

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
8-Apr-10 .....	AL	TUSCALOOSA .....	TUSCALOOSA REGIONAL ....	0/6915	2/23/10	VOR OR TACAN RWY 22, AMDT 14C.
8-Apr-10 .....	MI	SAGINAW .....	MBS INTL .....	0/7049	2/23/10	ILS RWY 23, AMDT 4A.

[FR Doc. 2010-5284 Filed 3-17-10; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 520

[Docket No. FDA-2010-N-0002]

#### Oral Dosage Form New Animal Drugs; Tetracycline Powder

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by AlphaPharma, Inc. The supplemental NADA provides for revised labeling for a 25 gram per pound concentration of tetracycline hydrochloride soluble powder used to make medicated drinking water for calves, swine, chickens, and turkeys for the treatment and control of various bacterial diseases.

**DATES:** This rule is effective March 18, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Cindy L. Burnsteel, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8341, e-mail: [cindy.burnsteel@fda.hhs.gov](mailto:cindy.burnsteel@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** AlphaPharma, Inc., 440 Rte. 22, Bridgewater, NJ 08807 filed a supplement to NADA 65-140 that provides for revised labeling for DURAMYCIN-10 (tetracycline hydrochloride), a soluble powder containing 25 grams of tetracycline hydrochloride per pound used to make medicated drinking water for calves, swine, chickens, and turkeys for the treatment and control of various bacterial diseases. The supplemental application is approved as of January 12, 2010, and the regulations are amended in 21 CFR 520.2345d to reflect the approval.

In addition, FDA has noticed that this approved concentration of tetracycline soluble powder has not been codified

for this sponsor. At this time, the regulations are being amended to reflect approval of this product. This change is being made to improve the accuracy of the animal drug regulations.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

#### List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 2. In § 520.2345d, revise paragraphs (b)(2) and (b)(3); remove paragraph (b)(4); and redesignate paragraph (b)(5) as paragraph (b)(4) to read as follows:

#### § 520.2345d Tetracycline powder.

\* \* \* \* \*

(b) \* \* \*

(2) No. 000010: 102.4 and 324 grams per pound as in paragraph (d) of this section.

(3) No. 046573: 25, 102.4, and 324 grams per pound as in paragraph (d) of this section.

\* \* \* \* \*

Dated: March 5, 2010.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 2010-5925 Filed 3-17-10; 8:45 am]

BILLING CODE 4160-01-S

## POSTAL SERVICE

### 39 CFR Part 111

#### Eligibility for Commercial Flats Failing Deflection

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service published a proposed rule regarding eligibility for commercial flats failing deflection in the **Federal Register** on December 14, 2009. This final rule provides revised mailing standards and price eligibility for commercial flats of all classes that fail to meet the deflection standard.

**DATES:** Basic standards effective June 7, 2010, with price consequences effective October 3, 2010.

**FOR FURTHER INFORMATION CONTACT:** Bill Chatfield, 202-268-7278.

**SUPPLEMENTARY INFORMATION:** This final rule contains modifications to the original proposal, in response to customer comments. The final rule does not include changes to the deflection standards, but to the pricing eligibility. In response to the original deflection proposal and scheduled implementation in May 2009, customers expressed concerns about the potential additional postage due for pieces failing the deflection standards. Based on these concerns and to align with other quality efforts, in December 2009 the Postal Service proposed to change the price eligibilities applicable for pieces that fail the deflection standards.

In this final rule notice we provide background, summary of the comments received, our response to the comments, a summary of the changes and revisions to the applicable prices for pieces that do not meet the deflection standards, followed by changes to the mailing standards in *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®).

#### Background

The Postal Service's final rule for new mailing standards to be effective in May 2009 was published in the **Federal Register** (74 FR 15380-15384) on April 6, 2009. The final rule included new deflection standards, previously applicable only to automation flats, for all commercial flat-size mail except saturation and high-density Periodicals and Standard Mail® flats, as a basic

eligibility standard for categorization as a flat. The implementation of the new deflection standards was postponed from the May 2009 date and was subsequently deferred further to June 2010.

As a reminder, the USPS® relaxed the deflection standards in 2007 by increasing the permitted deflection to up to 4" for flat-size pieces at least 10" long. Our difficulties in processing flats that came close to that new maximum deflection, and in processing oblong-shaped flats, made it clear that the change did not allow consistent, successful processing and handling of flats with the new maximum deflection. Our delayed implementation of June 7, 2010 offered mailers the opportunity to make changes to slightly stiffen or redesign their "droopy" flats to meet the new standards. The new deflection standards allow 1 inch less of vertical deflection (droop) than is currently allowed; as an example, 3 inches of deflection will be allowed for flats 10 inches or longer.

