

Authority: 21 U.S.C. 348.

b. Section 193.472 is added to Subpart A to read as follows:

§ 193.472 Clopyralid.

Tolerances are established for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid), in or on the following foods:

Foods	Parts per million
Barley, milled fractions (except flour).....	12.0
Oats, milled fractions (except flour).....	12.0
Wheat, milled fractions (except flour).....	12.0

PART 561—[AMENDED]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 561.439 is added to read as follows:

§ 561.439 Clopyralid.

Tolerances are established for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid), in or on the following feeds:

Feeds	Parts per million
Barley, milled fractions (except flour).....	12.0
Oats, milled fractions (except flour).....	12.0
Wheat, milled fractions (except flour).....	12.0

[FR Doc. 87-7261 Filed 4-1-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 54 and 602

[T.D. 8133]

Payment of Excise Tax on Reversion of Qualified Plan Assets to Employer

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations regarding the payment of the excise tax by employers receiving (directly or indirectly) reversions of qualified plan assets required by the Tax Reform Act of 1986. The regulations would provide the public with guidance needed to file the appropriate returns and would affect all employers maintaining qualified plans who receive reversions of qualified plan assets. The text of the temporary regulations set forth in this document

serves as the comment document for the notice of proposed rulemaking published in the Proposed Rules section of this issue of the *Federal Register*.

DATES: These amendments are applicable for reversions occurring after December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Suzanne K. Tank of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3938, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations regarding the payment of the excise tax on reversions of qualified plan assets imposed by section 4980 of the Internal Revenue Code of 1986. Since the excise tax added by section 1132 of the Tax Reform Act of 1986 applies to reversions occurring after December 31, 1985, there is a need for immediate guidance relating to the manner and time for paying the excise tax so that employers maintaining qualified plans can comply. These regulations will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 1132 of the Tax Reform Act of 1986 adds section 4980 to the Internal Revenue Code of 1986. Section 4980 imposes a tax of 10 percent of the amount of any employer reversion from a qualified plan. The tax imposed shall be paid by the employer maintaining the plan.

This Treasury decision provides that employers shall pay this tax quarterly and the tax will be due not later than the last day of the second month following the calendar quarter in which the reversion occurs.

Nonapplicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The requirements have been approved by OMB under control number 1545-0575.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of this regulatory amendment is Suzanne K. Tank of Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 54

Pensions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of amendments to the regulations

Accordingly, 26 CFR Parts 54 and 602 are amended as follows:

PART 54—PENSION EXCISE TAXES

Paragraph 1. The authority for Part 54 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. New § 54.6011-1T is added immediately after § 54.6011-1 to read as follows:

§ 54.6011-1T General requirement of return, statement, or list (temporary).

Every employer liable for the tax imposed under section 4980(a) with respect to an employer reversion (as defined in section 4980(c)(2)) shall file a quarterly return on Form 5330 and shall include therein the information required by such form and the instructions issued with respect thereto. The quarterly return on Form 5330 shall be filed with respect to employer reversions from each qualified plan (as defined in section 4980(c)(1)).

Par 3. New § 54.6071-1T is added immediately after § 54.6011-1T to read as follows:

§ 54.6071-1T Time for filing returns (temporary).

(a) *In general.* Each quarterly return required by § 54.6011-1T shall be filed not later than the last day of the second

month following the calendar quarter in which the reversion occurs.

(b) *Extension of time for filing with respect to certain reversions.* All returns required by § 54.6011-1T for reversions occurring on or before March 31, 1987 shall be filed not later than May 31, 1987.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par 4. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101(c) [Amended]

Par 5. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 54.6011-1T. . . .1545-0575" and "§ 54.6071-1T. . . .1545-0575".

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impractical to issue it first under the notice and comment procedure provided in 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

Lawrence B. Gibbs,
Commissioner of Internal Revenue.

Approved: March 18, 1987.

J. Edger Mentz,
Assistant Secretary of the Treasury.
[FR Doc. 87-7306 Filed 4-1-87; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

Disposal of Mineral Materials

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for public comment.

SUMMARY: Existing regulations at 36 CFR Part 228, Subpart C authorize the noncompetitive sale of mineral materials up to 100,000 cubic yards in any one sale or 200,000 cubic yards in any one State for the benefit of any applicant in any period of twelve consecutive calendar months. This interim rulemaking would authorize the noncompetitive sale of larger amounts of mineral materials upon a determination by the Chief of the Forest Service that disposal of mineral materials in excess of the volume limitations is necessary to respond to emergency situations, to prevent the curtailment of locatable mineral operations which generate large

volumes of mineral materials as a by-product, or to respond to a critical public need for the prompt development of mineral leases or mining claims on federal lands. The agency is also requesting comments on the interim rule which it will consider in developing a final rule.

DATES: This rule is effective April 2, 1987. Comments on this rule are due on or before June 1, 1987.

ADDRESS: Send comments or inquiries to: F. Dale Robertson, Chief, (2650), Forest Service, USDA, P.O. Box 96090, Washington DC 20013-6090. The public may inspect comments received at the office of the Minerals and Geology Management Staff located in Room 606, 1621 North Kent Street, Arlington, VA, during regular business hours (8:00 a.m. to 4:00 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Steve Marshall, Minerals and Geology Staff, Forest Service, USDA, (703) 235-3142.

SUPPLEMENTARY INFORMATION: The Materials Act of July 31, 1947 [30 U.S.C. 601 et seq.] allows the Secretary of Agriculture to sell mineral materials noncompetitively where their competitive sale would be impracticable. Existing regulations at 36 CFR Part 228, Subpart C covering sales of mineral materials limit the noncompetitive sale of mineral materials to 200,000 cubic yards or weight equivalent to any entity per year per State. These regulations require that the United States receive the appraised fair market value for any mineral materials sold noncompetitively. The existing regulations do not provide for situations where the disposal of larger quantities of mineral materials is necessary to respond to emergency situations affecting public health, safety, or property, to prevent the curtailment of locatable mineral operations which generate large volumes of mineral materials as a by-product, or to respond to a critical public need for the prompt development of mineral leases issued by the United States or mining claims located under the United States mining laws.

A situation has arisen in California wherein a claimant mining locatable minerals on a National Forest may be forced to periodically cease its operations because of the 200,000 cubic yard limitation currently in effect. The claimant has a mining operation for locatable minerals where sand and gravel are produced as a by-product. Until now, this sand and gravel has been disposed of through noncompetitive sales to the claimant. It has been impractical to offer the

material competitively. This impracticability is brought on by the sand and gravel production being an integral part of the mining operation. The production rate of sand and gravel is determined by the production schedule for locatable minerals. Previously, by-product sand and gravel has been of small enough volumes that the yardage limitation has not posed a problem. Now, however, increased production of locatable minerals is scheduled. This will result in more sand and gravel being produced than can be accommodated noncompetitively under the existing regulations. This situation has convinced the Agency that it needs the flexibility to meet such rare needs in the future, wherever they may arise.

In addition to the current situation, future emergency need for disposal of this class of materials may not permit the time-consuming competition required by 36 CFR 228.58. Emergencies might include such situations as large volumes of sand and gravel being needed for constructing dikes during floods. The Agency has determined that it cannot meet a current or future emergency need without amending the existing regulations in Part 228.

This interim rulemaking will give the Forest Service the flexibility to meet a request for the noncompetitive sale of large amounts of mineral materials and to meet situations where property, health and safety are threatened. This authority will be equally applicable to all entities, whether large or small. It is similar to a rulemaking made by the Bureau of Land Management in June of 1986 [43 CFR Part 3610; 51 FR 22079; June 18, 1986].

