

**§ 223.209**

**50 CFR Ch. II (10–1–03 Edition)**

hard TED and at least 23 1/4 inches (59 cm) for an offshore hooped hard TED. The hinged door frame may not be used in combination with a webbing flap specified at paragraph (d)(3) of this section or with a water deflection fin specified at paragraph (d)(6) of this section.

(e) *Revision of generic design criteria, and approval of TEDs, of allowable modifications of hard TEDs, and of special hard TEDs.* (1) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (a) of this section, may approve special hard TEDs in addition to those listed in paragraph (b) of this section, may approve allowable modifications to hard TEDs in addition to those authorized in paragraph (d) of this section, or may approve other TEDs, by regulatory amendment, if, according to a NMFS-approved scientific protocol, the TED demonstrates a sea turtle exclusion rate of 97 percent or greater (or an equivalent exclusion rate). Two such protocols have been published by NMFS (52 FR 24262, June 29, 1987; and 55 FR 41092, October 9, 1990) and will be used only for testing relating to hard TED designs. Testing under any protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Dr., Miami, FL 33149-1003.

(2) Upon application, the Assistant Administrator may issue permits, subject to such conditions and restrictions as the Assistant Administrator deems appropriate, authorizing public or private experimentation aimed at improving shrimp retention efficiency of existing approved TEDs and at developing additional TEDs, or conducting fishery research, that would otherwise be subject to § 223.206(d)(2). Applications should be made to the Southeast Regional Administrator (see § 222.102

definition of “Southeast Regional Administrator”).

[64 FR 14073, Mar. 23, 1999, as amended at 64 FR 55438, Oct. 13, 1999; 66 FR 1603, Jan. 9, 2001; 66 FR 24288, May 14, 2001; 68 FR 8467, Feb. 21, 2003; 68 FR 51514, Aug. 27, 2003; 68 FR 54934, Sept. 19, 2003]

EFFECTIVE DATE NOTE: At 64 FR 14073, Mar. 23, 1999, § 223.207 was added. Paragraphs (a)(9)(ii) (A) and (B) contain information collection requirements and will not become effective until approved by the Office of Management and Budget.

**§ 223.209 Tribal plans.**

(a) *Limits on the prohibitions.* The prohibitions of § 223.203(a) of this subpart relating to threatened species of salmonids listed in § 223.102 do not apply to any activity undertaken by a tribe, tribal member, tribal permittee, tribal employee, or tribal agent in compliance with a Tribal resource management plan (Tribal Plan), provided that the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the listed salmonids. In making that determination the Secretary shall use the best available biological data (including any tribal data and analysis) to determine the Tribal Plan’s impact on the biological requirements of the species, and will assess the effect of the Tribal Plan on survival and recovery, consistent with legally enforceable tribal rights and with the Secretary’s trust responsibilities to tribes.

(b) *Consideration of a Tribal Plan.* (1) A Tribal Plan may include but is not limited to plans that address fishery harvest, artificial production, research, or water or land management, and may be developed by one tribe or jointly with other tribes. The Secretary will consult on a government-to-government basis with any tribe that so requests and will provide to the maximum extent practicable technical assistance in examining impacts on listed salmonids and other salmonids as tribes develop Tribal resource management plans that meet the management responsibilities and needs of the tribes. A Tribal Plan

must specify the procedures by which the tribe will enforce its provisions.

(2) Where there exists a Federal court proceeding with continuing jurisdiction over the subject matter of a Tribal Plan, the plan may be developed and implemented within the ongoing Federal Court proceeding. In such circumstances, compliance with the Tribal Plan's terms shall be determined within that Federal Court proceeding.

