

procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the regulation will have no effect on commercial navigation, or on any industries that depend on waterborne transportation. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46; 33 CFR 1.05-01(g).

2. Section 117.569 is revised to read as follows:

§ 117.569 Pocomoke River.

(a) The Conrail railroad bridge, mile 15.2, at Pocomoke City, shall open on signal, except between November 1 and March 31 the draw must open only if at least five hours advance notice is given.

(b) The draw of the Route 675 bridge, mile 15.6, at Pocomoke City, shall open on signal, except between November 1 and March 31 the draw must open only if at least five hours advance notice is given.

(c) The draw of the S12 bridge, mile 29.9, at Snow Hill, shall open on signal if at least five hours advance notice is given.

Dated: April 27, 1988.

A.D. Breed,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 88-10286 Filed 5-9-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Land Uses and Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule would revise the existing regulations governing special uses of National Forest System lands and resources to remove ambiguities regarding First Amendment rights of assembly and free speech within the National Forest System.

DATE: This rule effective May 10, 1988. Comments must be received in writing by July 11, 1988.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2300), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this interim rule in the Office of the Director, Recreation Management Staff, Room 4225, South Building, 12th and Independence Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: W.T. Svensen Recreation Staff, (202) 382-9407.

SUPPLEMENTARY INFORMATION: The rules at 36 CFR Part 251, Subpart B, govern the authorization of all uses of National Forest System lands, improvements, and resources, except the disposal of timber (Part 223) and minerals (Part 228) and the grazing of livestock (Part 222).

The existing rule establishes two types of group events, differentiating between recreation events and special events, both of which involve groups of 10 or more participants and/or spectators. The existing rule also contains different standards for the denial of special use authorizations for each type of group event. A Federal District Court recently held that it is unconstitutional to require a group to obtain a special use authorization simply because they gather to exercise their constitutional right of free speech. The Court explained that the Forest Service has every right to regulate large group use of government land, but only if the regulation is content-neutral and applies to all large groups. *United States v. Israel*, No. CR-86-027-TUC-RMB (May 10, 1986).

In response, the Department is revising 36 CFR 251.50 through .54 to refine the definitions of special uses, eliminate the terms "recreation event" and "special event", to add a new term "group event", and to add proper safeguards for protecting all First Amendment activities.

Paragraph (c) of § 251.50 is being revised to more clearly articulate that a special use authorization is not required for the noncommercial use or occupancy of National Forest System lands or facilities for most recreational activities, unless authorization of such use is required by an order issued pursuant to

36 CFR 261.50, or required by a regulation issued pursuant to 36 CFR 261.70, or unless the use is for a group event. The major change in this paragraph is that special use authorizations are required for all organized or publicized events involving groups of 25 or more persons. The interim rule classifies every organized or publicized group of 25 or more persons as a "group event" irrespective of the purpose of the gathering.

Section 251.51 of the existing rule contains definitions used in Part 251, Subpart B. The interim rule removes the terms and definitions for "recreation event" and "special event", which will no longer be used in this Subpart, and adds new terms and definitions for "group event", "distributing noncommercial printed material", and "noncommercial printed material". The term "group event" covers all organized or publicized gatherings of 25 or more people, and thus includes groups currently included in the "special events" or "recreation events" categories, as well as groups currently not subject to the special use authorization requirement. "Distributing noncommercial printed material" and "noncommercial printed material" are new terms which are defined in the interim rule. These terms and definitions are added to clarify that special use authorization for this First Amendment activity will be granted unless certain conditions specified in § 251.54 are not met.

Section 251.53 of the existing rule contains the authorities under which special use authorizations may be issued. In this interim rule, paragraph (a) is changed to reflect new terms which are now used in this subpart.

Existing § 251.54 prescribes procedures and requirements of special use applications. Paragraphs (h) and (i) of this section describe reasons that an authorized officer may deny special use applications. In the interim rule, existing paragraph (i) is redesignated as paragraph (h) and revised to provide that applications for a special use authorization for the distribution of noncommercial printed material or for a group event for the purpose of public expression of views shall be granted, unless the authorized officer determines that the planned event or use would conflict with another use which has been previously authorized, the planned event or use would present a clear and present danger to public health or safety, or the planned event or use would be of such nature and duration that it could not reasonably be accommodated in the particular place

and time applied for considering such things as damage to resources or facilities, interference with ongoing resource program activities, or impairment of other public uses authorized for the area, or the application proposes activities that are prohibited by the rules at Part 261 of this chapter or that violate the provisions of Federal or State criminal law.

