety equipment;

(f) Chemical management;

(g) Housekeeping;

(h) Emergency procedures for accidents and spills;

(i) Chemical waste;

(j) Training;

(k) Safety rules and regulations;

(l) Laboratory design and ventilation;

(m) Exposure monitoring;

(n) Compressed gas safety;

(o) Medical consultation and examination.

It should be noted that the nature of laboratory work may necessitate addressing biological safety, radiation safety and security issues.

2. Chemical Procurement, Distribution, and Storage

Prudent chemical management includes the following processes:

Chemical Procurement:

(a) Information on proper handling, storage, and disposal should be known to those who will be involved before a substance is received.

(b) Only containers with adequate identifying labels should be accepted.

(c) Ideally, a central location should be used for receiving all chemical shipments.

(d) Shipments with breakage or leakage should be refused or opened in a chemical hood.

(e) Only the minimum amount of the chemical needed to perform the planned work should be ordered.

(f) Purchases of high risk chemicals should be reviewed and approved by the CHO.

(g) Proper protective equipment and handling and storage procedures should be in place before receiving a shipment.

Chemical Storage:

(a) Chemicals should be separated and stored according to hazard category and compatibility.

(b) SDS and label information should be followed for storage requirements.

(c) Maintain existing labels on incoming containers of chemicals and other materials.

(d) Labels on containers used for storing hazardous chemicals must include the chemical identification and appropriate hazard warnings.

(e) The contents of all other chemical containers and transfer vessels, including, but not limited to, beakers, flasks, reaction vessels, and process equipment, should be properly identified.

(f) Chemical shipments should be dated upon receipt and stock rotated.

(g) Peroxide formers should be dated upon receipt, again dated upon opening, and stored away from heat and light with tight-fitting, nonmetal lids.

(h) Open shelves used for chemical storage should be secured to the wall and contain $\frac{3}{4}$ -inch lips. Secondary containment devices should be used as necessary.

(i) Consult the SDS and keep incompatibles separate during transport, storage, use, and disposal.

(j) Oxidizers, reducing agents, and fuels should be stored separately to prevent contact in the event of an accident.

(k) Chemicals should not be stored in the chemical hood, on the floor, in areas of egress, on the benchtop, or in areas near heat or in direct sunlight.

(l) Laboratory-grade, flammable-rated refrigerators and freezers should be used to store sealed chemical containers of flammable liquids that require cool storage. Do not store food or beverages in the laboratory refrigerator.

(m) Highly hazardous chemicals should be stored in a well-ventilated and secure area designated for that purpose.

(n) Flammable chemicals should be stored in a spark-free environment and in approved flammable-liquid containers and storage cabinets. Grounding and bonding should be used to prevent static charge buildups when dispensing solvents.

(o) Chemical storage and handling rooms should be controlled-access areas. They should have proper ventilation, appropriate signage, diked floors, and fire suppression systems.

Chemical Handling:

(a) As described above, a risk assessment should be conducted prior to beginning work with any hazardous chemical for the first time.

(b) All SDS and label information should be read before using a chemical for the first time.

(c) Trained laboratory workers should ensure that proper engineering controls (ventilation) and PPE are in place.

Chemical Inventory:

(a) Prudent management of chemicals in any laboratory is greatly facilitated by keeping an accurate inventory of the chemicals stored.

(b) Unneeded items should be discarded or returned to the storeroom.

Transporting Chemicals:

(a) Secondary containment devices should be used when transporting chemicals.

(b) When transporting chemicals outside of the laboratory or between stockrooms and laboratories, the transport container should be break-resistant.

(c) High-traffic areas should be avoided.

Transferring Chemicals:

(a) Use adequate ventilation (such as a fume hood) when transferring even a small amount of a particularly hazardous substance (PHS).

(b) While drum storage is not appropriate for laboratories, chemical stockrooms may purchase drum quantities of solvents used in high volumes. Ground and bond the drum and receiving vessel when transferring flammable liquids from a drum to prevent static charge buildup.

(c) If chemicals from commercial sources are repackaged into transfer vessels, the new containers should be labeled with all essential information on the original container.

Shipping Chemicals: Outgoing chemical shipments must meet all applicable Department of Transportation (DOT)

regulations and should be authorized and handled by the institutional shipper.

