reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environmental, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before December 22, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularly the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the hearing of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.1005 is amended by revising paragraph (e)(1) to read as follows:

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(e) * * *

(1) Hydrogen peroxide solution identified in and complying with the specifications in this section may be used by itself or in combination with other processes to treat food-contact surfaces to attain commercial sterility at least equivalent to that attainable by thermal processing for metal containers as provided for in Part 113 of this chapter. Food-contact surfaces include the following:

Substances	Limitations
Ethylene-acrylic acid copolymers.	Complying with § 177.1310 of this chapter.
Ethylene-methyl acrylate copolymer resins.	Complying with § 177.1340 of this chapter.
Ethylene-vinyl acetate copolymers.	Complying with § 177.1350 of this chapter.
Ionomeric resins	Complying with § 177.1330 of this chapter.
Olefin polymers	Complying with § 177.1520 of this chapter.
Polyethlene-terephthalate polymers.	Complying with § 177.1630 of this chapter (excluding polymers described in § 177.1630(c)) of this chapter.
Polystryrene and rubber-modified polystyrene polymers.	Complying with § 177.1640 of this chapter.
Vinylidene chloride/methyl acrylate copolymers.	Complying with § 177.1990 of this chapter.

* * * * *

Dated: November 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–26988 Filed 11–21–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is issuing a rule which interprets 18 U.S.C. 4210(b)(2) as requiring the automatic forfeiture of all time on parole when the Commission revokes parole and the parolee has sustained a conviction for any crime punishable by imprisonment. The purpose of this interpretation is to resolve a doubt recently raised by a federal appellate court as to whether forfeiture of "street time" is discretionary with the Commission, or whether it is a non-discretionary penalty imposed by law.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Janice G. McLeod, Attorney, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland, Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Prior to 1976, federal law prohibited any of the time a parolee spent on parole to be credited toward his sentence, if his parole were revoked for any reason. 18 U.S.C. 4205 (1948). In 1976, Congress revised this penalty at 18 U.S.C. 4210(b) to limit automatic forfeiture of "street time" to situations where the parolee has sustained a new conviction for a crime committed while on parole, if that crime is punishable by imprisonment, detention, or incarceration in any penal facility.

Forfeiture of street time was made discretionary in the case of absconders from supervision, in 18 U.S.C. 4210(c). But the Commission was not given the option to forgo forfeiture in the case of a new conviction under section 4210(b)(2). The only decision that statute leaves to be made by the Commission is whether "all or any part of the unexpired term being served at the time of parole" shall be concurrent with, or consecutive to, any new sentence. This language, by definition, presupposes no credit for the time served after the date of release on parole.

This view was accepted in *Harris* v. *Day*, 649 F.2d 755, 760 (10th Cir. 1981), holding that "the parolee who has been convicted of a new crime automatically forfeits the time spent on parole."

However, in *Boniface* v. *Carlson*, 856 F.2d (9th Cir. 1988), another appellate court assumed, but did not hold, that "forfeiture is not automatic or certain but is discretionary with the Commission." The Commission believes that this assumption is in error, and that *Harris* v. *Day*, *supra*, is the correct interpretation of the law.

Therefore, the U.S. Parole Commission has unanimously voted to promulgate a formal interpretation of its enabling statute.

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and Parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.52(c)(2) is revised to read as follows:

§ 2.52 Revocation decisions.

* * * * *

(c) * * *

(2) It is the Commission's interpretation of 18 U.S.C. 4210(b)(2) that, if a parolee has been convicted of a new offense committed subsequent to his release on parole, which is punishable by any term of imprisonment, detention, or incarceration in any penal facility, forfeiture of time from the date of such release to the date of execution of the warrant is an automatic statutory penalty, and such time shall not be credited to the service of the sentence. An actual term of confinement or imprisonment need not have been imposed for such conviction; it suffices that the statute under which the parolee was convicted permits the trial court to impose any term of confinement or imprisonment in any penal facility. If such conviction occurs subsequent to a revocation hearing the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate. However, in no event shall the violator term imposed under this subsection, taken together with the time served before release, exceed the total length of the original sentence.

* * * * *

Issued at Chevy Chase, Maryland, November 1, 1988.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 88-26850 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Regional Office File Disclosure

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is making a procedural revision to its rule at 28 CFR 2.56 entitled "Disclosure of Parole Commission Regional Office File", with regard to the handling of Bureau of Prisons' documents found in Parole Commission files. The Commission will now provide for the referral of any Bureau of Prisons (BOP) documents in a parole file to the Bureau for disclosure processing when the requester indicates that he wants copies of BOP documents found in his parole file. This change is intended to make the Commission's disclosure procedures conform with the departmental regulation governing referral of documents.

EFFECTIVE DATE: December 22, 1988.

FOR FURTHER INFORMATION CONTACT: Janice G. McLeod, Attorney, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: At present, when there are Bureau of Prisons' documents in a parole file that fall within the scope of an inmate or parolee's disclosure request, the Commission refers the requester to the Bureau of Prisons for copies of these documents.

In order to be more responsive to inmate and parolee disclosure requests and to conform with a departmental regulation found at 28 CFR 16.4(c) concerning referral of documents, the Parole Commission is amending its disclosure regulation to provide for the referral of any Bureau of Prisons documents in a parole file to the Bureau of Prisons in those instances where the requestor indicates that he wants copies of any BOP document in his parole file.

This procedural change will be implemented by written notice to the requestor that his parole file contains Bureau of Prisons documents. The requestor will be asked to inform the Commission if he wants the Bureau of Prisons documents in his parole file processed. If so requested, the Commission would then copy and refer to the Bureau of Prisons any documents that originated with that agency for disclosure processing and a direct response to the requestor.