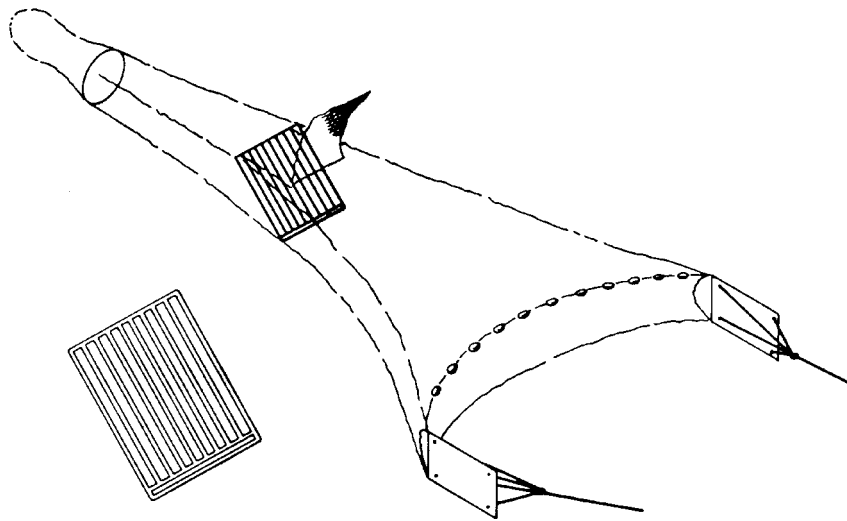
(3) The Secretary shall seek comment from the public on the Secretary's pending determination whether or not implementation of a Tribal Plan will appreciably reduce the likelihood of survival and recovery of the listed salmonids.

(4) The Secretary shall publish notification in the FEDERAL REGISTER of any determination regarding a Tribal Plan and the basis for that determination.

[65 FR 42485, July 10, 2000]

FIGURES 1-2 TO PART 223 [RESERVED]

