

assessed and evaluated. Such screening is consistent with the nature of this Program; however, good judgment and interdisciplinary participation should be emphasized in such preliminary screenings. The guidance in the ER 1105-2-200 series of regulations with regard to consideration of non-structural measures and formulation of NED and EQ plans, is fully applicable to studies conducted under this Program.

c. *Impact Assessment.* There is no difference in the requirements for the assessment of impacts for studies conducted under Continuing Authorities and those under the Level C Survey Program. As in all studies, the extent to which information is obtained to adequately assess impacts of alternative plans is a matter of discretion of the reporting officer, bearing in mind the requirements of the National Environmental Policy Act of 1969 (NEPA) and Section 122, Public Law 91-611.

d. *Evaluation.* The processes, analyses and displays for evaluation of alternative plans as prescribed in the ER 1105-2-200 series of regulations are generally applicable to studies conducted under Continuing Authorities. Again, the level of detail, and not the process itself, is to be consistent with the study authority and the needs of the decision-making process.

PART 273—AQUATIC PLANT CONTROL

Sec.

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- APPENDIX E TO PART 273—PREVENTIVE SAFETY MEASURES IN HANDLING OF HERBICIDES

AUTHORITY: Sec. 302, Title III, Pub. L. 89-298, River and Harbor Act of 1965 (33 U.S.C. 610), October 27, 1965.

SOURCE: 41 FR 22346, June 3, 1976, unless otherwise noted.

§ 273.10 Purpose.

This regulation prescribes policies, procedures and guidelines for research, planning and operations for the Aquatic Plant Control Program under authority of section 302 of the Rivers and Harbors Act of 1965.

§ 273.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having civil works responsibilities.

§ 273.12 References.

(a) Section 302, Pub. L. 89-298, (79 Stat. 1092), Rivers and Harbors Act of 1965, (Appendix A).

(b) Pub. L. 92-516, Federal Insecticide, Fungicide and Rodenticide Act of 1972, (86 Stat. 973), 21 October 1972.

(c) 40 CFR 180, Tolerances and exemptions from tolerances for pesticide chemicals, 2,4-D, subpart C (F) 16 December 1975.

(d) Pub. L. 91-596, Occupational Safety and Health Act of 1970, (84 Stat. 1609, 29 U.S.C. 668), 29 December 1970.

(e) 29 CFR 1960, Safety and Health Provisions for Federal Employees, FEDERAL REGISTER, Vol. 39, No. 9, 9 October 1974.

(f) ER 11-2-240, "Civil Works Activities, Construction and Design."

(g) ER 70-2-3, "Civil Works Research and Development Management System."

(h) ER 1105-2-507, "Preparation and Coordination of Environmental Statements." (33 CFR 209.410)¹

(i) ER 1105-2-811.

§ 273.13 Program policy.

(a) *Program orientation.* The Aquatic Plant Control Program is designed to deal primarily with weed infestations of major economic significance including those that have reached that stage (such as water-hyacinth) and those that have that potential (such as alligatorweed and Eurasian watermilfoil) in navigable waters, tributaries, streams, connecting channels and allied waters. This does not imply

¹33 CFR 209.410 was removed at 45 FR 56761, Aug. 25, 1980.

that the infestation must have countrywide distribution. However, the infestation should constitute a known problem of economic importance in the area involved. Initial planning should constitute investigation of a specific problem weed or weed complex, not generalized surveys of aquatic vegetation. The common submersed aquatics and floating or emergent, wetland, marsh, and swamp vegetation do not generally meet those criteria for special problems merely because they may qualify as "obnoxious aquatic plants" under the language of the legislation authorizing the program except as indicated in §273.13(b).

(b) *Work not eligible under this program.* Weed control for operation and maintenance of reservoirs, channels, harbors, or other water areas of authorized projects under jurisdiction of the Corps of Engineers or other Federal agencies will not be undertaken as a part of the Aquatic Plant Control Program, except as such areas may be used for experimental purposes in research performed for the program. Aquatic plant control work for the operation and maintenance of Federal projects are eligible to be included under this authority for the purpose of cost-sharing with participating State or local agencies, but are not eligible for budgeting or funding under the Aquatic Plant Control Program.