Immediate provision for authorizing noncompetitive sales of mineral materials in excess of the volume limitations presently set forth at 36 CFR 228.59 is necessary to ensure that environmental damage and safety hazards on National Forest System Lands are prevented. If this authority is not effective immediately, the Forest Service also may be unable to respond to emergencies affecting public health, safety and property that may occur in the short-term. Therefore, in accordance with the exception in the rulemaking procedures 5 U.S.C. 553(b) and Department of Agriculture policy (36 FR 13804), it has been found upon good public cause that prior notice and other public procedures with respect to this interim rule are both impracticable and contrary to the public interest. Making the interim rule effective immediately upon publication also is consistent with the exception in the rulemaking procedures at 5 U.S.C. 553(d) which

allows a rule to take effect without thirty days prior public notice when the rule relieves a restriction such as the unconditional volume limitation set forth at 36 CFR 228.59. The Forest Service invites the public to comment on the interim rule. These comments will be considered in development of a final rule.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

This rule has been reviewed under Executive Order 12291 and USDA procedures and it has been determined that this rule is not a major rule. Additionally, it will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The interim rulemaking contains no information collection requirements requiring the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 36 CFR Part 228

Administrative practice and procedure, Environmental protection, Mines, National forests, Public lands—mineral resources, Rights of way, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

Therefore, for the reasons set forth above, Subpart C of Part 228 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 228—[AMENDED]

1. The Authority citation for Part 228 continues to read as follows:

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551), and 94 Stat. 2400.

2. Amend § 228.59 by adding a new paragraph (e) to read as follows:

§ 228.59 Negotiated or noncompetitive sales.

* * * * *

(e) **Exceptions.** (1) The Chief of the Forest Service may authorize the noncompetitive sale of mineral materials in excess of the volume limitations in paragraphs (a), (b), and (d) of this section when necessary to:

(i) Respond to an emergency affecting public health, safety or property;

(ii) prevent the curtailment of operations conducted under the United States mining laws of May 10, 1872, as

amended (30 U.S.C. 22 et seq.) which generate large volumes of mineral materials as a by-product; or

(iii) respond to a critical public need for the prompt development of a mineral lease issued by the United States or a mining claim located under the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.).

(2) Any noncompetitive sale of mineral materials in excess of the volume limitations in paragraphs (a), (b), and (d) shall be subject to such restrictions as the Chief of the Forest Service determines to be in the public interest.

(3) Nothing in this paragraph shall otherwise alter the requirements of paragraphs (a) through (d) of this section.

Dated: March 27, 1987.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 87-7304 Filed 4-1-87; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1F2439, 4F3054/R878; FRL 3180-1]

Pesticide Tolerances for Clopyralid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide clopyralid, in or on certain raw agricultural commodities. This regulation, to establish maximum

permissible levels for residues of clopyralid in or on the commodities, was requested by Dow Chemical Co., USA.

EFFECTIVE DATE: Effective on April 2, 1987.

ADDRESS: Written objections, identified by the document [PP 1F2439, 4F3054/R878], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued notices which announced the filing and/or amendment of pesticide petition (PP) 1F2439 by Dow Chemical Co., USA, P.O. Box 1706, Midland, MI 48640, proposing tolerances for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid), in or on certain raw agricultural commodities in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

The following chart shows a summary of actions on PP 1F2439 for various raw agricultural commodities, from the initial filing notice (45 FR 85153; December 24, 1980) to the amendments in 52 FR 8528 of March 18, 1987. The series of amendments during the period July 13, 1983 to March 18, 1987, consist of increasing the tolerance levels and/or proposing additional tolerances.

Commodities	45 FR 85153 Dec 24, 1980	48 FR 32078 Jul 13, 1983	51 FR 30542 Aug 17, 1986	51 FR 36853 Oct 16, 1986	52 FR 8528 Mar 18, 1987
Barley:					
Forage	5.0	9.0			
Grain	1.5	3.0			
Straw	8.0	9.0			
Cattle:					
Fat	0.05	0.1	0.2	1.0	
Meat	0.05	0.1	0.2	1.0	
Mbypt	0.05	0.1	0.2	*1.0	
Kidney	0.10		5.0	12.0	
Eggs	0.05				
Goats:					
Fat			0.2	1.0	
Meat			0.2	1.0	
Mbypt			0.2	*1.0	
Kidney			5.0	12.0	
Hogs:					
Fat	0.05	0.1			0.2
Meat	0.05	0.1			0.2
Mbypt	0.05	0.1			0.2
Horses:					
Fat	0.05		0.2	1.0	
Meat	0.05		0.2	1.0	
Mbypt	0.05		0.2	*1.0	
Kidney			5.0	12.0	
Milk, whole	0.05				

Commodities	45 FR 85153 Dec 24, 1980	48 FR 32078 Jul 13, 1983	51 FR 30542 Aug 17, 1986	51 FR 36853 Oct 16, 1986	52 FR 8528 Mar 18, 1987
Oats:					
Forage	5.0	9.0			
Grain	2.0	3.0			
Straw	5.0	9.0			
Poultry:					
Fat	0.05				0.2
Meat	0.05				0.2
Mbyp	0.05				0.2
Sheep:					
Fat	0.05	0.1	0.2	1.0	
Meat	0.05	0.1	0.2	1.0	
Mbyp			0.2	*1.0	
Kidney	0.05	0.1	5.0	12.0	
Wheat:					
Forage	5.0	9.0			
Grain	1.5	3.0			
Straw	8.0	9.0			

† Meat byproducts.

* Tolerance for liver withdrawn.

In the Federal Register of April 18, 1984 (49 FR 15267) EPA announced that Dow Chemical Co., USA filed PP 4F3054 proposing a tolerance for residues of the herbicide clopyralid in or on forage grasses at 100 ppm, subsequently amended in 51 FR 36853, October 16, 1986, by increasing the tolerance level to 500 ppm and changing the commodity description to "grasses, forage and hay".

There were no comments received in response to the notices of filing.

A related document (FAP 1H5280/R879), establishing regulations permitting residues of clopyralid in or on certain food and feed items, appears elsewhere in this issue of the Federal Register.

The Agency has evaluated the data submitted in the petition and other relevant material. The data considered include:

1. Plant and animal metabolism studies.
2. A rat oral lethal dose (LD50) with an LD50 of 4,300 milligrams/kilogram (mg/kg) of body weight.
3. A 13-week mouse feeding study with a no-observed-effect level (NOEL) of 750 mg/kg/day.
4. A 180-day feeding study with a NOEL greater than (>) 150 mg/kg/day, the highest dose tested (HDT).
5. A pilot rabbit teratology and a rabbit teratology study with a developmental NOEL > 250 mg/kg/day (HDT).
6. A rat teratology study with a developmental NOEL of 250 mg/kg/day (HDT) and a maternal toxicity NOEL of 75 mg/kg/day.
7. A 2-generation rat reproduction study with a reproductive NOEL of > 1,500 mg/kg/day.
8. A 1-year dog feeding study with a NOEL of 100 mg/kg/day.
9. A 2-year rat chronic feeding/oncogenicity study with a NOEL of 50 mg/kg/day with no observed oncogenic potential under conditions of the study up to and including 150 mg/kg/day (HDT).
10. A repeat 2-year rat chronic feeding/oncogenicity study with a NOEL of 15 mg/kg/day with no observed oncogenic potential

under conditions of the study up to 1,500 mg/kg/day (HDT).

11. A 2-year mouse oncogenicity study with no observed oncogenic potential under conditions of the study up to and including 2,000 mg/kg/day (HDT).

12. A dominant lethal assay, negative.

13. *In vivo* rat cytogenic study, negative.

14. *In vitro* *Salmonella* and *Saccharomyces* assay, negative.