FIGURE 3 TO PART 223—MATAGORDA TED

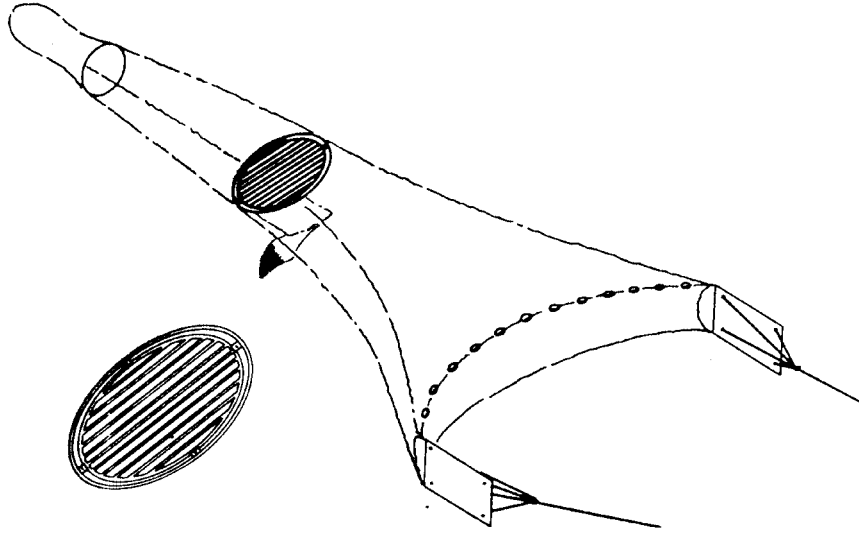


[52 FR 24260, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

Pt. 223, Fig. 4

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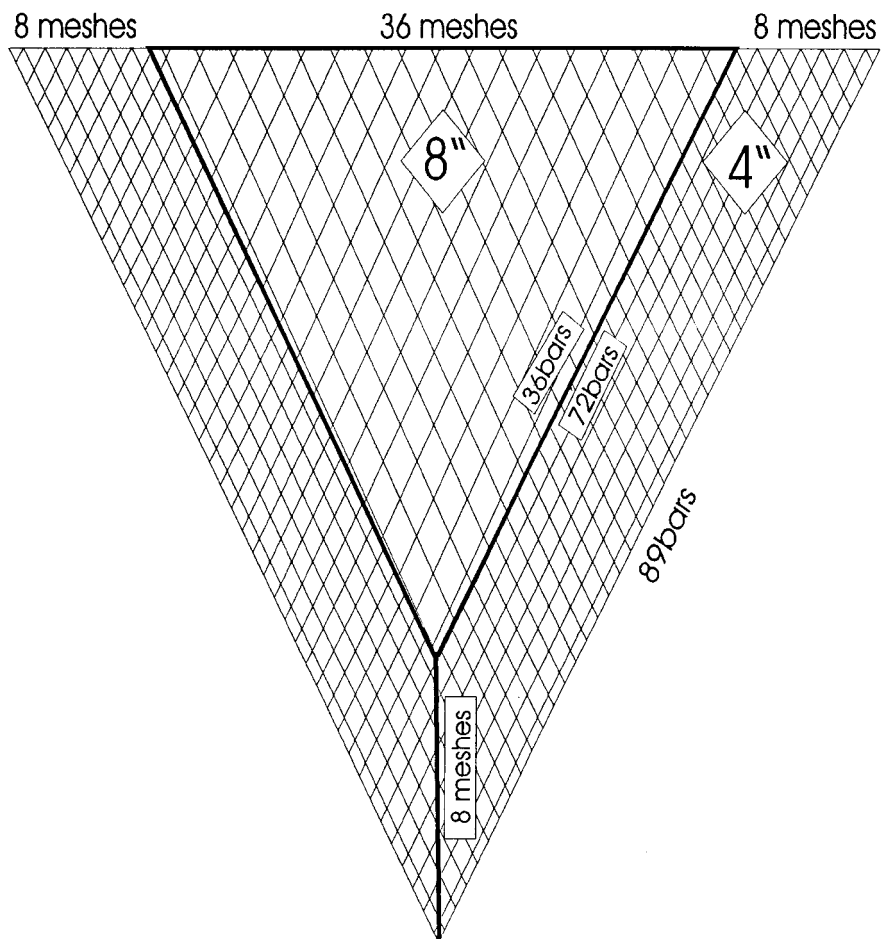
FIGURE 4 TO PART 223—GEORGIA TED



[52 FR 24261, June 29, 1987. Redesignated at 57 FR 40868, Sept. 8, 1992]