(c) *Applied research.* Applied research developed by OCE with the assistance of the Interagency Aquatic Plant Control Research Advisory Committee and the appropriate Division Engineer will be an all Federal cost. This research will be accomplished through contracts with Federal, State and private research institutions. A research planning meeting will be held the last quarter of each calendar year to provide professional presentation of current research projects, review of current operation activities, and review new research proposals. Requested programs, estimated cost, and other information will be developed in the field and submitted to HQDA (DAEN-CWD-R) Washington, DC 20314, for approval and financing as prescribed by ER 70-2-3. Attendance of the Technical Advisory Committee meetings by Corps personnel has been authorized.

(d) *Planning.* Planning will be an all Federal cost item, will be developed by reporting officers in accordance with their needs and will be fully justified for funds requested. Normally, the program will be initiated with a reconnaissance report (§273.14(a)) and will be accomplished under a State design memorandum (§273.14(b)). Supplement design memorandums will be used to implement changes in the program. These memorandums will establish a continuing program and will be used to enable the Chief of Engineers to allot available funds on a priority basis in accordance with the urgency of the needs of each area.

(e) *Criteria for recommending a Federal project.* (1) A recommendation favorable to adoption of the project under the authority provided by section 302, as amended, will be warranted when the following conditions exist:

(i) The problem and practical measures of improvement are of such nature that there is a clear and definite Federal interest warranting Federal participation under the purview of this special authority.

(ii) The proposed work will result in an independent and complete-within-itself project.

(iii) Analysis based on sound economic principles clearly demonstrates that the project will provide information and/or control of aquatic plants.

(iv) Each separable element of the project, as well as the entire project, is economically justified.

(v) Local interests are legally and financially able and willing to meet fully all requirements of local cooperation.

(2) Recommendations for preparation of a detailed planning report for new work on a new problem in a District or Division where control of other aquatic plant problems is currently underway should consider whether such new work represents an equal or higher priority of need for allocation of funds in the same State. Projects will not be recommended which produce undesirable short-term or long-term damage to the human or natural environment.

§ 273.14 Planning procedures.

Investigation of new problems and/or additional control operations not covered by previously approved plans will begin with preparation of a preliminary report based on reconnaissance-type investigations. If it is determined that further planning of a more detailed nature is warranted, approval of a reconnaissance report by HQDA (DAEN-CWO-R) Washington, D.C. 20314 will be followed by further investigations. Normally, a detailed State design memorandum encompassing all aspects of the problem and a proposed plan of action for dealing with it will be prepared.

(a) *Reconnaissance reports.* Investigations for reconnaissance reports will be limited to readily available data and information. Field surveys and office studies should be limited to minimum essentials for further detailed planning. The reconnaissance report will be used for the overall program planning and should contain adequate information for these purposes.

(1) *Authorization.* Preparation of a reconnaissance report will be authorized by OCE granting of work allocations and allotment of funds based on requests submitted by reporting officers. Funds for such reports may be requested in annual submissions of budget requests and subsequently to DAEN-CWO-R as required to meet unanticipated needs. Since the program is proceeding under a limited budget, costs should be limited to minimum requirements. Only in exceptional cases will more than \$3,000 be made available for a reconnaissance report on a problem in any one district.

(2) *Content of reports.* Where findings and conclusions are unfavorable to undertaking further detailed planning, a brief letter report summarizing the problem and findings should be submitted to OCE to provide a basis for answering outstanding inquiries. Where findings and conclusions are favorable, a more detailed report should include, but not be limited to, the information contained in Appendix B.

(b) *State design memorandum.* When authorized to prepare a detailed planning report, the reporting officer will proceed with necessary investigations and develop plans and data in sufficient

detail to assure a complete and fully operable aquatic plant control operation. The report will be in the form of a State design memorandum (SDM). The SDM will be prepared by the District, reviewed by the Division, then forwarded to DAEN-CWO-R for review and approval. The data presented will be used to set priorities and request funds to finance activities on various projects. Fund requirements are divided into four categories: applied research; planning; control operations; and development.

(c) *Review of the proposed design Memoranda.* Review of State design memoranda should insure that:

(1) The work involved is not the type normally provided by local entities or private interests as a local responsibility.