#### Comments

We received 35 comments from customers, including publishers, mailer associations, and consumers. Some of the commenters agreed with the general intent of the pricing eligibility, to encourage production of flats that we are reliably able to process efficiently; however even these commenters stated that the proposed increase was too high to be readily absorbed by mailers. Commenters provided various calculations—stating the increase for In-County carrier route newspapers as 78 percent, the range of increase across affected pieces as being from 8 percent to 78 percent, and the increase for Bound Printed Matter pieces from flats to parcel prices as "excessive." Many commenters advocated exempting basic carrier-route flats from the standard altogether, or at least exempting carrier-route flats which also are dropshipped to destination delivery units (DDUs).

Many of the commenters focused their comments on the likely negative effect on newspapers, which were generally categorized by the commenters as inherently unable to meet the new deflection standards. Several commenters noted that the increase for the most part was proportional to the sort level, the anomaly being the higher percentage increase for basic carrier route flats from carrier route to 5-digit prices. Additional customer comments and suggestions received:

- Many commenters were concerned about inconsistent testing at acceptance; some of those commenters suggested the

need for a more objective verification process or tool.

- A few commenters asked for an error tolerance for flats in copalletized or comailed mailings.

- Several commenters requested sampling procedures for mailings of nonidentical pieces, perhaps similar to current manifest mailing sampling.

- The resultant increase in postage costs was characterized as discriminatory to newspapers.

- The resultant increase in postage would be too cost prohibitive to continue to mail and mailers may revert to electronic, hand, or other private delivery methods.

- The 5-digit price for carrier route pieces failing deflection negates the value of the sortation.

- The 5-digit price also negates the DDU discount for carrier route flats failing deflection (an apparent consequence since there are no DDU discount prices related to 5-digit sortation).

- Some commenters asked for pricing consequences similar to those for pieces that fail Move Update tests.

- Several commenters suggested that pieces receiving scans should be eligible for full-service IMb® pricing. If automation prices are denied, pieces that are prepared to be part of full-service IMb mailings would be ineligible for full-service IMb.

- Quarter-folding newspapers may bring flats into compliance, but at additional cost; and quarter-folding would not work well with any inserts. Also, there was concern that quarter-folded papers might not process well and may not provide a long-term solution.

- Several commenters advocated a prequalification process whereby sample pieces would be submitted and prequalified to pass deflection, to limit mailers' risk in producing pieces which may be found to fail deflection at acceptance. Linked with this suggestion was a request for a tolerance of up to ½ inch from the standards.

- Some commenters were concerned about their publications being drawn into the Flats Sequencing Sortation (FSS) workflow and possible negative effects on service.

There were a few general comments suggesting that the USPS should:

- Find the ability to accept pieces with a wider array of designs rather than limiting the designs of pieces that can be accepted as "machinable" flats.

- Develop better advance communication methods and implement more thorough communication to a wider spectrum of mailers.

- Provide intensive feedback about failed pieces to mailers between now and June 2010.

- Retain current deflection standards for six more months and enlist the assistance of a Lean Six-Sigma group.

#### Response to Comments

The prices proposed in our December 2009 proposal were developed in response to concerns about the previously proposed parcel price consequences. If we had not proposed these prices, most of the prices for commercial flats failing deflection would have been much higher than those proposed in the December 2009 proposal. Because of the postponement of price increases (for the affected classes of mail) from May 2010 until 2011, we were limited to existing prices in our establishment of prices for flimsy or droopy flat-size pieces. For most mailers, these prices can be avoided by changing the design or production of their mailpieces.

Flat-size pieces that do not meet deflection standards are not currently eligible for any automation flats prices, including full-service Intelligent Mail prices. Changes in mailing standards for flats over the last few years have brought the characteristics of mailpieces mailed at nonautomation flats prices more in line with automation flats characteristics, to better enable us to handle flats with or without a barcode. There is ample evidence that flimsy flat-size pieces that fail to meet deflection standards cannot be processed without incurring many feeding and jamming problems. Therefore, we cannot continue to accept those pieces at prices that are based on our ability to process such pieces via automated processing.