FIGURE 5 TO PART 223—NET DIAGRAM FOR THE EXCLUDER PANEL OF THE PARKER SOFT TED

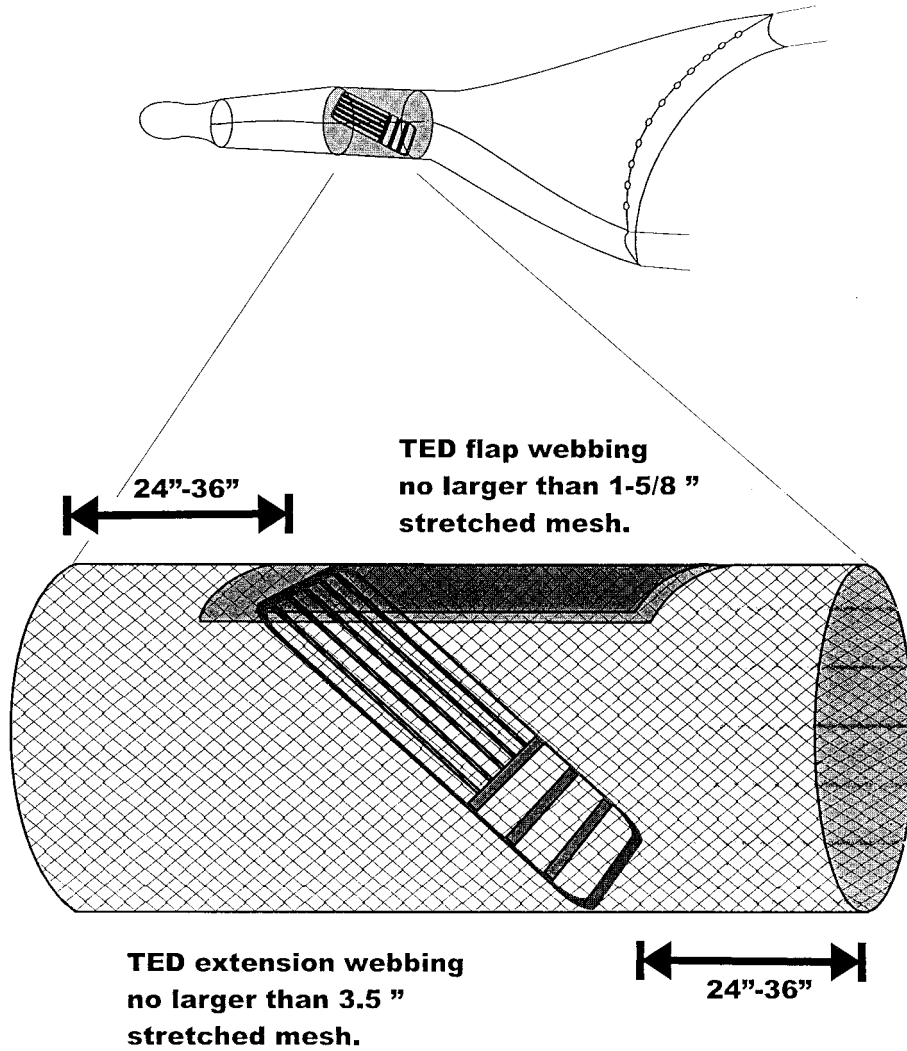
### Parker Soft TED



The side panels are composed from 4-inch stretched mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).  
The main panel is composed of 8-inch stretched mesh polyethylene or polypropylene webbing with No.48 twine size (3mm).

[63 FR 17958, Apr. 13, 1998]