(2) The cost of control operation will be shared between the Federal Government (70 percent) and the State receiving the benefit (30 percent).

(3) The actual control operation can be done by Federal, State, and/or private company facilities, under agreements specifying the details and standards of work to be performed.

(4) Consideration will be given in the planning procedure to include physical, chemical and biological methods of control. Priority will be given to biological systems where feasible.

(d) *Environmental impact statement requirements.* Prior to funding of a plant control project programs which involve pest control operations, such as aquatic plant control, and affect either man's health or his environment (soil, flora, fauna, aesthetics, water resources), are candidates for review and possible preparation of an environmental impact statement (EIS) under the National Environmental Policy Act. (The information outlined in Appendix C should be included in the analysis section of an EIS in addition to the treatment prescribed by 33 CFR 209.410.)²

§ 273.15 Work Progress Report.

Reporting officers will prepare and submit to DAEN-CWO-R a detailed description of anticipated Aquatic Plant

²33 CFR 209.410 was removed at 45 FR 56761, Aug. 25, 1980.

Control projects for the next calendar year. Submissions must reach OCE by 15 December of the preceding calendar year, in the format prescribed by Appendix D.

§ 273.16 Operations.

Operational activities will be conducted by reporting officers in accordance with approved annual work plans and State design memoranda. Questions should be referred to HQDA (DAEN-CWO-R) WASH DC 20314.

(a) *Certification of pesticide applicators.* Activities will be subject to the provisions of the Federal Insecticide, Fungicide and Rodenticide Act of 1972, (reference § 273.12(b) and (c)), regarding the training and certification of pesticide supervisors and/or applicators.

(b) *Safety in use of herbicides.* Use of herbicides will be in accordance with the Occupational Safety and Health Act of 1970, reference § 273.12 (d) and (e). Some herbicides are toxic chemicals and must be used with utmost care. Operators and applicators are required to use respiratory protective devices to prevent inhalation of toxic dusts, vapors, or gases; protective clothing to protect the skin; and eye protection. Some of the primary precautions which must be observed in handling herbicides are listed in Appendix E. Questions concerning safety should be referred to HQDA (DAEN-SO) Washington, D.C. 20314.

§ 273.17 Annual budget request.

The Aquatic Plant Control Program is a continuing activity funded under Construction, General, subject to monetary limitations of \$5,000,000 on annual appropriations authorized for the program. Recommendations and supporting data will be submitted in accordance with ER 11-2-240. The amounts requested should be the minimum requirements for the purpose of the authorized program to meet essential needs and should be within the Division's capability to utilize within the budget year taking into account the foreseeable availability of local funds to meet cost-sharing requirements for control operations.

§ 273.18 Clearinghouse coordination.

Procedures prescribed under § 384.15 of Chapter II will be observed.

APPENDIX A TO PART 273—AQUATIC PLANT CONTROL PROGRAM LEGISLATIVE AUTHORITY

Section 104 of the Rivers and Harbors Act, approved 3 July 1958 (72 Stat. 297, 300), as amended by section 104 of the Rivers and Harbors Act of 1962 (76 Stat. 1173, 1180), and as amended by section 302 of the Rivers and Harbors Act, approved 27 October 1965 (79 Stat. 1092) states as follows:

SEC. 302(a) There is hereby authorized a comprehensive program to provide for control and progressive eradication of waterhyacinth, alligatorweed, Eurasian watermilfoil, and other obnoxious aquatic plant growths, from the navigable waters, tributary streams, connecting channels, and other allied waters of the United States, in the combined interest of navigation, flood control, drainage, agriculture, fish and wildlife conservation, public health, and related purposes, including continued research for development of the most effective and economic control measures, to be administered by the Chief of Engineers, under the direction of the Secretary of the Army, in cooperation with other Federal and State agencies. Local interests shall agree to hold and save the United States free from claims that may occur from control operations and to participate to the extent of 30 per centum of the cost of such operations. Costs for research and planning undertaken pursuant to the authorities of this section shall be borne fully by the Federal Government.

(b) There are authorized to be appropriated such amounts not in excess of \$5,000,000 annually, as may be necessary to carry out the provisions of this section. Any such funds employed for control operations shall be allocated by the Chief of Engineers on a priority basis, based upon the urgency and need of each area, and the availability of local funds.