Based on comments received, we are making modifications to improve the objectivity of the testing process. Also, we are developing a random sampling procedure to test mailings of nonidentical pieces, including comailed and copalletized mailings.

Some commenters requested a prequalification process to ensure that tested mailpiece designs would qualify for automation or other specific prices regardless of whether they actually passed the deflection test at the time of acceptance. We will not be implementing a prequalification process. Flats as they are produced and presented for live mailing need to meet all the standards for the applicable prices. Just as we do today for a variety of other standards, we have procedures in place that encourage mailers to work closely with local postal employees to improve the quality of their mailpieces, thereby reducing the possibility of

incurring additional postage costs. We will be expanding that evaluation process to provide guidance as to whether a sample mailpiece is likely to meet the deflection standards. This evaluation will allow mailers the opportunity to adjust the mailpiece as necessary to be eligible for machinable or automation prices.

To additionally assist the mailing community with feedback on their flat-size pieces, the USPS will continue to use our electronic mail improvement reporting (eMIR) system between now and implementation to alert mailers with problematic flats so that they may adjust their mailpiece design and avoid paying additional postage.

We strongly encourage mailers who are considering quarter-folding their

flats to work with their local Mailpiece Design Analyst to discuss all options.

We understand mailers' concerns about DDU entry, but this notice will not address service implications related to DDU entry or to FSS processing.

After consideration of the comments, in recognition of the continued allowance of flats entry to DDUs for basic carrier route flats (Periodicals, Standard Mail, and Bound Printed Matter flats), we are exempting all basic carrier route flats dropshipped to DDUs from the deflection standards. This exemption includes Periodicals publications that are entered directly at delivery units via specifically-authorized exceptional dispatch procedures. We may re-evaluate this decision in the future and strongly encourage customers with this type of

mail to work toward meeting the deflection standards.

We will not be exempting basic carrier route flats that are not entered at DDUs.

#### Recap of Pricing Eligibility

Effective October 3, 2010, for commercial flats that fail to meet the deflection standards, price eligibility by class of mail is described in the tables below. For all classes of mail, if the mailing is determined not to meet the deflection standards, the sortation for failed pieces may remain as prepared. However, for First-Class Mail presorted flats that will pay single-piece prices, the presorted marking must be obliterated or corrected via the addition of a "single-piece" marking.

#### FIRST-CLASS MAIL AUTOMATION

Eligibility as presented	Eligibility with failed deflection
Automation 5-digit flat .....	Presorted flat.
Automation 3-digit .....	Presorted flat.
Automation ADC .....	Presorted flat.
Automation MADC .....	Presorted flat.

#### FIRST-CLASS MAIL PRESORTED (NONAUTOMATION)

Eligibility as presented	Eligibility with failed deflection
Presorted flat .....	Single-piece flat or presorted parcel.

#### PERIODICALS OUTSIDE COUNTY

Piece price eligibility as presented	Piece price eligibility with failed deflection
Basic Carrier Route flat, if not entered at a DDU .....	Machinable 5-digit flat.
Machinable barcoded 5-digit flat .....	Nonmachinable barcoded 5-digit flat.
Machinable barcoded 3-digit flat .....	Nonmachinable barcoded 3-digit flat.
Machinable barcoded ADC flat .....	Nonmachinable barcoded ADC flat.
Machinable barcoded MADC flat .....	Nonmachinable barcoded MADC flat.
Machinable nonbarcoded 5-digit flat .....	Nonmachinable nonbarcoded 5-digit flat.
Machinable nonbarcoded 3-digit flat .....	Nonmachinable nonbarcoded 3-digit flat.
Machinable nonbarcoded ADC flat .....	Nonmachinable nonbarcoded ADC flat.
Machinable nonbarcoded MADC flat .....	Nonmachinable nonbarcoded MADC flat.
Nonmachinable barcoded or nonbarcoded flat .....	Price claimed, if otherwise eligible.

#### PERIODICALS IN-COUNTY

Piece price eligibility as presented	Piece price eligibility with failed deflection
Basic Carrier Route flat, if not entered at a DDU .....	Nonautomation (or automation, if barcoded) 5-digit flat.
Automation 5-digit flat .....	Nonautomation 5-digit flat.
Automation 3-digit flat .....	Nonautomation 3-digit flat.
Automation basic flat .....	Nonautomation basic flat.

#### STANDARD MAIL

Eligibility as presented	Eligibility with failed deflection
Basic Carrier Route flat, if not entered at a DDU .....	Nonautomation 5-digit flat.