15. An *in vivo* mouse host mediated assay, negative.

Based on a NOEL of 15 mg/kg/day in the repeat 2-year chronic feeding oncogenicity study and a 100-fold safety factor, the provisional acceptable daily intake (PADI) has been set at 0.15 mg/kg/day. These tolerances, and those established elsewhere in this issue of the Federal Register, have a theoretical maximum residue contribution of 0.0075 mg/kg/day and would utilize 5.06 percent of the PADI.

There are no regulatory actions pending against the registration of clopyralid. The metabolism of clopyralid in plants and animals is adequately understood for purposes of the tolerances set forth below. An analytical method, gas chromatography, is available for enforcement purposes. Because of the long lead-time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual Volume II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from:

William Grosse, Chief, Information Service Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Room 223, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

The tolerances are adequate to cover residues that would result in meat, milk,

poultry, and eggs. The Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subject in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 23, 1987.

Douglas D. Campit,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.431 is added to Subpart C to read as follows:

§ 180.431 Clopyralid; tolerances for residues.

Tolerances are established for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on the following raw agricultural commodities:

Commodities	Parts per million
Barley, forage	9.0
Barley, grain	3.0
Barley, straw	9.0
Cattle, fat	1.0
Cattle, kidney	12.0
Cattle, meat	1.0
Cattle, meat byproducts (except kidney)	1.0
Eggs	0.1
Goats, fat	1.0
Goats, kidney	12.0
Goats, meat	1.0
Goats, meat byproducts (except kidney)	1.0
Grasses, forage and hay	500.0
Hogs, fat	0.2
Hogs, meat	0.2
Hogs, meat byproducts	0.2
Horses, fat	1.0
Horses, kidney	12.0
Horses, meat	1.0
Horses, meat byproducts (except kidney)	1.0
Milk	0.1
Oats, forage	9.0
Oats, grain	3.0
Oats, straw	9.0
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, meat byproducts	0.2
Sheep, fat	1.0
Sheep, kidney	12.0
Sheep, meat	1.0
Sheep, meat byproducts (except kidney)	1.0
Wheat, forage	9.0
Wheat, grain	3.0
Wheat, straw	9.0

[FR Doc. 87-7260 Filed 4-1-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5F3299/R877; (FRL-3179-8)]

Pesticide Tolerance for Lactofen**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide lactofen in or on soybeans. This regulation to establish the maximum permissible level for residues of lactofen in or on soybeans was requested by PPG Industries, Inc.

EFFECTIVE DATE: Effective on April 2, 1987.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of November 6, 1985 (50 FR 46178), which announced that PPG

Industries, Inc., One PPG Place, Pittsburgh, PA 15272, had submitted a pesticide petition (5F3299) to EPA proposing that 40 CFR Part 180 be amended by establishing tolerances for the herbicide lactofen, 1-(carboethoxy) ethyl-5-[2-chloro-4-(trifluoromethyl) phenoxy]-2-nitrobenzoate, in or on the commodity soybeans at 0.01 part per million (ppm).

PPG Industries subsequently amended the petition, and notice was published in the Federal Register of March 25, 1987 (52 FR 9535), proposing that 40 CFR Part 180 be amended by establishing tolerances for combined residues of lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl) phenoxy]-2-nitrobenzoate and its associated metabolites containing the diphenyl ether linkage expressed as lactofen in or on the commodity soybeans at 0.05 ppm.

There were no comments received in response to the original notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered include plant and animal metabolism studies; a rat oral lethal dose (LD₅₀) with an LD₅₀ of 5,960 milligrams/kilogram (mg/kg) of body weight; a 90-day rat feeding study with a no-observed-effect level (NOEL) of 10 mg/kg/day (200 ppm); a rat teratology study with a maternal and developmental NOEL of 50 mg/kg/day with no terata up to and including 150 mg/kg/day (highest dose); a rabbit teratology study with a maternal NOEL of 4 mg/kg/day with no developmental toxicity up to and including 20 mg/kg/day (highest dose); a two-generation rat reproduction study with a NOEL of 2.5 mg/kg/day (50 ppm); a 1-year dog feeding study with a NOEL of 5 mg/kg/day (200 ppm); an 18-month mouse oncogenicity study with a statistically significant increased combined incidence of liver adenomas and carcinomas in both sexes at 37.5 mg/kg/day (250 ppm, highest dose) and a systemic Lowest Effect Level (LEL) of 1.5 mg/kg/day based on increased liver weight and hepatocytomegaly; a 2-year rat chronic feeding/oncogenicity study with a systemic NOEL of 25 mg/kg/day (500 ppm) and a statistically significant increased incidence of neoplastic nodules and foci of cellular alteration in the liver of both sexes at 100 mg/kg/day (2,000 ppm, highest dose); a rat hepatocyte unscheduled DNA synthesis assay, negative; a DNA Covalent Binding in mouse liver suggests a very low binding capacity; a chromosomal aberration study in Chinese hamster ovary cells (CHO), negative; an Ames test, negative; a second Ames test, positive in strain TA 1538 of *Salmonella typhimurium* at 5,000 and 7,500 ug/plate

(precipitates formed in plates); and a mouse hepatocyte primary culture/DNA repair assay, negative.

The Agency has evaluated dietary exposure to lactofen residues for the commodity proposed. Assuming that 100 percent of the soybean crop will have residues at the tolerance level (0.05 ppm), using a multistage model the "worst case" incremental dietary oncogenic risk is calculated to be 2.9 incidences in one million (2.9×10^{-6}). Actual risk will be less, since not all of the soybean crop will be treated, and those crops treated and sold will have residues less than 0.05 ppm. The 0.05 ppm level is based on a very conservative assumption that the herbicide and four metabolites could each be present in an amount just below the level of detection of the individual compounds (0.01 ppm).

Based on the LEL at the lowest dose tested of 1.5 mg/kg/day in the mouse oncogenicity study and a thousandfold safety factor, the acceptable daily intake (ADI) has been set at 0.0015 mg/kg/day with a maximum permissible intake of 0.09 mg/day for a 60-kg person. These tolerances have a theoretical maximum residue contribution of 0.000017 mg/day in a 1.5 kg diet and would utilize 1.13 percent of the ADI.

There are no regulatory actions pending against the registration of lactofen. The metabolism of lactofen in plants and animals is adequately understood for purposes of the tolerances set forth below. An analytical method, electron capture gas chromatography, is available for enforcement purposes. Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the "Pesticide Analytical Manual Volume II," the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from:

William Grosse, Chief, Information Services Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 223, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

There is no expectation of secondary residues in meat, milk, poultry, and eggs.

Based on the information cited above, the Agency has determined that establishing the tolerances for residues of the pesticide in or on the listed commodity will protect the public health. Therefore, tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objection must state the issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Section 408(e), 68 Stat. 514 (21 U.S.C. 346(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 18, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.431 is added to read as follows:

§ 180.431 Lactofen; tolerance for residues.

Tolerances are established for the combined residues of lactofen, 1-(carboethoxy)ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate and its associated metabolites containing the diphenyl ether linkage expressed as lactofen in or on soybeans at 0.05 part per million.

[FR Doc. 87-7258 Filed 4-1-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3179-2]

Oregon; Schedule of Compliance for Modification of Oregon's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of Oregon's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986, EPA promulgated amendments to deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a compliance schedule for Oregon to modify its program in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT:

David Hanline (HW-112), Waste Management Branch, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-2858.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by EPA if the Agency finds that the state program (1) is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (Sec. 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear at 40 CFR 271.1 through 271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Oregon

Oregon received final authorization of its hazardous waste program on January 31, 1986 (51 FR 3779, Thursday, January 30, 1986). Today EPA is publishing a compliance schedule for Oregon to obtain program revisions for the following Federal program requirement:

3006(f)—Availability of Information

The Oregon Department of Environmental Quality has agreed to obtain the needed program revisions according to the following schedule.