FIGURE 6 TO PART 223—TED EXTENSION IN SUMMER FLOUNDER TRAWL

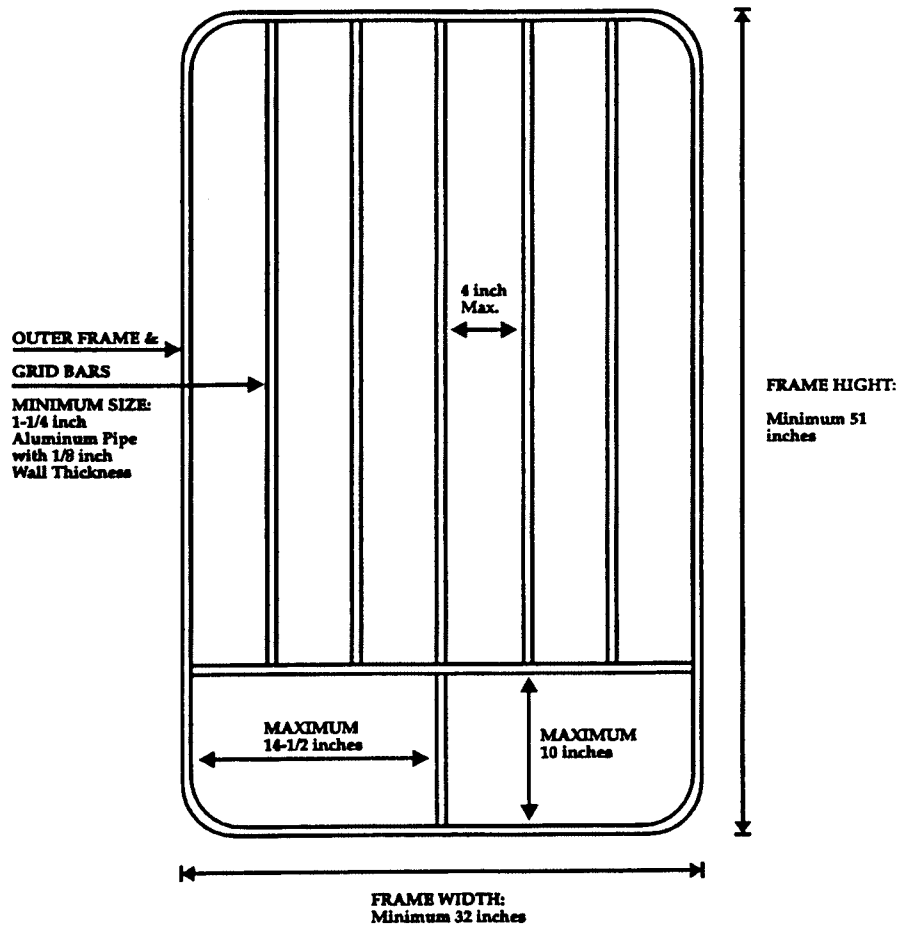


[64 FR 55864, Oct. 15, 1999]

FIGURES 7-9b TO PART 223 [RESERVED]

FIGURE 10 TO PART 223—FLOUNDER TED

### FLOUNDER TED



[58 FR 54069, Oct. 20, 1993]

FIGURE 11 TO PART 223 [RESERVED]