## STANDARD MAIL—Continued

Eligibility as presented	Eligibility with failed deflection
Automation 5-digit flat .....	Nonautomation 5-digit flat.
Automation 3-digit flat .....	Nonautomation 3-digit flat.
Automation ADC flat .....	Nonautomation ADC flat.
Automation MADC flat .....	Nonautomation MADC flat.
Nonautomation flat (all sort levels) .....	Nonautomation MADC flat.

## BOUND PRINTED MATTER

Eligibility as presented	Eligibility with failed deflection
Carrier Route flat, if not entered at a DDU .....	Carrier Route parcel.
Barcoded presorted flat .....	Presorted parcel.
Nonbarcoded presorted flat .....	Presorted parcel.
Nonbarcoded nonpresorted flat .....	Price as claimed, if otherwise eligible.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

**PART 111—[AMENDED]**

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

**Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)**

\* \* \* \* \*

**300 Commercial Mail Flats**

\* \* \* \* \*

**301 Physical Standards****1.0 Physical Standards for Flats**

\* \* \* \* \*

*[Re number current 1.6 and 1.7 as new 1.7 and 1.8.] [Move 301.3.2.3 in its entirety, renumber as new 1.6, revise heading and text and graphics to extend revised maximum deflection standards to all flat-size mailpieces, and delete item c as follows:]*

**1.6 Maximum Deflection for Flat-Size Mailpieces**

Flat-size mailpieces must be flexible (see 1.3) and must meet maximum deflection standards. Flat-size pieces mailed as high density or saturation carrier route pieces, and basic carrier route pieces entered by the mailer at destination delivery units (DDUs), are not required to meet these deflection standards. Flat-size pieces mailed as basic carrier route pieces that are not entered at DDUs are not exempt from

meeting the standards. Test deflection as follows:

a. For pieces 10 inches or longer (see Exhibit 1.5a):

1. Place the piece on a flat, straight-edge surface with the length perpendicular to the edge of the surface and extend the piece 5 inches off the edge of the surface. Test square-shaped bound flats by placing the bound edge parallel to the edge.

2. Place a flat 12-inch ruler (or other similar flat object 12 inches or longer) on top of the mailpiece with the length parallel to the edge of the surface and as close to the edge as possible so that the 5-pound weight (see 1.6a3) does not extend past the edge.

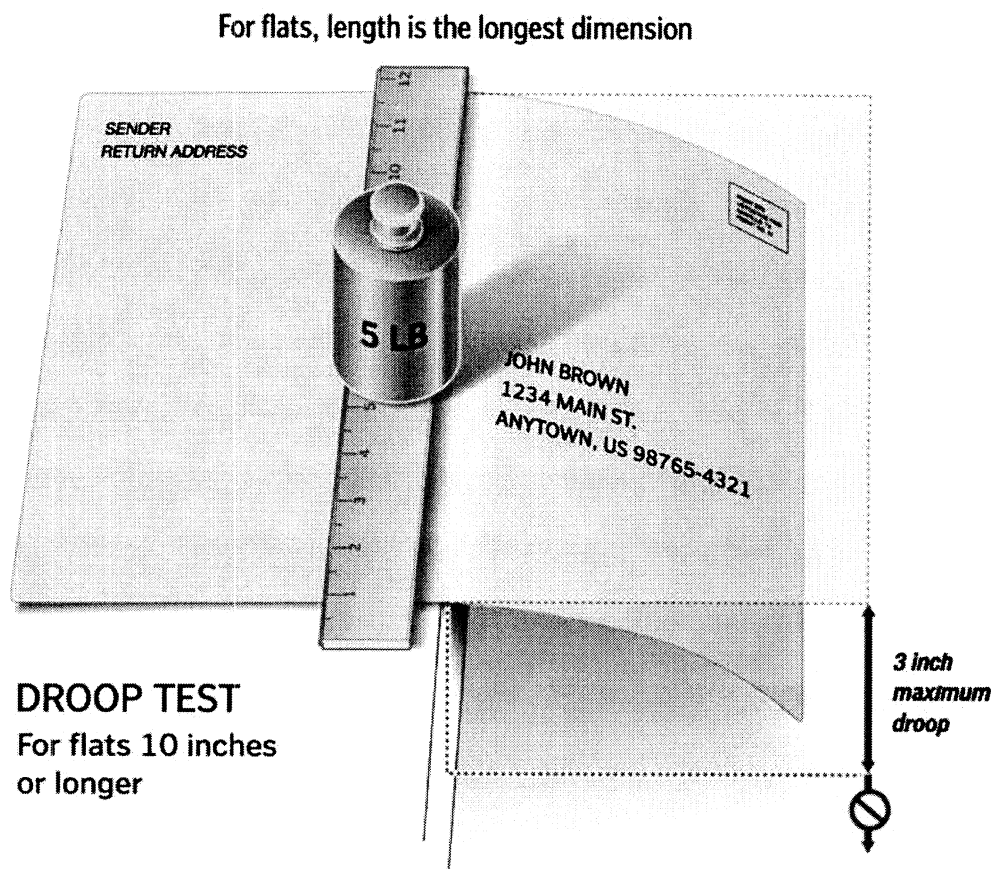
3. Place a certified 5-pound weight on the center of the ruler to hold the piece in place.