Regulations drafted by 2/27/87

Regulations submitted to EPA for review by 3/6/87

Public hearing on regulations by 4/17/87

Regulations submitted to the Oregon Environmental Quality Commission for adoption by 5/29/87

Oregon expects to submit an application to EPA for authorization of the above mentioned program revisions by July 1, 1987.

Authority

This notice is issued under the authority of Sec. 2022(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(B).

Dated: March 20, 1987.

Robie G. Russell,

Regional Administrator.

[FR Doc. 87-7257 Filed 4-1-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 73, 74, and 78

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends regulations in 47 CFR Parts 2, 73, 74 and 78. Amendments are made to correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for clarity and ease of understanding.

EFFECTIVE DATE: April 2, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau: (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Order

Adopted: February 26, 1987.

Released: March 12, 1987.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) In § 73.37, Applications for broadcast facilities, showing required, there are cross references to paragraph (o) of § 73.182. The references appear in

paragraphs (e) and (f). Both references should read § 73.182(1), and are corrected to so state herein. (See rule change item 3).

(b) Section 73.40 was removed from the rules in the Report and Order in Mass Media Docket 85-125 (51 FR 2704, January 21, 1986).

Cross references to it remain in three rule sections: 2.983, Application for type acceptance; 73.51, Determining operating power and 73.1690, Modification of transmission systems.

Deletion of references to § 73.40, and adding new cross references, as appropriate, are accomplished in this Order. (See rule change items 2, 4 and 11).

(c) In § 73.51, Determining operating power, paragraph (c)(2)(ii) incorrectly cross references § 73.1590(b)(1) (i) through (v), and § 73.40. (The amendment to § 73.51 to remove the § 73.40 reference is addressed in paragraph (b) above).

Section 73.1590, Equipment performance measurements, was amended in February and May, 1986. Those amendments substantially revised paragraph (b) of the section. It presently states that "measurements for spurious and harmonic emissions must be made to show compliance with transmission system requirements of § 73.44 for all AM stations. . . .", thereby directing the rule user to "AM transmission system emission limitations" found in that section.

We change § 73.51 herein to directly reference § 73.44 without detouring via § 73.1590. (See rule change item 4).

(d) The term "Hertz", as a synonym for cycle per second, has been used internationally for some years along with its derivatives kilohertz (kHz), megahertz (MHz), etc.

The Commission previously adopted an Order making the change from cycles per second to Hertz wherever appropriate in our rules. Several cycles per second designations still remain in Parts 73 and 74. Via this Order corrective changes are made. (See rule change items 5, 7, 8 and 14).

(e) The opening sentence of § 73.186 refers to the requirements of § 73.45, mentioning specifically minimum height and field strength requirements. Section 73.45, in turn, directs the rule user to see § 73.189 for this information. The opening reference in § 73.186 is changed to directly refer to § 73.189 rather than § 73.45. (See rule change item 6).

(f) The FCC's multiple broadcast station ownership rules were formerly in the separate service subparts for AM, FM and TV: Subparts A, B and E respectively. In the Report and Order in the multiple ownership proceeding (BC

Docket 78-239, MM Docket 83-46; 49 FR 19482, May 8, 1984) the Commission eliminated the separate rule sections in Subparts A, B and E and adopted a single new rule, § 73.3555, Multiple ownership, and located it in Subpart H—Rules Applicable to All Broadcast Stations.

Cross references to the eliminated rule sections remain in three rules in Parts 73 and 74: Sections 73.311, 74.732 and 74.1232. Revisions are made herein to correct the cross references to read § 73.3555. (See rule change items 9, 13 and 15).

(g) By Order, adopted March 4, 1986 (51 FR 9963, March 24, 1986), the Commission added a Note to § 73.315, Transmitter location, following paragraph (a). The Note clarified that minimum field strengths specified in § 73.315(a) did "not apply to noncommercial educational FM broadcast stations." However, this exclusion is only applicable if the noncommercial FM station operates on reserved channels. Some operate on commercial channels. The Note is clarified herein to grant exclusion as originally intended to the field strength requirements of § 73.315(a) only if the noncommercial FM station *operates on reserved channels 200 through 220*. (See rule change item 10).

(h) In the Report & Order, BCD 81-497 (47 FR 9214, March 4, 1982) the Commission added a new paragraph (e) to § 74.633.

In the Report & Order in BCD 81-793 (47 FR 55931, Dec. 14, 1982) the text of paragraph (e) was inadvertently eliminated from § 74.633 designating it paragraph "(e) RESERVED".

In an Order adopted May 17, 1985, (50 FR 23697, June 5, 1985), amendments were made to convert distance and measurement designations to the metric system. One such conversion was in § 74.633(c); however the Order incorrectly redesignated paragraph (f) as (e), removing what was assumed to be a meaningless "RESERVED" designation from the rule section.

Via this Order we will re-insert the missing text of paragraph (e), which was originally added to the rule to conform it to §§ 74.433 and 74.833 which pertain to special temporary authority. The present text of paragraph (e) will simultaneously be moved to its former (and correct) location as paragraph (f). (See rule change item 12).

(i) Section 78.18, Frequency assignments, shows the assignments of the bands of frequencies for the Cable TV Relay Service (CARS). Errors appear in the channel tables and in the footnotes thereto. Cross references to paragraph (m) of this section; which was

redesignated paragraph (1) in an earlier proceeding, is corrected; and the footnotes, which tend to be confusing as now presented, are repositioned after each Group Channel Table for clarity. (See rule change item 16).

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are inapplicable pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

5. Accordingly, it is ordered, That pursuant to section 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 2, 73, 74 and 78 of the FCC Rules and Regulations are amended as set forth below, effective on the date of publication in the Federal Register.

6. For further information on this Order, contact Steve Crane, (202) 632-5414, Mass Media Bureau.

Federal Communications Commission

James C. McKinney,

Chief, Mass Media Bureau.

List of Subjects

47 CFR Part 2

Frequency allocations, Radio.

47 CFR Part 73

Radio broadcasting.

47 CFR Part 74

Radio broadcasting, Television broadcasting.

47 CFR Part 78

Cable television, Relay service.

47 CFR Parts 2, 73, 74 and 78 are amended as follows:

1. The authority citation for Parts 2, 73, 74 and 78 continues to read as follows:

PART 2—[AMENDED]

Authority: 417 U.S.C. 154 and 303.

2. Section 2.983 is amended by revising paragraph (j) to read as follows:

§ 2.983 Application for type acceptance.

(j) An application for type acceptance of an AM broadcast stereophonic exciter-generator intended for interfacing with existing type-accepted transmitters shall include measurements made on a complete stereophonic transmitter. The instruction book required under paragraph (d)(8) of this section shall include complete specifications and circuit requirements for interconnecting with existing transmitters. The instruction book must also provide a full description of the equipment and measurement procedures for making equipment performance measurements and modulation monitoring to determine that the combination of stereo exciter-generator and transmitter meet the minimum specifications given in 73.1590.

PART 73—[AMENDED]

3. Section 73.37 is amended by revising paragraphs (e) and (f)(2) introductory text to read as follows:

§ 73.37 Applications for broadcast facilities, showing required.

(e) In addition to a demonstration of compliance with the requirement of paragraphs (a), and as appropriate, (b), (c) and (d) of this section, an application for a new AM broadcast station, or for a major change (see § 73.3571(a)(1) of this Chapter) in an authorized AM broadcast station, as a condition for its acceptance, shall make a satisfactory showing, if new or modified nighttime operation by a Class II or Class III station is proposed, that objectionable interference will not result to an authorized station as determined pursuant to § 73.182(1) of this chapter.