APPENDIX B TO PART 273—INFORMATION REQUIREMENTS FOR AQUATIC PLANT CONTROL PROGRAM REPORTS

1. Location and brief description of problem area if necessary for understanding environmental factors, including a suitable map (appendix).
2. Statement of problem with brief description of physical factors pertaining thereto, including identification by common and scientific name of the plant or plants concerned, origin of infestation and likely source of reinfestation; extent of infestation including estimated surface area, depth or density; nature of physical and economic

damages occasioned by presence of the infestation; and other information clarifying the nature and magnitude of the problem. Explanation should be given of how and why the infestation meets the principal criteria governing the program.

3. Preliminary plan of procedure, if any, for control operations or engineering works, including control methods, materials, equipment and procedures that may be employed. If sufficient information is not available to outline a preliminary plan for operation control, the report should include a brief statement of the special problems in control methods that need to be resolved before detailed planning can be undertaken.

4. Preliminary project cost estimates broken down into planning and operation costs for Federal and non-Federal budgeting. The report should present sufficient data concerning cost estimates for review by item and unit price.

5. Preliminary economic evaluation with approximation of benefits and brief summary of supporting data classified as general or local.

6. Discussion of availability of authority for State participation in the program, the interest of State agencies in such participation, and the likelihood of State funds being available for cost-sharing required for any control operations.

7. Cost estimate for subsequent preparation of a detailed planning report, and estimated length of time to complete after receipt of funds, and schedule of funding by fiscal years.

APPENDIX C TO PART 273—INFORMATION REQUIREMENTS FOR AQUATIC PLANT CONTROL PROGRAM ENVIRONMENTAL IMPACT STATEMENTS

1. Description of the problem.
 - a. *Pests.* Identify the pest to be controlled by common name. Be as specific as possible.
 - b. *Location and size of infestation.* Describe the target area as specifically as possible.
 - c. *Severity of infestation.* Discuss the degree and importance of the pest problem.
 - d. *History of infestation.* Discuss obvious development as established.
 - e. *Criteria for identification of the treatment areas.* Include technical details as established.
 - f. Possible cumulative effects of the proposed action in relation to other Federal or non-Federal pesticides application in the treatment area.
 - g. *Relationship to environmental situation.* Non-target organisms and integrated pest management programs.
2. Program accomplishments:
 - a. *Goals.* Discuss practical control levels.
 - b. Monitoring accomplishment level.
3. Identification of each chemical:
 - a. *Name.* Use common or coined names, and/or chemical name.
 - b. *Active ingredient.* Give name and percentage.
 - c. *Status of Federal registration.* Give registration number.
4. Application:
 - a. *Form applied.* Dust, granule, emulsion, bait solution, gas, etc.
 - b. *Choice of equipment and techniques.* Discuss general details of method of application.
 - c. *Use strength.* Give concentration of the active ingredient as applied.
 - d. *Rate.* Give rate of application in pounds per acre or other rate.
 - e. *Frequency.* Discuss probable frequency of application.
 - f. *Acreage or other descriptive unit.* Discuss area of proposed control.
 - g. *Site description.* Lake, river, drainage canal, irrigation canal, etc.
 - h. *Sensitive areas.* Discuss areas of potential contamination.
 - i. *Container disposal.* Discuss disposal requirements.
 - j. *Safety precautions.* Discuss hazards of exposure.
5. Alternative measures: Discuss details of alternative methods of control.

APPENDIX D TO PART 273—WORK PROGRESS REPORT

Aquatic Plant Control Program

(Example)

District: Vicksburg. Year Ending: 1 December 1974.

Division: Lower Mississippi Valley. Date Submitted: 15 December 1974.

1. *Status of contracts scheduled for award in current fiscal year.*

Contract	Scheduled award date	Actual award date
Plant control operations ...	July 1973	July 31, 1973.

2. *Comparison of scheduled and actual current FY obligations and expenditures to date.*

	Approved Mar. 28, 1974	Actual	Difference
Obligations	\$4.7	\$3.2	-\$1.5
Expenditures	4.1	2.9	-1.2

3. *Explanation of difference.* Not applicable.
4. *Outlook for meeting programmed objectives.*
 - a. *Programmed objectives.* Full utilization of work allowance.
 - b. *Outlook.* We expect to meet our programmed objectives.
5. *Problems and corrective action taken or proposed action.* Not applicable.