4. Determine the vertical deflection in inches.

5. Turn the piece around 180 degrees and repeat the process.

6. The piece is mailable as a flat if it does not droop more than 3 inches vertically at either end.

## Exhibit 1.6a Deflection for Pieces 10 inches or Longer



b. For pieces less than 10 inches long (see Exhibit 1.6b):

1. Place the piece on a flat, straight-edge surface with the length perpendicular to the edge of the surface and extend the piece one-half of its length off the edge of the surface. Test square-shaped bound flats by placing the bound edge parallel to the edge.

2. Place a flat 12-inch ruler (or other similar flat object 12 inches or longer)

on top of the mailpiece with the length parallel to the edge of the surface and as close to the edge as possible so that the 5-pound weight (see 1.6b3) does not extend past the edge.

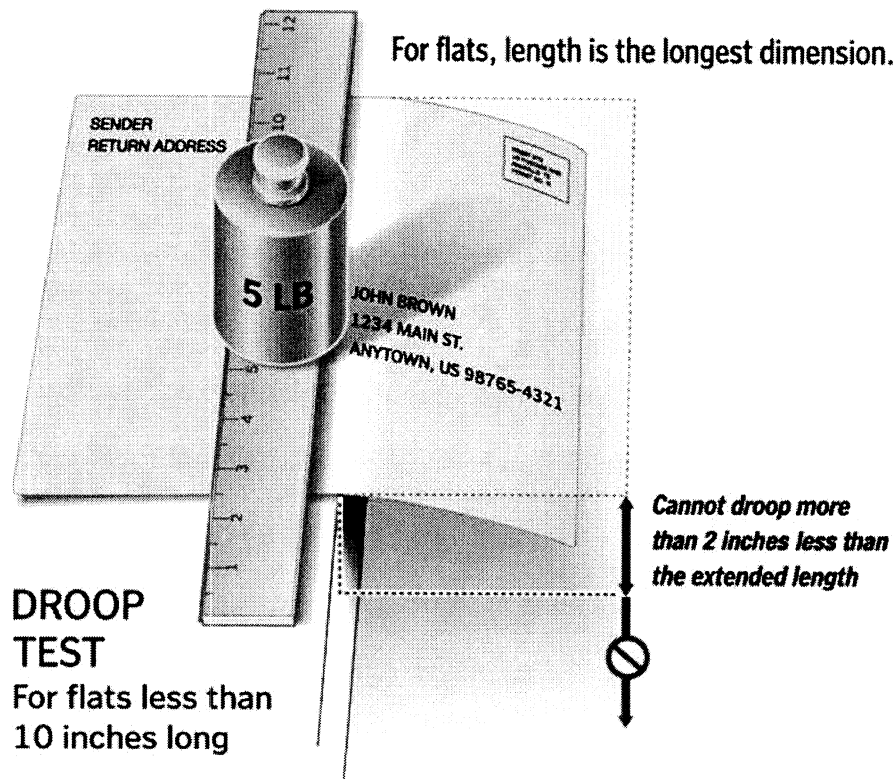
3. Place a certified 5-pound weight on the center of the ruler to hold the piece in place.

4. Determine the vertical deflection in inches.

5. Turn the piece around 180 degrees and repeat the process.

6. The piece is mailable as a flat if it does not droop more than 2 inches less than the extended length at either end. For example, a piece 8 inches long would be extended 4 inches horizontally off a flat surface. It must not droop more than 2 inches vertically at either end.