(f) ***

(2) Unlimited time operation, by other than a Class IV facility, will not cause objectionable skywave interference at night to an existing station, pursuant to § 73.182(1). In addition, each proposal for unlimited time operation (including Class IV proposals) shall meet at least one of the following conditions:

4. Section 73.51 is amended by revising paragraph (c)(2)(ii) to read as follows:

§ 73.51 Determining operating power.

(c) ***

(2) ***

(ii) Where the proposed transmitter power output level(s) is less than 90% of the rated power of the transmitter, equipment performance measurements

must be made to confirm that the station transmissions conform to the emission limitation specified in § 73.44, under all conditions of program operation.

5. Section 73.182 is amended by revising paragraph (a) introductory text to read as follows:

§ 73.182 Engineering standards of allocation.

(a) Sections 73.21 to 73.34, inclusive, govern allocation of facilities in the AM broadcast band of 535 to 1605 kHz. Section 73.21 establishes three classes of channels in this band, namely, clear channels for the use of high-powered stations, regional channels for the use of medium-powered stations, and local channels for the use of low-powered stations. The classes and power of AM broadcast stations which will be assigned to the various channels are set forth in § 73.21. The classifications of the AM broadcast stations are as follows:

6. Section 73.186 is amended by revising paragraph (a) introductory text to read as follows:

§ 73.186 Establishment of effective field at one kilometer.

(a) Section 73.189 provides that certain minimum field strengths are acceptable in lieu of the required minimum physical heights of the antennas proper. Also, in other situations, it may be necessary to determine the effective field. The following requirements shall govern the taking and submission of data on the field strength produced:

7. Section 73.189 is amended by revising paragraph (b)(6) to read as follows:

§ 73.189 Minimum antenna heights or field strength requirements.

(b) ***

(6) The main element or elements of a directional antenna system shall meet the above minimum requirements with respect to height or effective field strength. No directional antenna system will be approved which is so designed that the effective field of the array is less than the minimum prescribed for the class of station concerned, or in case of a Class I station less than 90 percent of the ground wave field which would be obtained from a perfect antenna of the height specified by Figure 7 of § 73.190 for operation on frequencies below 1000 kHz, and in the case of a Class II or III station less than 90 percent of the ground wave field which

would be obtained from a perfect antenna of the height specified by Figure 7 of § 73.190 for operation on frequencies below 750 kHz.

8. Section 73.201 is amended by revising the introductory text to read as follows:

§ 73.201 Numerical designation of FM broadcast channels.

The FM broadcast band consists of that portion of the radio frequency spectrum between 88 MHz and 108 MHz. It is divided into 100 channels of 200 kHz each. For convenience, the frequencies available for FM broadcasting (including those assigned to noncommercial educational broadcasting) are given numerical designations which are shown in the table below:

9. Section 73.311 is amended by revising paragraph (b)(2) to read as follows:

§ 73.311 Field strength contours.

(b) ***

(2) In connection with problems of coverage arising out of application of § 73.3555.

10. Section 73.315 is amended by revising the Note following paragraph (a) to read as follows:

§ 73.315 Transmitter location.

(a) ***

Note.—The requirements of paragraph (a) of this section do not apply to noncommercial educational FM broadcast stations operating on reserved channels. (Channels 200 through 220)

11. Section 73.1690 is amended by revising paragraph (e)(6)(i) to read as follows:

§ 73.1690 Modification of transmission systems.

(e) ***

(6) ***

(i) The combination of the utility load management exciter and transmitter conforms to the requirements of § 73.44.

PART 74—[AMENDED]

12. Section 74.633 is amended by redesignating paragraph (e) as paragraph (f); and by adding new paragraph (e) to read as follows:

§ 74.633 Temporary authorizations.

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control

over the use of the equipment during the period it is operated.

13. Section 74.732 is amended by revising paragraph (b) to read as follows:

§ 74.732 Eligibility and licensing requirements.

(b) More than one low power TV or TV translator station may be licensed to the same applicant whether or not such stations serve substantially the same area. Low power TV and TV translator stations are not counted for purposes of § 73.3555, concerning multiple ownership.

14. Section 74.961 is amended by revising paragraph (a) to read as follows:

§ 74.961 Frequency tolerance.

(a) The frequency of the visual carrier shall be maintained within 60 kHz of the assigned frequency at all times when the station is in operation.

15. Section 74.1232 is amended by revising paragraphs (b) and (f) to read as follows:

§ 74.1232 Eligibility and licensing requirements.

(b) More than one FM translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of need for such additional stations. FM translators are not counted as FM stations for the purpose of § 73.3555, concerning multiple ownership.

(f) No numerical limit is placed upon the number of FM booster stations which may be licensed to a single licensee. A separate application is required for each FM booster station. FM broadcast booster stations are not counted as FM broadcast stations for the purposes of § 73.3555, concerning multiple ownership.

PART 78—[AMENDED]

16. Section 78.18 is amended by adding new footnotes following Group Channel Tables A, C, D and E; by revising existing footnotes following Group Channel Tables B, F and K; and by revising the entries for channel boundaries for B11 and B12 in Table B and F10 and F11 in Table F to read as follows:

§ 78.18 Frequency assignments.

- (a) * * *
- (1) * * *

Group A Channels

- 1 Appropriate polarization designation:
H = Horizontally polarized propagated radio wave.
V = Vertically polarized propagated radio wave.
R = Right-handed (clockwise) elliptically polarized propagated radio wave.
L = Left-handed (counter-clockwise) elliptically polarized propagated radio wave.

2 See paragraph (1) of this section.

Note.—Polarization designations shall be in accordance with IEEE standard 100-1972 as amended.

Designation	Channel boundaries (GHz)
GROUP B CHANNELS	
B11 ¹	12.9625-12.9875
B12 ¹	12.9875-13.0125
GROUP C CHANNELS	
¹ See footnote 1 following GROUP A CHANNELS.	
² See paragraph (1) of this section.	
Note.—Polarization designations shall be in accordance with IEEE standard 100-1972 as amended.	
GROUP D CHANNELS	
¹ See footnote 1 following GROUP A CHANNELS.	
² For transmission of pilot subcarriers or other authorized narrow band signals	
GROUP E CHANNELS	
¹ See footnote 1 following GROUP A CHANNELS.	
² See footnote 2 following GROUP C CHANNELS.	
GROUP F CHANNELS	
F10 ¹	13.0645-13.0665
F11 ¹	13.0665-13.0725
¹ See footnote 1 following GROUP A CHANNELS.	
² See footnote 2 following GROUP C CHANNELS.	
³ See paragraph (1) of this section.	
GROUP K CHANNELS	
¹ See footnote 1 following GROUP A CHANNELS.	
² See paragraph (1) of this section.	

[FR Doc. 87-7268 Filed 4-1-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 80-57]

Revision and Update of Part 22 of the Public Mobile Service Rules

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rules.

SUMMARY: The Commission has determined that the Public Mobile Radio Service Rules revised in 1983 need subsequent revision. The rules were also partially revised in 1985 due to petitions for reconsideration which had been filed. The Commission now also had petitions for reconsideration before it

which have been partially granted. The Commission determined that other rules besides the ones petitioned about needed clarification or corrections. The rules have been amended to rewrite them into plain language, bringing their text up to date consistent with existing technology. In addition, revisions were made to eliminate or reduce government regulations where possible, in favor of self-regulation and a competitive marketplace.

EFFECTIVE DATE: May 4, 1987.