3. Waste Management

A waste management plan should be in place before work begins on any laboratory activity. The plan should utilize the following hierarchy of practices:

(a) Reduce waste sources. The best approach to minimize waste generation is by reducing the scale of operations, reducing its formation during operations, and, if possible, substituting less hazardous chemicals for a particular operation.

(b) Reuse surplus materials. Only the amount of material necessary for an experiment should be purchased, and, if possible, materials should be reused.

(c) Recycle waste. If waste cannot be prevented or minimized, the organization should consider recycling chemicals that can be safely recovered or used as fuel.

(d) Dispose of waste properly. Sink disposal may not be appropriate. Proper waste disposal methods include incineration, treatment, and land disposal. The organization's environmental health and safety (EHS) office should be consulted in determining which methods are appropriate for different types of waste.

Collection and Storage of Waste:

(a) Chemical waste should be accumulated at or near the point of generation, under the control of laboratory workers.

(b) Each waste type should be stored in a compatible container pending transfer or disposal. Waste containers should be clearly labeled and kept sealed when not in use.

(c) Incompatible waste types should be kept separate to ensure that heat generation, gas evolution, or another reaction does not occur.

(d) Waste containers should be segregated by how they will be managed. Waste containers should be stored in a designated location that does not interfere with normal laboratory operations. Ventilated storage and secondary containment may be appropriate for certain waste types.

(e) Waste containers should be clearly labeled and kept sealed when not in use. Labels should include the accumulation start date and hazard warnings as appropriate.

(f) Non-explosive electrical systems, grounding and bonding between floors and containers, and non-sparking conductive floors and containers should be used in the central waste accumulation area to minimize fire and explosion hazards. Fire suppression systems, specialized ventilation systems, and dikes should be installed in the central waste accumulation area. Waste management workers should be trained in proper waste handling procedures as well as contingency planning and emergency response. Trained laboratory workers most familiar with the waste should be actively involved in waste management decisions to ensure that the waste is managed safely and efficiently. Engineering controls should be implemented as necessary, and personal protective equipment should be worn by workers involved in waste management.

4. Inspection Program

Maintenance and regular inspection of laboratory equipment are essential parts of

the laboratory safety program. Management should participate in the design of a laboratory inspection program to ensure that the facility is safe and healthy, workers are adequately trained, and proper procedures are being followed.

Types of inspections: The program should include an appropriate combination of routine inspections, self-audits, program audits, peer inspections, EHS inspections, and inspections by external entities.

Elements of an inspection:

(a) Inspectors should bring a checklist to ensure that all issues are covered and a camera to document issues that require correction.

(b) Conversations with workers should occur during the inspection, as they can provide valuable information and allow inspectors an opportunity to show workers how to fix problems.

(c) Issues resolved during the inspection should be noted.

(d) An inspection report containing all findings and recommendations should be prepared for management and other appropriate workers.

(e) Management should follow-up on the inspection to ensure that all corrections are implemented.

5. Medical Consultation and Examination

The employer must provide all employees who work with hazardous chemicals an opportunity to receive medical attention, including any follow-up examinations that the examining physician determines to be necessary, whenever an employee develops signs or symptoms associated with a hazardous chemical to which the employee may have been exposed in the laboratory. If an employee encounters a spill, leak, explosion or other occurrence resulting in the likelihood of a hazardous exposure, the affected employee must be provided an opportunity for a medical consultation by a licensed physician. All medical examinations and consultations must be performed by or under the direct supervision of a licensed physician and must be provided without cost to the employee, without loss of pay and at a reasonable time and place. The identity of the hazardous chemical, a description of the incident, and any signs and symptoms that the employee may experience must be relayed to the physician.

6. Records

All accident, fatality, illness, injury, and medical records and exposure monitoring records must be retained by the institution in accordance with the requirements of state and federal regulations (see 29 CFR part 1904 and § 1910.1450(j)). Any exposure monitoring results must be provided to affected laboratory staff within 15 working days after receipt of the results (29 CFR 1910.1450(d)(4)).

7. Signs

Prominent signs of the following types should be posted:

(a) Emergency telephone numbers of emergency personnel/facilities, supervisors, and laboratory workers;

(b) Location signs for safety showers, eyewash stations, other safety and first aid equipment, and exits; and

(c) Warnings at areas or equipment where special or unusual hazards exist.