6. *Status of over-all program progress.* Contract for plant control operations was awarded in July 1973 to take advantage of last part of plant growing season. Plant control operations began in October 1973 and have been completed for this fiscal year. Surplus funds in the amount of \$21,700 will be revoked.

APPENDIX E TO PART 273—PREVENTIVE SAFETY MEASURES IN HANDLING OF HERBICIDES

1. Follow the label on each container before using the contents. The manufacturers are required by law to list recommendations and precautions.

2. Weather conditions are important. Winds could carry toxic sprays and dusts to areas not under your control, causing accidental poisoning to the public or domestic animals.

3. Smoking is not permitted while herbicides are being handled.

4. All herbicides must be handled in well ventilated areas to minimize inhalation of toxic vapors.

5. Shower and washing facilities must be near herbicides mixing areas.

6. Any contamination of the skin, particularly with liquid concentrations or solutions, must be immediately washed off with detergent and water.

7. Protective clothing is used in conjunction with respiratory protective devices to prevent skin contact and inhalation of herbicides. Recommended articles of protective clothing are rubber aprons, coveralls, chemical splash goggles, safety shoes and hard hats. A lightweight water and chemical resistant throw away type protective clothing that is impervious to herbicides is now available. In warm geographical areas this type of lightweight protective clothing would be beneficial in reducing physical stress to applicators. Additional protection is afforded by protective skin cream.

8. Clothing contaminated by spillage must be removed immediately and thoroughly laundered before wearing. Special care is required to prevent contamination of the inside of gloves.

9. Approved respirators must be worn while herbicides are being mixed, and when dusts or liquids are being handled or sprayed. Care should be exercised when selecting the respirator type to insure that it is designated specifically for the substance to be used. Each canister must be labeled and approved by the Bureau of Mines or HEW (NIOSH). Filters or canisters must be changed after 8 hours use and more often if odor of the herbicide is detected. (Always have extra cartridges available when needed.)

10. Herbicide storage, mixing and formulation facilities.

a. All herbicides must be stored in a dry, well ventilated, separate room, building or

covered area not accessible to authorized personnel or the public and placed under lock and key.

b. Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature.

c. Where applicable, label the outside of each storage with the "Danger," "Poison," and "Pesticide Storage" signs.

d. Fire extinguishers must be installed near door of material storage room. Diluted oil based herbicides are flammable and must be stored separate from other materials.

e. All herbicide storage, mixing and formulation areas must have adequate ventilation in order to reduce inhalation of toxic vapors. Sparkproof lighting fixtures should be installed in closed storage areas to eliminate ignition hazards.

11. Empty herbicide containers must be disposed of properly. Do not burn them. When herbicides or defoliant volatilize, the resulting vapors may be poisonous to humans, and they may damage nearby plants, crops or shrubbery; also, herbicides or defoliants containing chlorates may be a serious fire hazard when heated.

12. Glass herbicide containers should be disposed of by breaking. Chop holes in top, bottom, and sides of metal containers or crush them so they cannot collect water or be reused. After breaking or puncturing them, bury the containers at least 18 inches deep in an isolated area provided for this purpose, away from water supplies or high water tables. Records to locate such buried herbicides within the landfill site should be maintained. Post warning signs.

13. Safety programs developed for the safe handling and mixing of toxic chemicals should be coordinated with the Safety Office prior to implementation.

PART 274—PEST CONTROL PROGRAM FOR CIVIL WORKS PROJECTS

PROJECT OPERATION

Sec.

274.1 Purpose.

274.2 Applicability.

274.3 References.

274.4 Pesticide management.

274.5 Certification.

274.6 Division/district pest control programs.

274.7 Authorization of pesticide use.

APPENDIX A TO PART 274—PREVENTIVE SAFETY MEASURES IN HANDLING OF PESTICIDES

AUTHORITY: Pub. L. 92-516, Federal Insecticide, Fungicide and Rodenticide Act of 1972 (86 Stat. 973, 21 Oct 72, 40 CFR part 171, Federal Certification of Pesticide Applicators.