FOR FURTHER INFORMATION CONTACT: Carmen Borkowski, Mobile Services Division, Common Carrier Bureau, tele: (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Further Reconsideration* in CC Docket No. 80-57, FCC 87-81, Adopted March 5, 1987 and Released March 26, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Order on Further Reconsideration

1. In this Order on Further Reconsideration we are considering various petitions for reconsideration and requests for clarification of the Order on Reconsideration. 101 FCC2d 799 (1985).

2. We find merit to the petitions filed and are granting them in part. In addition, we have found that other rules need further clarifications and have proceeded to amend them. Moreover, we are taking this opportunity to correct typographical or other errors in the rules. We are granting in part a petition requesting a change in the time frame for filing Form 489 to notify completion of construction. Licensees will be able to start operating on the day they mail to the FCC the Form 489. We have also clarified the procedures for applying for fill-in transmitters in the 43 MHz band. Applicants need to file a Form 489 with a schedule B on Form 401.

3. Rules §§ 22.502(b) and 22.15(b)(2) are being amended to further clarify when interference studies are required for stations which exceed the height/power limitations. All proposed stations must do interference studies to all co-channel stations within 125 miles when one of the eight radials within a 45 degree arc of the direction of that co-

channel station exceeds the height/power limitations of § 22.505. We are also clarifying that the only way a construction permit can be extended is by filing an FCC Form 489 which specifies circumstances why the period should be extended. If a major modification at an existing location, is filed during a construction period, a Form 489 should be filed with the Form 401 if additional time to construct is needed. If both forms are not timely filed or if a Form 489 is not filed in conjunction with the 401 the original construction permit will automatically expire on the date specified in the authorization. We wish applicants to take note of the fact that the Form 489 for an extension of time should be timely filed. If the extension is denied and the construction period has expired the authorization will automatically be cancelled. However, if the modification is for a relocation, the filing of a Form 401 for a major modification, prior to the expiration date of the construction permit, extends the underlying construction permit, pending disposition of the modification application. If the modification application is granted, a new construction permit will be issued to replace the previous authorization. If the modification application is denied, the underlying construction permit would simultaneously expire.

4. The following amendments which clarify our rules are non-substantive, therefore, the notice and comments provisions of the Administrative Procedure Act (APA) are inapplicable. See 5 U.S.C. 553. These amendments are: Sections 22.9(b)(2); 22.15(b)(1) (i), (ii), (iii) and (b)(2)(i); 22.16(a); 22.39(b)(5)(ii); 22.40; 22.43(a)(3); 22.43(c)(1), (2) and (4); 22.44; 22.104; 22.106; 22.516; 22.917 and 22.920.

5. Additionally, while we believe the remaining alterations are non-substantive, even assuming *arguendo* that they are substantive, we believe good cause exists for dispensing with the APA's requirements. In light of the generally beneficial and non-controversial nature of these rule changes, notice and public comment on these changes is unnecessary and not in the public interest. These rule changes are: Sections 22.9(b)(1); 22.9(d); removal of § 22.9 (e) and (f); revision of §§ 22.43(b)(1)(i), (ii); 22.43(c)(3) and (5); 22.110; 22.117; 22.501 and 22.502.

Ordering Clauses

6. Accordingly, it is ordered, that the petitions for reconsideration filed in CC Docket 80-57 are granted to the extent indicated herein and otherwise denied.

7. It is further ordered, that pursuant to the authority found in section 4, and

303(r) of the Communications Act of 1934, as amended, Part 22 of the Commission's Rules and Regulations are amended effective May 4, 1987.

List of Subjects in 47 CFR Part 22

Communications common carriers, Radio.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Rules

47 CFR Part 22 is amended as follows:

PART 22—PUBLIC MOBILE RADIO SERVICES

1. The authority citation for Part 22 continues to read:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

2. Section 22.2 is amended by adding the following definition in alphabetical order to read as follows:

§ 22.2 Definitions.

Cardinal Radials. Those eight radials at 0, 45, 90, 135, 180, 225, 270 and 315 degrees of azimuth with respect to true north.

3. Section 22.9 is amended by redesignating existing paragraph (b)(2) as (b)(3); adding new paragraph (b)(2); removing paragraphs (e) and (f) and by revising paragraphs (b)(1) and (d) to read as follows:

§ 22.9 Standard application forms and permissive changes or minor modifications for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications, and Offshore Radio Services.

(b)(1) *Notification of status of facilities (FCC Form 489).* When construction has been completed in accordance with the radio station authorization, the licensee shall so notify the Commission using Form 489. Licensees can commence service the day Form 489 is placed in the mail to the FCC.

(2) *Extensions of time and reinstatement.* When a licensee has not completed construction in accordance with the provisions of § 22.43 of this part, a timely application for extension of time (FCC Form 489) must be filed. Form 489 shall also be used for requests for reinstatements of authorizations if filed within 30 days after the authorization expired (§ 22.44(a)(2)).

(d) *Permissive changes or minor modifications of authorization.* The

following changes do not require prior Commission authorization but merely notification. A Form 489 must be filed to notify of any permissive change and the licensee may commence service the day Form 489 is postmarked.

4. Section 22.15 is amended by revising paragraphs (b)(1) (i), (ii), (iii) and (b)(2)(i) to read as follows:

§ 22.15 Technical content of application.

(b) * * *

(1) * * *

(i) One-way facilities from 35 to 162 MHz—within 67 miles.

(ii) Two-way facilities:

(A) From 152 to 162 MHz—within 84 miles.

(B) From 450 to 460 MHz—within 67 miles.

(iii) Co-channel facilities within 125 miles when the bearing to the co-channel facility is within 22.5 degrees of a cardinal radial, where the effective radiated power exceeds the limits indicated in § 22.505 for the center of radiation height above average elevation in that radial direction.

(2) *Interference studies.* (i) The application shall contain interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those co-channel facilities (existing or proposed) identified in response to paragraph (b)(1) of this section: Provided, however, that interference studies are not required for stations which meet the minimum distance requirements established in § 22.502 and § 22.503. A notation must be made for each station meeting these requirements. The interference studies must use procedures consistent with § 22.504 and FCC Report No. R-6404, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service," by Roger B. Carey.

5. Section 22.39 is amended by revising paragraph (b)(5)(ii) to read as follows:

§ 22.39 Transfer of control or assignment of station authorization.

(b) * * *

(5) * * *

(ii) By the assignor: On FCC Form 489.

7. Section 22.40 is amended by revising paragraphs (a) and (b) to read as follows:

§ 22.40 Considerations involving transfer or assignment applications.

(a) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses or construction permits whenever applications (except those involving *pro forma* assignment or transfer of control and those for exclusive paging frequencies) for consent to assignment of a common carrier authorization, or for transfer of control of a permittee or licensee, involve facilities that were:

(1) Authorized following a comparative hearing and have been operated less than one year, or;

(2) Involve facilities that have not been constructed.

(i) At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee subsequent to the grant of the authorization, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

(b) *Cellular systems*: The sale of a cellular construction permit will only be permitted after a showing that the transferor is not speculating in cellular licenses. The burden of proof is on the transferor. See also § 22.920.

8. Section 22.43 is amended by adding new paragraphs (b)(1) (i) and (ii) and by revising paragraphs (a)(3) and (c) to read as follows:

§ 22.43 Period of construction.

(a) * * *

(3) If construction is not completed within the time period set forth in this rule the authorization will automatically expire. Before the period for construction expires an application for an extension of time to complete construction (FCC Form 489) may be filed. See subsection (b) of this section. Within 30 days after the authorization expires an application for reinstatement may be filed on FCC Form 489. An application for reinstatement will only be considered if the application demonstrates that the failure to file a timely application for extension or notification of completion of construction was due to causes beyond the applicant's control.

(b)(1) * * *

(i) An application for modification of an authorization (under construction) at the existing location, does not extend the initial construction period. If additional time to construct is required, an FCC Form 489 must be submitted in conjunction with the FCC Form 401 requesting modification.