8. Spills and Accidents

Before beginning an experiment, know your facility's policies and procedures for how to handle an accidental release of a hazardous substance, a spill or a fire. Emergency response planning and training are especially important when working with highly toxic compounds. Emergency telephone numbers should be posted in a prominent area. Know the location of all safety equipment and the nearest fire alarm and telephone. Know who to notify in the event of an emergency. Be prepared to provide basic emergency treatment. Keep your co-workers informed of your activities so they can respond appropriately. Safety equipment, including spill control kits, safety shields, fire safety equipment, PPE, safety showers and eyewash units, and emergency equipment should be available in well-marked highly visible locations in all chemical laboratories. The laboratory supervisor or CHO is responsible for ensuring that all personnel are aware of the locations of fire extinguishers and are trained in their use. After an extinguisher has been used, designated personnel must promptly recharge or replace it (29 CFR 1910.157(c)(4)). The laboratory supervisor or CHO is also responsible for ensuring proper training and providing supplementary equipment as needed.

Special care must be used when handling solutions of chemicals in syringes with needles. Do not recap needles, especially when they have been in contact with chemicals. Remove the needle and discard it immediately after use in the appropriate sharps containers. Blunt-tip needles are available from a number of commercial sources and should be used unless a sharp needle is required to puncture rubber septa or for subcutaneous injection.

For unattended operations, laboratory lights should be left on, and signs should be posted to identify the nature of the experiment and the hazardous substances in use. Arrangements should be made, if possible, for other workers to periodically inspect the operation. Information should be clearly posted indicating who to contact in the event of an emergency. Depending on the nature of the hazard, special rules, precautions, and alert systems may be necessary.

9. Training and Information

Personnel training at all levels within the organization, is essential. Responsibility and accountability throughout the organization are key elements in a strong safety and health program. The employer is required to provide employees with information and training to ensure that they are apprised of the hazards of chemicals present in their work area (29 CFR 1910.1450(f)). This information must be provided at the time of an employee's initial assignment to a work area where hazardous chemicals are present and prior to assignments involving new exposure situations. The frequency of refresher information and training should be determined by the employer. At a minimum, laboratory personnel should be trained on

their facility's specific CHP, methods and observations that may be used to detect the presence or release of a hazardous chemical (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released), the physical and health hazards of chemicals in the work area and means to protect themselves from these hazards. Trained laboratory personnel must know shut-off procedures in case of an emergency. All SDSs must be made available to the employees.

E. General Procedures for Working With Chemicals

The risk of laboratory injuries can be reduced through adequate training, improved engineering, good housekeeping, safe work practice and personal behavior.

1. General Rules for Laboratory Work With Chemicals

(a) Assigned work schedules should be followed unless a deviation is authorized by the laboratory supervisor.

(b) Unauthorized experiments should not be performed.

(c) Plan safety procedures before beginning any operation.

(d) Follow standard operating procedures at all times.

(e) Always read the SDS and label before using a chemical.

(f) Wear appropriate PPE at all times.

(g) To protect your skin from splashes, spills and drips, always wear long pants and closed-toe shoes.

(h) Use appropriate ventilation when working with hazardous chemicals.

(i) Pipetting should never be done by mouth.

(j) Hands should be washed with soap and water immediately after working with any laboratory chemicals, even if gloves have been worn.

(k) Eating, drinking, smoking, gum chewing, applying cosmetics, and taking medicine in laboratories where hazardous chemicals are used or stored should be strictly prohibited.

(l) Food, beverages, cups, and other drinking and eating utensils should not be stored in areas where hazardous chemicals are handled or stored.

(m) Laboratory refrigerators, ice chests, cold rooms, and ovens should not be used for food storage or preparation.

(n) Contact the laboratory supervisor, Principal Investigator, CHO or EHS office with all safety questions or concerns.

(o) Know the location and proper use of safety equipment.

(p) Maintain situational awareness.

(q) Make others aware of special hazards associated with your work.

(r) Notify supervisors of chemical sensitivities or allergies.

(s) Report all injuries, accidents, incidents, and near misses.

(t) Unauthorized persons should not be allowed in the laboratory.

(u) Report unsafe conditions to the laboratory supervisor or CHO.

(v) Properly dispose of chemical wastes.