FIGURE 12 TO PART 223—ESCAPE OPENING & COVER DIMENSIONS FOR 71-INCH TED

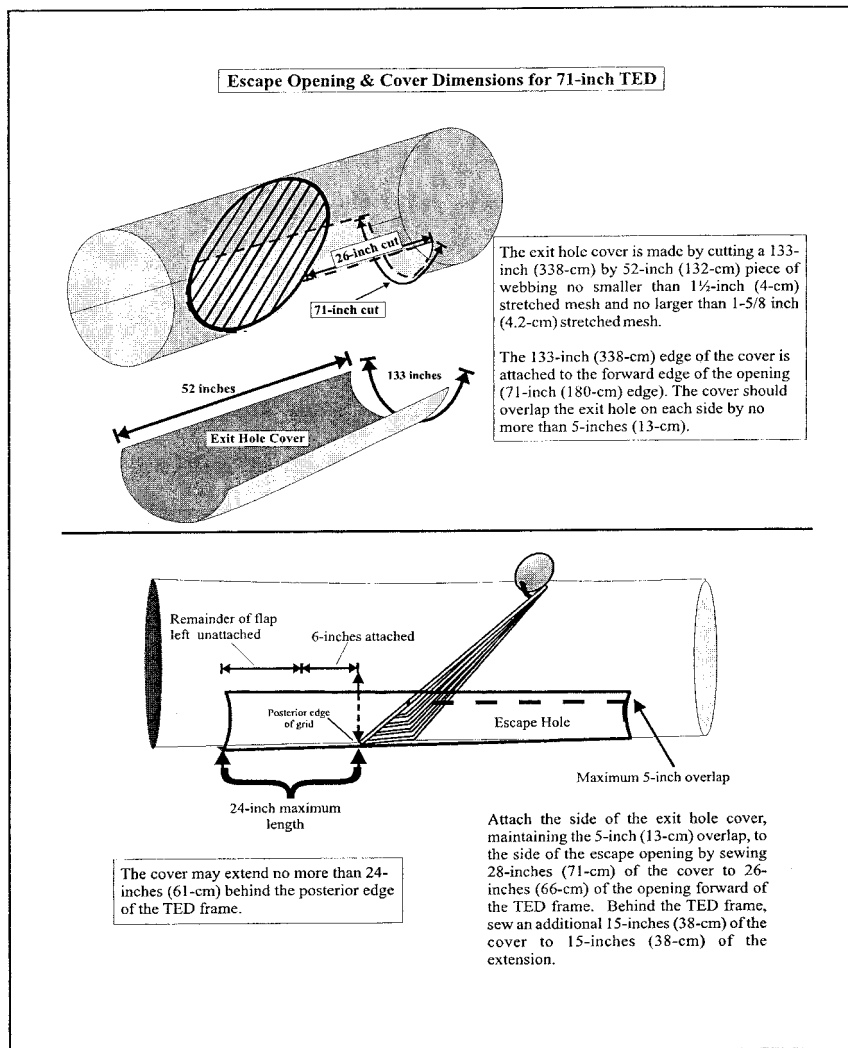
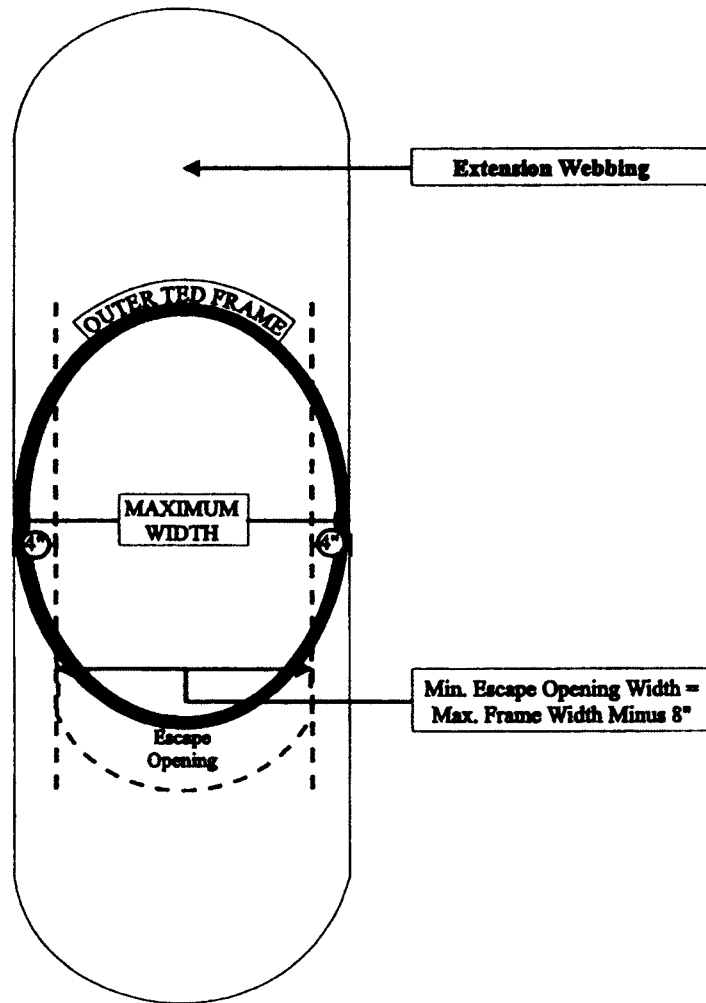


Figure 12 to Part 223

[68 FR 8469, Feb. 21, 2003]