(ii) If an FCC Form 401 construction permit modification application is filed to relocate a base station, prior to the expiration date of the construction permit, because of a loss of a site or other involuntary reasons due to causes beyond the applicant's control, the underlying construction permit will automatically be extended pending disposition of the modification application.

(c) *Cellular base stations*. (1) Cellular base stations, which will provide coverage over 75% of the cellular geographic service area, as defined in § 22.903 of these rules, shall be completed and the station ready for operation within 36 months from the date the radio station authorization is granted.

(2) For systems beyond the top-90 markets, construction of an initial phase of the system, which may consist of one or more cells, must be completed, and a notification on Form 489 that the system is ready to commence service to the public must be filed, within 18 months from the date the radio station authorization is granted.

(3) Subsequent modifications to any initial authorizations in a market (partially constructed or unconstructed facilities) are granted for a period of one year or if more than one year remains in the initial authorization the remaining construction period of the original authorization will be assigned to the modification.

(4) Failure to begin service in a timely manner in accordance with this rule will result in the termination of the authorization; unless a station is constructed and the failure to commence service is for reasons of inability to obtain state certification in a state that permits construction before certification is obtained. The licensee is required to show proof of state law requirements.

(5) If a licensee fails to provide 75% coverage of the CGSA within 36 months of the initial license grant; the licensee will be required to reduce the CGSA to meet the 75% coverage.

9. Section 22.44 is amended by revising paragraph (a)(1) and (a)(2) to read as follows:

§ 22.44 Termination of authorization.

(a)(1) All authorizations shall terminate on the date specified on the

authorization or on the date specified by these rules, unless a timely application for renewal has been filed.

(2) If no application for renewal has been made before the authorization's expiration date, a late application for renewal will only be considered if it is filed within 30 days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control. During this 30 day period reinstatement applications must be filed on FCC Form 489. Service to subscribers need not be suspended while a late filed renewal application is pending, but such service shall be without prejudice to Commission action on the renewal application and any related sanctions.

10. Section 22.104 is amended by revising paragraph (a)(1) to read as follows:

§ 22.104 Emission types.

(a)(1) *General*. Stations in the public land mobile, rural radio, and offshore radio services are automatically authorized the following emission designators: 15K0F2D, 16K0F3E, 16K0F3C, 16K0F1D, and 16K0F1E. Stations in the Domestic Public Cellular Radio Telecommunications Service are automatically authorized 40K0F3E and 40K0F1D emission designators. Equipment must be type-accepted for the specific emission-designators utilized. Requests for emissions other than those listed in this section require prior Commission authorization.

11. Section 22.106 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 22.106 Emission limitations.

(b) * * *

(1) * * *

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in KHz) of more than 10 KHz up to and including 250 percent of the authorized bandwidth: At least 29 Log₁₀ fd²/11 decibels or 50 decibels, whichever is the lesser attenuation;

12. Section 22.110 is amended by adding paragraphs (a)(5) and (e) to read as follows:

§ 22.110 Antenna polarization.

(a) * * *

(5) Control and repeater stations in the 900 MHz Band.

(e) Control frequencies listed in § 22.501(g) (1) and (2) may use either horizontal or vertical polarization.

13. Section 22.117 is amended by revising paragraph (b) introductory text and (b)(1) to read as follows:

§ 22.117 Transmitters.

(b) *Additional transmitters.* Licensees may construct and operate additional transmitter locations on the same frequency without obtaining prior Commission approval, except licensees operating on one way paging frequencies in the 900 MHz band, provided:

(1) The Commission is notified of the new transmitter(s), through the filing of a Form 489 along with a completed Schedule B from Form 401. The Form 489 shall include a certification that the reliable service area contour and predicted interference contour of the proposed station are totally encompassed within the reliable service area contour and predicted interference contour of the existing station(s). The currently authorized reliable service area contour and predicted interference contour of the station or other commonly owned stations are not enlarged in any direction. Cellular licensees certify that the 39 dBu contours of each cell remain within the CGSA.

(i) "Additional transmitters" in the 43 MHz band will be permitted only on a developmental basis, subject to the conditions set forth in Public Notice, *Developmental Common Carrier Paging Base Station Authorizations Assigned in the 43 MHz Spectrum*, Mimeo 4591, released May 16, 1985. Licensees must file a Form 489 along with a schedule B from Form 401 to notify the Commission of any additional 43 MHz transmitters. To request authority to operate on a permanent basis licensees must file a Form 489 for the original base facility and include all subsequent fill-in transmitters, with the same time frame testing period.

(ii) Licensees must retain a copy of a completed table MOB III found in FCC Form 401 as part of the licensees' records and this shall be made available to the Commission's staff upon request.

14. Section 22.501 is amended by revising paragraphs (a)(5) (ii), (iii), and (iv), and paragraphs (d) and (f)(1)(ii) to read as follows:

§ 22.501 Frequencies.

(a) * * *

(5) * * *

(ii) Due to interference potential the frequencies listed in (a)(4) will only be

granted on a developmental basis for two years subject to the provisions of § 22.404 (a) and (c). The provisions of § 22.404(d) are waived to permit licensees to offer service for hire. Licensees shall inform customers that service on these channels is developmental and therefore subject to cancellation at any time. When construction is completed a Form 489 shall be filed. Prior to the expiration of the developmental authorization a Form 489 shall be filed to request permanent authorization.

(iii) In accordance with § 22.406 semi-annual surveys of possible interference with television and video recorder reception in the geographic area within a two-mile radius of the base station(s) authorized herein shall be made during the first year of operation. For each survey, a different sample of at least 25 television viewers distributed approximately evenly throughout the geographic area described above shall be contacted to determine whether they have experienced TV or video recorder interference. The data should not be distorted by surveying few or no viewers within the geographic area proximate to the antenna. Therefore, for each report, the 25 television viewers geographically nearest the base station who have not previously been surveyed, shall be surveyed. In the event that all viewers within two miles have been surveyed, TV viewers shall be surveyed again, starting with those nearest the base station. If interference complaints are received either as a result of the interviews or in the normal course of business, the licensee shall determine the source and extent of such interference. The licensee shall promptly report all interference complaints and act to correct any problems, or follow official instructions.

(iv) The licensee shall submit a written report soon after the completion of each reporting period, fully evaluating the continued existence of interference. Quarterly reports shall include but shall not be limited to the following information:

- (1) Call sign.
- (2) Authorization file number.
- (3) Site location number.
- (4) No. of report (1 to 4).
- (5) Survey date(s).
- (6) Method (telephone/on-site/other).
- (7) Names, addresses and telephone numbers of persons contacted.
- (8) Time of day survey conducted (morning/ afternoon/night).
- (9) Technical solutions tested and results

(10) Names and telephone numbers of technical representatives consulted and/or employed.

(d) For assignment to base stations of communication common carriers for use exclusively in providing a one-way paging service.

MHz

35.20	43.20
35.22	43.22
35.24	43.24
35.56	43.56
35.58	43.58
35.60	43.60

Whenever feasible, the frequencies 35.22 MHz, 35.24 MHz, 35.56 MHz, 35.58 MHz and 35.60 MHz shall be assigned for use in any area prior to assignment of the frequencies 35.20 MHz, 43.20 MHz, 43.22 MHz, 43.24 MHz, 43.56 MHz, 43.58 MHz and 43.60 MHz. The frequencies 43.20, 43.22, 43.24, 43.56, 43.58 and 43.60 shall be granted on a developmental basis and subject to the same interference reporting conditions specified in 22.501(a)(5)(ii) to 22.501(a)(5)(iv).