## Exhibit 1.6b Deflection for Pieces Less Than 10 inches Long

**1.7 Flat-Size Pieces Not Eligible for Flat-Size Prices**

*[Revise text of 1.7 to read as follows:]*

Effective October 3, 2010, flat-size mailpieces that do not meet the standards in 1.3 through 1.5 or the standards in 302.2.0 must pay applicable higher prices as noted in either 1.7a or 1.7b below.

a. Flat-size pieces that do not meet flexibility, uniform thickness, or

polywrap standards in 1.3 through 1.5 must pay these applicable prices:

1. First-Class Mail—parcel prices.
2. Periodicals—parcel prices.
3. Standard Mail—Not Flat-Machinable or parcel prices.
4. Bound Printed Matter—parcel prices.

b. Flats that do not meet deflection standards in 1.6 must pay the applicable prices as noted in exhibit 1.7b. Under the column heading “eligibility as

presented,” flats will be considered to be presented as automation flats only if they meet all other eligibility standards for automation flats.

**Exhibit 1.7b Pricing for Flats Exceeding Maximum Deflection**

The price consequences in this exhibit are effective October 3, 2010 for pieces failing the deflection standard in 1.6.

**FIRST-CLASS MAIL AUTOMATION**

Eligibility as presented	Eligibility with failed deflection
Automation 5-digit flat .....	Presorted flat.
Automation 3-digit .....	Presorted flat.
Automation ADC .....	Presorted flat.
Automation MADC .....	Presorted flat.

**FIRST-CLASS MAIL PRESORTED (NONAUTOMATION)**

Eligibility as presented	Eligibility with failed deflection
Presorted flat .....	Single-piece flat or presorted parcel.

## PERIODICALS OUTSIDE COUNTY

Piece price eligibility as presented	Piece price eligibility with failed deflection.
Basic Carrier Route flat, if not entered at a DDU .....	Machinable 5-digit flat.
Machinable barcoded 5-digit flat .....	Nonmachinable barcoded 5-digit flat.
Machinable barcoded 3-digit flat .....	Nonmachinable barcoded 3-digit flat.
Machinable barcoded ADC flat .....	Nonmachinable barcoded ADC flat.
Machinable barcoded MADC flat .....	Nonmachinable barcoded MADC flat.
Machinable nonbarcoded 5-digit flat .....	Nonmachinable nonbarcoded 5-digit flat.
Machinable nonbarcoded 3-digit flat .....	Nonmachinable nonbarcoded 3-digit flat.
Machinable nonbarcoded ADC flat .....	Nonmachinable nonbarcoded ADC flat.
Machinable nonbarcoded MADC flat .....	Nonmachinable nonbarcoded MADC flat.
Nonmachinable barcoded or nonbarcoded flat .....	Price claimed, if otherwise eligible.

## PERIODICALS IN-COUNTY

Piece price eligibility as presented	Piece price eligibility with failed deflection
Basic Carrier Route flat, if not entered at a DDU .....	Nonautomation (or automation, if barcoded) 5-digit flat.
Automation 5-digit flat .....	Nonautomation 5-digit flat.
Automation 3-digit flat .....	Nonautomation 3-digit flat.
Automation basic flat .....	Nonautomation basic flat.

## STANDARD MAIL

Eligibility as presented	Eligibility with failed deflection
Basic Carrier Route flat, if not entered at a DDU .....	Nonautomation 5-digit flat.
Automation 5-digit flat .....	Nonautomation 5-digit flat.
Automation 3-digit flat .....	Nonautomation 3-digit flat.
Automation ADC flat .....	Nonautomation ADC flat.
Automation MADC flat .....	Nonautomation MADC flat.
Nonautomation flat (all sort levels) .....	Nonautomation MADC flat.

## BOUND PRINTED MATTER

Eligibility as presented	Eligibility with failed deflection
Carrier Route flat, if not entered at a DDU .....	Carrier Route parcel.
Barcoded presorted flat .....	Presorted parcel.
Nonbarcoded presorted flat .....	Presorted parcel.
Nonbarcoded nonpresorted flat .....	Price as claimed, if otherwise eligible.