Working Alone in the Laboratory

Working alone in a laboratory is dangerous and should be strictly avoided. There have been many tragic accidents that illustrate this danger. Accidents are unexpected by definition, which is why coworkers should always be present. Workers should coordinate schedules to avoid working alone.

Housekeeping

Housekeeping can help reduce or eliminate a number of laboratory hazards. Proper housekeeping includes appropriate labeling and storage of chemicals, safe and regular cleaning of the facility, and proper arrangement of laboratory equipment.

2. Nanoparticles and Nanomaterials

Nanoparticles and nanomaterials have different reactivities and interactions with biological systems than bulk materials, and understanding and exploiting these differences is an active area of research. However, these differences also mean that the risks and hazards associated with exposure to engineered nanomaterials are not well known. Because this is an area of ongoing research, consult trusted sources for the most up to date information available. Note that the higher reactivity of many nanoscale materials suggests that they should be treated as potential sources of ignition, accelerants, and fuel that could result in fire or explosion. Easily dispersed dry nanomaterials may pose the greatest health hazard because of the risk of inhalation. Operations involving these nanomaterials deserve more attention and more stringent controls than those where the nanomaterials are embedded in solid or suspended in liquid matrices.

Consideration should be given to all possible routes of exposure to nanomaterials including inhalation, ingestion, injection, and dermal contact (including eye and mucous membranes). Avoid handling nanomaterials in the open air in a free-particle state. Whenever possible, handle and store dispersible nanomaterials, whether suspended in liquids or in a dry particle form, in closed (tightly-sealed) containers. Unless cutting or grinding occurs, nanomaterials that are not in a free form (encapsulated in a solid or a nanocomposite) typically will not require engineering controls. If a synthesis is being performed to create nanomaterials, it is not enough to only consider the final material in the risk assessment, but consider the hazardous properties of the precursor materials as well.

To minimize laboratory personnel exposure, conduct any work that could generate engineered nanoparticles in an enclosure that operates at a negative pressure differential compared to the laboratory personnel breathing zone. Limited data exist regarding the efficacy of PPE and ventilation systems against exposure to nanoparticles. However, until further information is available, it is prudent to follow standard chemical hygiene practices. Conduct a hazard evaluation to determine PPE appropriate for the level of hazard according to the requirements set forth in OSHA's Personal Protective Equipment standard (29 CFR 1910.132).

3. Highly Toxic and Explosive/Reactive Chemicals/Materials

The use of highly toxic and explosive/reactive chemicals and materials has been an area of growing concern. The frequency of academic laboratory incidents in the U.S. is an area of significant concern for the Chemical Safety Board (CSB). The CSB issued a case study on an explosion at Texas Tech University in Lubbock, Texas, which severely injured a graduate student handling a high-energy metal compound. Since 2001, the CSB has gathered preliminary information on 120 different university laboratory incidents that resulted in 87 evacuations, 96 injuries, and three deaths.

It is recommended that each facility keep a detailed inventory of highly toxic chemicals and explosive/reactive materials. There should be a record of the date of receipt, amount, location, and responsible individual for all acquisitions, syntheses, and disposal of these chemicals. A physical inventory should be performed annually to verify active inventory records. There should be a procedure in place to report security breaches, inventory discrepancies, losses, diversions, or suspected thefts.

Procedures for disposal of highly toxic materials should be established before any experiments begin, possibly even before the chemicals are ordered. The procedures should address methods for decontamination of any laboratory equipment that comes into contact with highly toxic chemicals. All waste should be accumulated in clearly labeled impervious containers that are stored in unbreakable secondary containment.

Highly reactive and explosive materials that may be used in the laboratory require appropriate procedures and training. An explosion can occur when a material undergoes a rapid reaction that results in a violent release of energy. Such reactions can happen spontaneously and can produce pressures, gases, and fumes that are hazardous. Some reagents pose a risk on contact with the atmosphere. It is prudent laboratory practice to use a safer alternative whenever possible.

If at all possible, substitutes for highly acute, chronic, explosive, or reactive chemicals should be considered prior to beginning work and used whenever possible.

4. Compressed Gas

Compressed gases expose laboratory personnel to both chemical and physical hazards. It is essential that these are monitored for leaks and have the proper labeling. By monitoring compressed gas inventories and disposing of or returning gases for which there is no immediate need, the laboratory can substantially reduce these risks. Leaking gas cylinders can cause serious hazards that may require an immediate evacuation of the area and activation of the emergency response system. Only appropriately trained hazmat responders may respond to stop a leaking gas cylinder under this situation.