(f) * * *

(1) * * *

(ii) Less than 10 miles. Applications for use of 72-76 MHz band frequencies less than 10 miles from Channel 4 or 5 television stations will be granted developmental authority pursuant to § 22.400 *et seq.* After successful developmental testing an application for a radio station authorization must follow the requirements of Section 22.501(f)(1)(i). Where the proposed transmitter is co-located with the television transmitter the application will be processed according to the 10-80 mile standard. Applicants must identify by call sign, all channel 4 and 5 stations within 10 miles of the proposed transmitter sites.

15. Section 22.502 is revised to read as follows:

§ 22.502 Classification of base stations.

(a) Base stations in the public land mobile service shall be classified according to antenna height above average terrain and effective radiated power in the relevant direction. This classification is not applicable to base stations in the frequency bands 454.6625-455.000 MHz, 459.6625-460.000 MHz, 470-512 MHz and 929-932 MHz.

[Antenna height above average terrain (feet)]

	Class of station			
	C	B	A	A
400 to 500.....	C	B	B	A
300 to 400.....	C	C	B	A

[Antenna height above average terrain (feet)]

200 to 300.....	D	C	C	B	B
100 to 200.....	D	D	C	C	B
0 to 100.....	E	D	D	C	C
Effective radiated power (watts)					
1.....	30	60	120	250	500

* ERP's falling anywhere between those listed above will use the next higher figure.

(b) Any station with antenna height more than 500 feet above average terrain, but with an effective radiated power within the limits prescribed in Rules § 22.505 shall be considered to be a Class A station.

16. Section 22.516 is amended by revising paragraph (b)(2) to read as follows:

§ 22.516 Usage showing for additional channels.

* * * * *

(b) * * *

(2) The survey shall state (i) the channel occupancy reported separately for the busiest hour on each of three days, for all frequencies, both VHF and UHF; (ii) the number of two-way mobile stations, tone-only pagers, tone-plus-voice pagers, and tone digital readout pagers; (iii) the specific assignment of each channel to specific trunk groups, if any; (iv) the date and time of the survey.

* * * * *

17. Section 22.913 is amended by removing paragraph (a)(10) and revising and redesignating existing paragraph (a)(11) as paragraph (a)(10).

§ 22.913 Content and form of applications.

(a) * * *

(10) An exhibit setting forth the information required by § 22.13(a)(1). In addition, all applicants other than publicly-traded corporations must disclose those parties with any ownership interest in the applicant who also hold any ownership interest in another cellular application for the same market.

* * * * *

18. Section 22.917 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 22.917 Demonstration of financial qualifications.

* * * * *

(b) * * *

(1) * * *

(ii) An applicant relying on internal financing must submit the information required by § 22.917(a)(3), current within 90 days of the submission date of the financial information, in conformance with generally accepted accounting principles, to demonstrate its financial ability.

19. Section 22.920 is amended by revising paragraph (a) to read as follows:

§ 22.920 Considerations involving transfer or assignment applications for cellular authorizations.

(a) The provisions of § 22.40 of this part shall apply to transfers or assignments of cellular authorizations except as provided in § 22.920(b).

* * * * *

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[FRA Docket No. RSOR-6, Notice No. 17]

Technical Amendments; Control of Alcohol and Drug Use in Railroad Operations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is making technical amendments to its rules on alcohol and drug use in railroad operations. The amendments designate a new laboratory for analysis of samples under the program of post-accident toxicological testing.

DATE: The amendments are effective on April 2, 1987.

FOR FURTHER INFORMATION CONTACT:

Walter C. Rockey, Jr., Executive Assistant to the Associate Administrator for Safety, FRA (Telephone: 202-366-0897) or Renee M. Marler, Attorney, Office of Chief Counsel (Telephone: 202-366-0628).

SUPPLEMENTARY INFORMATION:

In order to facilitate the prompt and complete analysis of samples provided in connection with mandatory post-accident testing under Subpart C, Part 219, title 49 of the Code of Federal Regulations, FRA has designated a new laboratory to be responsible for this analysis. Accordingly, in the future samples collected under this program are *not* to be submitted to the Federal Aviation Administration's Civil Aeromedical Institute laboratory in Oklahoma City, but instead are required to be submitted to the following:

Center for Human Toxicology,
University of Utah, Room No. 38,
Skaggs Hall, Salt Lake City, Utah
84112

The Center operates a reference-quality forensic toxicology laboratory that will

analyze samples for identified controlled substances and alcohol.

Other details of the mandatory post-accident testing program, and other elements of the FRA rule on control of alcohol and drug use in railroad operations (49 CFR Part 219) remain unchanged. (FRA is reviewing the implementation of the alcohol/drug rule in a pending safety inquiry (52 FR 2118; Jan. 20, 1987), for which the comment deadline has been extended to April 6, 1987 (52 FR 7185).)

Regulatory Procedures

The Administrator finds that notice and opportunity for comment are not required because the subject amendments involve rules of agency organization, procedure and practice. The Administrator further finds that there is good cause for making the rule effective in less than 30 days from the date of publication, since designation of a laboratory is a matter within the administrative judgment of the agency and since prompt designation of a new laboratory is important to the efficient conduct of the post-accident testing program.

This amendment to the final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The amendment does not have any paperwork or economic impact. It is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Therefore, in consideration of the foregoing, Part 219, title 49, Code of Federal Regulations is amended as follows:

PART 219—[AMENDED]

1. The authority for Part 219 continues to read as follows:

Authority: Secs. 202 and 209, Pub. L. No. 91-458, 84 Stat. 971 and 975, as amended (45 U.S.C. 431, 438), and 49 CFR 1.49. Subpart C also issued under sec. 208, Pub. L. 91-458, 84 Stat. 974, as amended (45 U.S.C. 437).

§ 219.5 [Amended]

2. Section 219.5 is amended by removing the text of paragraph (b) and inserting in lieu thereof "[Reserved]"

3. Section 219.205 is amended by revising paragraphs (c) and (d) to read as follows:

§ 219.205 Sample collection and handling.

* * * * *

(c) *Shipping kit.* (1) FRA and the laboratory designated in Appendix B to this part make available for purchase a limited number of standard shipping kits for the purpose of routine handling of toxicological samples under this subpart. Whenever possible, samples shall be placed in the shipping kit prepared for shipment according to the instructions provided in the kit and the Field Manual. Specifications for kits are contained in the Field Manual.

(2) Kits may be ordered directly from the laboratory designated in Appendix B to this part.

(3) FRA maintains a limited number of kits at its field offices. A Class III railroad may utilize kits in FRA possession, rather than maintaining such kits on its property.

(d) *Shipment.* Samples shall be shipped by pre-paid air freight (or other

means adequate to ensure delivery within twenty-four (24) hours) to the laboratory designated in Appendix B to this part. If courier pickup is not available at the medical facility where the samples are collected, the railroad shall promptly transport the shipping kit holding the samples to the nearest point of shipment via air freight or equivalent means.

4. Section 219.11 is amended by revising paragraph (a)(1) to read as follows:

§ 219.211 Analysis and follow-up.

(a) (1) The laboratory designated in Appendix B to this Part undertakes prompt analysis of samples provided under this subpart, consistent with the need to develop all relevant information and produce a complete report.

* * * * *

5. Part 219 is further amended by adding a new Appendix B to read as follows:

Appendix B—Designation of Laboratory for Post-Accident Toxicological Testing

The following laboratory is currently designated to conduct post-accident toxicological analysis under Subpart C of this Part:

Center for Human Toxicology, University of Utah, Room No. 38, Skaggs Hall, Salt Lake City, Utah 84112, Telephone No. (801) 581-5117

Issued in Washington, DC, and March 30, 1987.

John H. Riley,

Federal Railroad Administrator.

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