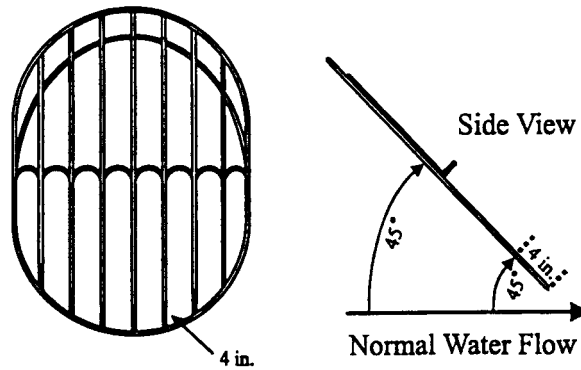
FIGURE 13 TO PART 223—SINGLE GRID HARD TED ESCAPE OPENING



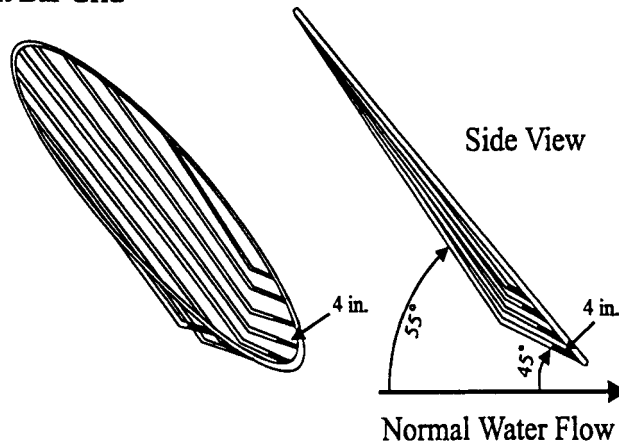
[60 FR 15520, Mar. 24, 1995]

FIGURES 14a AND 14b TO PART 223—MAXIMUM ANGLE OF DEFLECTOR BARS WITH STRAIGHT BARS ATTACHED TO THE BOTTOM OF THE FRAME AND MAXIMUM ANGLE OF DEFLECTOR BARS WITH BENT BARS ATTACHED TO THE BOTTOM OF THE FRAME

**Straight Bar Grid**



**Bent Bar Grid**



[61 FR 66946, Dec. 19, 1996]