F. Safety Recommendations—Physical Hazards

Physical hazards in the laboratory include combustible liquids, compressed gases,

reactives, explosives and flammable chemicals, as well as high pressure/energy procedures, sharp objects and moving equipment. Injuries can result from bodily contact with rotating or moving objects, including mechanical equipment, parts, and devices. Personnel should not wear loose-fitting clothing, jewelry, or unrestrained long hair around machinery with moving parts.

The Chemical Safety Board has identified the following key lessons for laboratories that address both physical and other hazards:

- (1) Ensure that research-specific hazards are evaluated and then controlled by developing specific written protocols and training.
- (2) Expand existing laboratory safety plans to ensure that all safety hazards, including physical hazards of chemicals, are addressed.
- (3) Ensure that the organization's EHS office reports directly to an identified individual/office with organizational authority to implement safety improvements.
- (4) Develop a verification program that ensures that the safety provisions of the CHP are communicated, followed, and enforced at all levels within the organization.
- (5) Document and communicate all laboratory near-misses and previous incidents to track safety, provide opportunities for education and improvement to drive safety changes at the university.
- (6) Manage the hazards unique to laboratory chemical research in the academic environment. Utilize available practice guidance that identifies and describes methodologies to assess and control hazards.
- (7) Written safety protocols and training are necessary to manage laboratory risk.

G. Emergency Planning

In addition to laboratory safety issues, laboratory personnel should be familiar with established facility policies and procedures regarding emergency situations. Topics may include, but are not limited to:

- (1) Evacuation procedures—when it is appropriate and alternate routes;
- (2) Emergency shutdown procedures—equipment shutdown and materials that should be stored safely;
- (3) Communications during an emergency—what to expect, how to report, where to call or look for information;
- (4) How and when to use a fire extinguisher;
- (5) Security issues—preventing tailgating and unauthorized access;
- (6) Protocol for absences due to travel restrictions or illness;
- (7) Safe practices for power outage;
- (8) Shelter in place—when it is appropriate;
- (9) Handling suspicious mail or phone calls;
- (10) Laboratory-specific protocols relating to emergency planning and response;
- (11) Handling violent behavior in the workplace; and
- (12) First-aid and CPR training, including automated external defibrillator training if available.

It is prudent that laboratory personnel are also trained in how to respond to short-term, long-term and large-scale emergencies.

Laboratory security can play a role in reducing the likelihood of some emergencies and assisting in preparation and response for others. Every institution, department, and individual laboratory should consider having an emergency preparedness plan. The level of detail of the plan will vary depending on the function of the group and institutional planning efforts already in place.

Emergency planning is a dynamic process. As personnel, operations, and events change, plans will need to be updated and modified. To determine the type and level of emergency planning needed, laboratory personnel need to perform a vulnerability assessment. Periodic drills to assist in training and evaluation of the emergency plan are recommended as part of the training program.

H. Emergency Procedures

(1) Fire alarm policy. Most organizations use fire alarms whenever a building needs to be evacuated—for any reason. When a fire alarm sounds in the facility, evacuate immediately after extinguishing all equipment flames. Check on and assist others who may require help evacuating.

(2) Emergency safety equipment. The following safety elements should be met:

- a. A written emergency action plan has been provided to workers;
- b. Fire extinguishers, eyewash units, and safety showers are available and tested on a regular basis; and
- c. Fire blankets, first-aid equipment, fire alarms, and telephones are available and accessible.

(3) Chemical spills. Workers should contact the CHO or EHS office for instructions before cleaning up a chemical spill. All SDS and label instructions should be followed, and appropriate PPE should be worn during spill cleanup.

(4) Accident procedures. In the event of an accident, immediately notify appropriate personnel and local emergency responders. Provide an SDS of any chemical involved to the attending physician. Complete an accident report and submit it to the appropriate office or individual within 24 hours.

(5) Employee safety training program. New workers should attend safety training before they begin any activities. Additional training should be provided when they advance in their duties or are required to perform a task for the first time. Training documents should be recorded and maintained. Training should include hands-on instruction of how to use safety equipment appropriately.