Bureau of Prisons documents found in a parole file are duplicates of documents found in an institutional (BOP) file. Many inmate and parolee requestors simultaneously submit disclosure requests to the Bureau of Prisons and the Parole Commission. Since the inmate has access to the reviewable disclosure section of his institutional file at his place of incarceration, requests for disclosure submitted to the BOP by inmates are generally processed before a request that is simultaneously submitted to the Parole Commission. Thus, any BOP documents in a Parole Commission file may have already been processed and released to the requestor by the Bureau of Prisons by the time the Commission processes a pending disclosure request. This may result in the inmate paying reproduction costs twice for the same documents.

This rule change will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.56(b) is revised to read as follows:

§ 2.56 Disclosure of Parole Commission regional office file.

* * * * *

(b) *Scope of disclosure.* Disclosure under this section shall extend to Commission documents concerning the prisoner or parolee making the request. Documents which are contained in the regional file and which are prepared by agencies other than the Commission which are also subject to the provisions of the Freedom of Information Act, shall be referred to the appropriate agency for a response pursuant to its regulations, unless the document has previously been prepared for disclosure pursuant to § 2.55, or is fully disclosable on its face, or has been prepared by the Bureau of Prisons. Any Bureau of Prisons

documents in a parole file are duplicates of records in the inmate's institutional file. Before referring these documents to the Bureau of Prisons (BOP), the Commission will ask the requestor whether he also wants the BOP documents in his parole file processed.

Dated: November 1, 1988.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 88-26848 Filed 11-21-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-225-D]

Occupational Exposure to Formaldehyde; Start-Up Date

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

ACTION: Final rule; extension of start-up date.

SUMMARY: On December 4, 1987, the Occupational Safety and Health Administration (OSHA) published in the **Federal Register** a final rule regulating occupational exposure to formaldehyde (29 CFR 1910.1048, 52 FR 46168). On February 2, 1988, the Office of Management and Budget (OMB), in accordance with its authority under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and 5 CFR Part 1320, approved the information collection requirements contained in the final rule with the exception of those contained in paragraphs (m)(1)(i) through (m)(4)(ii), and on October 7, 1988, OMB approved paragraph (m)(1)(i) for one year and paragraphs (m)(1)(ii)–(m)(4)(ii) for three years.

On November 8, 1988, OSHA announced that it intended to provide a sixty-day start-up period from the date of OMB's approval until December 6, 1988, before it would begin enforcing the newly approved hazard communication provisions. 53 FR 45080. OSHA also announced that it would use the period November 8 through November 29 to collect additional comment concerning matters raised in an application for an administrative stay of the labeling requirement filed by the Formaldehyde Institute and others. Specifically, OSHA sought comment concerning the appropriateness of the labeling requirement and the feasibility of measuring formaldehyde emissions at the 0.1 ppm level, and whether the Agency should undertake additional rulemaking to reconsider the labeling requirement in paragraph (m)(1)(i) through (m)(4)(ii). The Agency set November 29, 1988, as the closing date for comments in order to complete its consideration of the Formaldehyde Institute's application for an administrative stay by the December 6 effective date.

This notice further extends the start-up date for compliance with the newly approved hazard communication provisions to December 20, 1988. The extension is necessary to permit judicial consideration of a motion filed by the Formaldehyde Institute on November 10, 1988, seeking a court-ordered stay of the cancer labeling requirements of the standard.

EFFECTIVE DATE: December 20, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, U.S. Department of Labor, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: OSHA is extending the start-up date for the hazard communication requirements at paragraphs (m)(1)(i) through (m)(4)(ii) of 29 CFR 1910.1048 in order to afford the United Staes Court of Appeals for the District of Columbia Circuit a meaningful opportunity to act on the Formaldehyde Institute's November 10 motion for a judicial stay, if such action is necessary. See, *UAW, et al.* v. *John A. Pendergrass*, DC Cir. No. 87-1743.

The Formaldehyde Institute's motion for a judicial stay of the cancer labeling provisions challenges both their efficacy and feasibility. This is also the substance of the Institute's application for an administrative stay. OSHA is now in the process of receiving additional comment on the feasibility and efficacy of that provision. The Agency will complete its consideration of those comments and announce its decision concerning the Institute's petition by December 6, 1988. It would be wasteful and confusing for the Agency, in the context of a response to the Institute's motion, to set before the court views concerning the previously-developed record while at the same time collecting further evidence that could affect the Agency's assessment of the need for a stay. Moreover, the Institute's motion for a judicial stay could be rendered moot, in whole or in part, by the Agency's December 6 ruling on the application for an administrative stay.

Authority and Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4(b), 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1597, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736) and 29 CFR Part 1911.

List of Subjects in 29 CFR Part 1910

Formaldehyde, Occupational Safety and Health, Chemicals, Cancer, Health, Risk assessment.

Signed at Washington, DC this 17th day of November 1988.

John A. Pendergrass,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 88-26992 Filed 11-21-88; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3475-1]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice, EPA is approving amendments to the State of Oregon visibility protection program, submitted by the Oregon Department of Environmental Quality (ODEQ) on March 3, 1987, as a revision to the Oregon state implementation plan (SIP). These amendments were submitted to satisfy the requirements of section 169A (Visibility Protection) of the Clean Air Act (hereinafter referred to as the Act).

EFFECTIVE DATE: December 22, 1988.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-87-10), Environmental Protection Agency, 1200 Sixth Avenue, AT-092, Seattle, Washington 98101.

State of Oregon, Department of Environmental Quality, 811 Southwest Sixth Avenue, Portland, OR 97204.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460