FIGURE 15 TO PART 223— WEEDLESS TED BRACE BAR DESCRIPTION

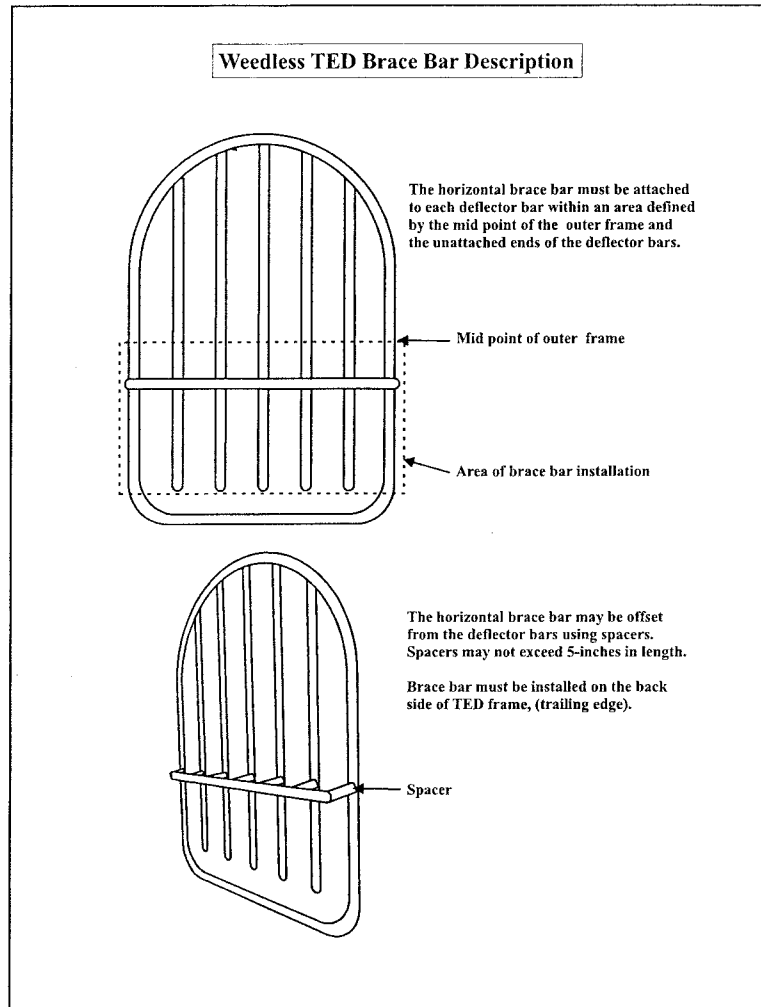
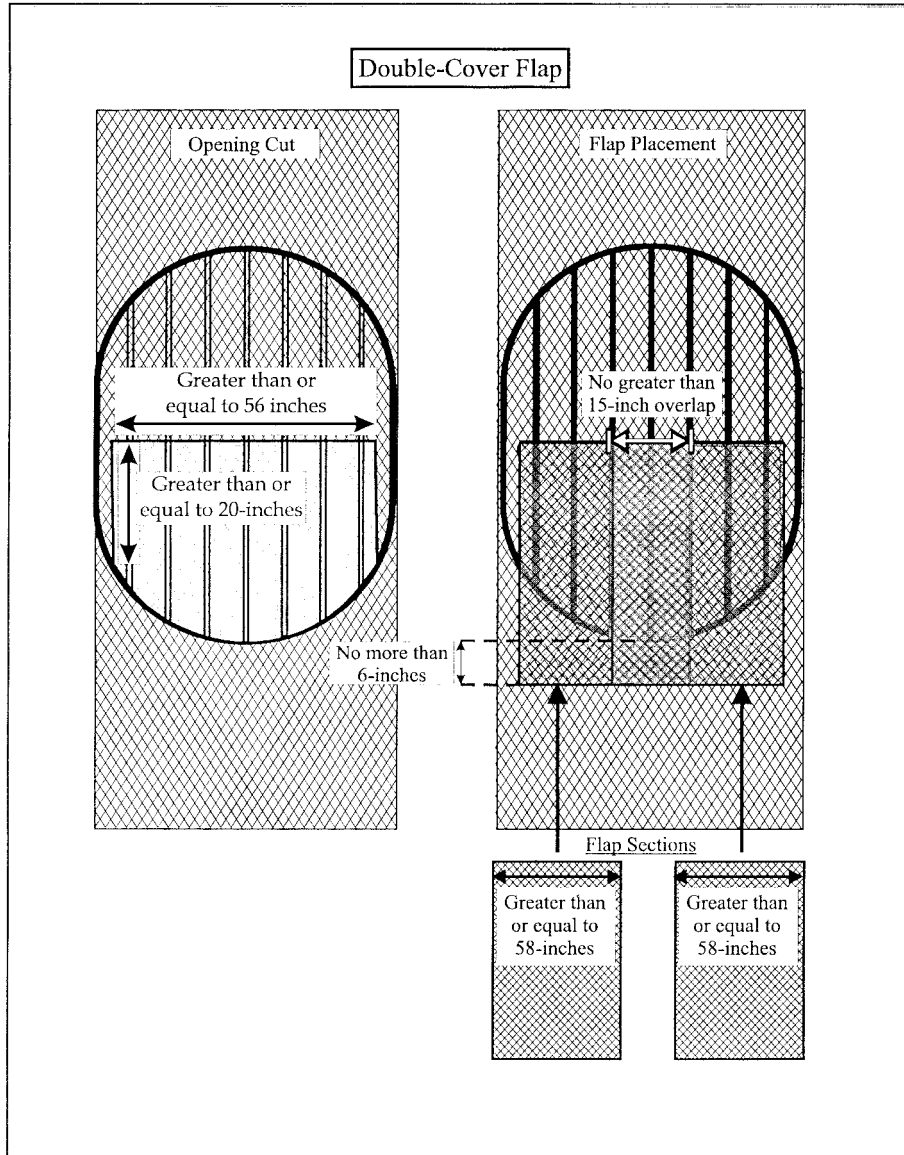


Figure 15 to Part 223

[68 FR 8469, Feb. 21, 2003]

FIGURE 16 TO PART 223—ESCAPE OPENING AND FLAP DIMENSIONS FOR THE DOUBLE COVER FLAP TED



[66 FR 24289, May 14, 2001]