(6) Conduct drills. Practice building evacuations, including the use of alternate routes. Practice shelter-in-place, including plans for extended stays. Walk the fastest route from your work area to the nearest fire alarm, emergency eye wash and emergency shower. Learn how each is activated. In the excitement of an actual emergency, people rely on what they learned from drills, practice and training.

(7) Contingency plans. All laboratories should have long-term contingency plans in place (e.g., for pandemics). Scheduling, workload, utilities and alternate work sites may need to be considered.

I. Laboratory Security

Laboratory security has evolved in the past decade, reducing the likelihood of some emergencies and assisting in preparation and response for others. Most security measures are based on the laboratory's vulnerability. Risks to laboratory security include, but are not limited to:

- (1) Theft or diversion of chemicals, biologicals, and radioactive or proprietary materials, mission-critical or high-value equipment;
- (2) Threats from activist groups;
- (3) Intentional release of, or exposure to, hazardous materials;
- (4) Sabotage or vandalism of chemicals or high-value equipment;
- (5) Loss or release of sensitive information; and
- (6) Rogue work or unauthorized laboratory experimentation. Security systems in the laboratory are used to detect and respond to a security breach, or a potential security breach, as well as to delay criminal activity by imposing multiple layered barriers of increasing stringency. A good laboratory security system will increase overall safety for laboratory personnel and the public, improve emergency preparedness by assisting with preplanning, and lower the organization's liability by incorporating more rigorous planning, staffing, training, and command systems and implementing emergency communications protocols, drills, background checks, card access systems, video surveillance, and other measures. The security plan should clearly delineate response to security issues, including the coordination of institution and laboratory personnel with both internal and external responders.

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[FR Doc. 2013-00788 Filed 1-18-13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-1097]

RIN 1625-AA00

Safety Zone; Sellwood Bridge Move; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing of a temporary safety zone around the Sellwood Bridge, located on the Willamette River in Portland, Oregon, while it is being relocated 66 feet downriver as part of the new Sellwood Bridge construction project. This action is necessary to ensure the safety of persons and vessels transiting the Willamette River in the vicinity of the Sellwood Bridge as it is being

moved. This safety zone will also allow full maneuverability for construction operations in this area during the bridge movement operation. The safety zone will be effective for two days, but will only be enforced as long as is necessary to complete the bridge movement.

DATES: This rule is effective from 12:01 a.m. on January 19, 2013 to 11:59 p.m. on January 20, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-1097]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ensign Ian P. McPhillips, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone (503) 240-9319, email D13-SG-MSUPPORTLANDWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because to do so would be impracticable as the Coast Guard received a late notification of the event. The reason for the late notification was that the date of the bridge move could be set only after an

exact date of the completion of the two structures was established. Additionally, because of the complexity of moving the bridge in one piece to new abutments and piers, the construction team could not reschedule the move.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because to do otherwise would be impracticable as the Coast Guard received a notification of the event one month prior to it. The bridge construction contractor was constrained by the completion of the temporary structures and the availability of the subcontractor conducting the actual bridge move, so the date of the move could not be established any earlier.

B. Basis and Purpose

The Sellwood Bridge Move is part of the Sellwood Bridge Project to replace the existing 86-year-old bridge that is structurally inadequate and functionally obsolete. The project includes moving the bridge 66 feet north and building two temporary structures. A safety zone is needed to help ensure the safety of persons and vessels transiting the area from any overhead hazards created during the bridge move.

C. Discussion of the Final Rule

This rule establishes a safety zone that covers the waters of the Willamette River, extending 100 feet upriver and 160 feet downriver of the Sellwood Bridge and to the east and west shorelines. This safety zone prohibits all vessel traffic for the duration of the bridge move with the exception of emergency vessels. A passage through the safety zone for commercial vessels may be requested with a four-hour advance notice through the Captain of the Port by contacting the Sector Columbia River Command Center at (503) 861-6211, or the Patrol Commander on VHF Channel 23.

This safety zone encompasses an existing safety zone along the east and west shorelines of the Sellwood Bridge (See Sellwood Bridge Project, Docket No. USCG-2012-0131), which was established for the entire duration of the construction of the new bridge, expected to be completed in July 2015. This safety zone will be effective on January 19 and 20, 2013. We note that upon the expiration of this safety zone, the Sellwood Bridge Project safety zone will continue to remain in place.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and