\* \* \* \* \*

**3.0 Physical Standards for Automation Flats**

\* \* \* \* \*

**3.2 Additional Criteria for Automation Flats**

*[Current 3.2.3 was previously renumbered as new 1.6.]*

\* \* \* \* \*

**707 Periodicals**

\* \* \* \* \*

**2.0 Price Application and Computation****2.1 Price Application**

\* \* \* \* \*

**2.1.2 Applying Outside-County Piece Prices**

\* \* \* Apply piece prices for Outside-County mail as follows:

\* \* \* \* \*

*[Revise item c1 to read as follows:]*

c. *Nonmachinable flats.*

1. Apply the “Nonmachinable Flats—Barcoded” prices to pieces that meet all of the alternative standards for flats in 26.0 and include a barcode. Exception: Barcoded pieces prepared under 26.0 and placed in 5-digit bundles pay the “Machinable Flats—Barcoded” 5-digit price. Effective October 3, 2010, “nonmachinable” barcoded flats claiming the machinable flats-barcoded 5-digit price must meet the deflection standards in 301.1.0.

\* \* \* \* \*

**26.0 Physical Criteria for Nonmachinable Flat-Size Periodicals**

\* \* \* \* \*

**26.3 Flexibility and Deflection**

*[Revise the text of 26.3 to read as follows:]*

Pieces prepared under 26.0 are not subject to the standards for flexibility in 301.1.3 or the standards for deflection in 301.3.2.3, except pieces claiming machinable 5-digit prices under 2.1. Effective October 3, 2010, nonmachinable flats in 5-digit bundles claiming 5-digit machinable flats prices must meet the deflection standards in 301.1.0.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR Part 111 to reflect these changes.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 2010-5738 Filed 3-17-10; 8:45 am]

**BILLING CODE 7710-12-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2009-0027; FRL-9128-1]

RIN 2060-AO94

### National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing; Technical Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** On December 2, 2009, EPA promulgated national emissions standards for the control of emissions of Hazardous Air Pollutants (HAP) from the asphalt processing and asphalt roofing manufacturing area source category (74 FR 63236). Following signature of this final rule, EPA discovered three inadvertent typographical errors in the numbering of paragraphs and is correcting those errors in this action.

**DATES:** This correction is effective on April 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** Warren Johnson at (919) 541-5124.

#### SUPPLEMENTARY INFORMATION:

#### I. Summary of Amendments

We promulgated national emissions standards for the control of emissions of HAP from the asphalt processing and asphalt roofing manufacturing area

source category on December 2, 2009 (40 CFR part 63, subpart AAAAAAA). Following signature of the final asphalt processing and asphalt roofing manufacturing area source standards in subpart AAAAAAA, we discovered three inadvertent typographical errors in the lettering of paragraphs in section 63.11563, entitled, "What are my Monitoring Requirements?" We are correcting those errors in this action. Also, in section 63.11564, entitled, "What are my Notification, Recordkeeping, and Reporting Requirements?" we are amending cross references to the paragraphs we are correcting in section 63.11563 to satisfy these cross references. A red line version of the corrected rule language is available in docket EPA-HQ-OAR-2009-0027. Table 1 of this preamble describes the five technical corrections to 40 CFR part 63, subpart AAAAAAA.

TABLE 1—TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART AAAAAAA, SECTIONS 63.11563 AND 63.11564

Technical correction	Reason
In section 63.11563, replace paragraph letter "(l)" with paragraph letter "(g)".	To have this paragraph follow paragraph 63.11563(f) in proper sequence, and to satisfy the cross reference in section 63.11563(c)(2)(iii).
In section 63.11563, replace paragraph letter "(m)" with paragraph letter "(h)".	To have this paragraph follow corrected paragraph (g) in proper sequence.
In section 63.11563, replace paragraph letter "(n)" with paragraph letter "(i)".	To have this paragraph follow corrected paragraph (h) in proper sequence.
In section 63.11564(c)(8), replace cross reference to section "63.11563(b) or (l)" with "63.11563(b) or (g)".	To satisfy the cross reference in section 63.11564(c)(8).
In section 63.11564(c)(9), replace cross reference to section "63.11563(m)" with "63.11563(h)".	To satisfy the cross reference in section 63.11564(c)(9).

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 rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment because only simple typographical errors are being corrected that do not substantially change the Agency actions taken in the final rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B). (See also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 307(d)(1), indicating that the good cause provisions in subsection 553(b) of the APA continue to apply to this type of

rulemaking under section 307(d) of the CAA.)

## II. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 F.R. 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute (see Section I of this preamble), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L.

104-4]. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

This technical correction does not have substantial direct effects on the States, or on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999).

This action does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). This correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.