Existing paragraph (h) is redesignated as paragraph (i) and changes the introductory text to read that an authorized officer may deny issuance of an authorization for various reasons. These reasons are the same as those listed in the current rule in paragraph (h), with one exception. An authorized officer may now deny an authorization if there is no person or entity authorized to sign a special use authorization on behalf of the group, or if there is no person or entity willing to accept responsibility for the group's compliance with the terms and conditions of the authorization. This condition of denial will also apply to applications for all other special use authorizations. This requirement has been in the Forest Service Manual for some time, but inadvertently has not been incorporated in the rules. These changes are made to more clearly articulate that applications for authorization for the distribution of noncommercial printed material or for a group event for the public expression of views may only be denied for very limited and nondiscretionary reasons. It should be noted that applications for, and processing of, special use authorizations for all other types of group events are subject to the same rules applicable to all other special uses.

Existing § 251.62 defines acceptance of a special use authorization. In the interim rule, particular reference to term permits is removed, as a term permit is only one type of permit used to authorize special uses. The Forest Service also issues other permits, and these permits should also be subject to the rules of acceptance. In the interim rule, this section is also changed to show that refusal of an applicant to sign and accept a lease or a permit within the time allowed, and before its final approval and signature by an authorized officer, shall terminate an application and constitute denial of the requested use and occupancy.

In addition to the changes at 36 CFR Part 251, the interim rule makes corollary amendments to the rules at 36 CFR Part 261, Subpart A, which contain general prohibitions in effect on the National Forest System. The interim rule revises the authority citation for Part 261 to delete obsolete references and

amends paragraph (g) of § 261.10 to make this paragraph consistent with the definition of "noncommercial printed material" as defined in 36 CFR 251.51.

With the changes in definitions and establishment of very limited circumstances under which an authorized officer can deny a special use authorization for the public expression of views, the Department believes it preserves the fundamental constitutional rights of speech and assembly while providing reasonable administrative mechanisms to control or prevent impacts on resources and public health and safety.

In accordance with exceptions to rulemaking procedures in 5 U.S.C. 533 and Department of Agriculture policy (36 FR 13804), it has been found and determined that advance notice and request for comments would be impracticable and contrary to the public interest. Because of the decision in *United States v. Israel*, the current rule pertaining to special use authorizations for large group gatherings on the National Forest System is unenforceable. The summer field season is close at hand, and large groups will soon be gathering on the National Forests. It is, therefore, imperative that an enforceable rule be in place so that forest officers have a mechanism, where necessary, to control the impacts of these groups and prevent unnecessary damage or risk to National Forest resources and facilities, and public health and safety. Written comments are invited on the interim rule and will be considered in promulgation of a final rule.

This interim rule has been reviewed under USDA procedures and Executive Order 12291 on Federal Regulations. It has been determined that this is not a major rule. The rule will not have an effect of \$100 million or more on the economy, substantially increase prices or costs for consumers, industry, or State or local governments, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National economy will result from this rule, since this action consists primarily of technical and administrative changes to the rule.

Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities because it imposes no record keeping requirements on small entities;

it does not affect the competitive position of small entities in relation to large entities; and, it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR Part 1320 and therefore imposes no paperwork burden on the public.

Based on both 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).

List of Subjects

36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, Water resources.

36 CFR Part 261

Law enforcement, National forests.

Therefore, for the reasons set forth in the preamble, Title 36 Chapter II, of the Code of Federal Regulations is amended as follows:

PART 251—LAND USES

1. The authority citation for Subpart B continues to read:

Authority: 16 U.S.C. 472, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761-1771.

Subpart B—Special Uses

2. In § 251.50, revise paragraph (c) to read as follows:

§ 251.50 Special uses.

(c) A special use authorization is not required for the noncommercial use or occupancy of National Forest System lands or facilities for camping, picnicking, hiking, fishing, hunting, horse riding, boating, or similar recreational activity, unless one or more of the following circumstances exists:

(1) Authorization of such use is required by an order issued pursuant to 36 CFR 261.50;

(2) Authorization of such use is required by a regulation issued pursuant to 36 CFR 261.70;

(3) The use is for a group event as defined in § 251.51 of this subpart.

3. At 36 CFR 251.51, remove the paragraph designations for each definition (a)-(n), remove the terms and

definitions for "recreation event" and "special event", and add the following new terms and definitions in the appropriate alphabetical sequence:

§ 251.51 Definitions.

"Distributing noncommercial printed material"—disseminating, posting, placing, or erecting any notice, sign, handbill, petition, or other written and/or graphic material for noncommercial purposes.

"Group event"—an organized or publicized activity involving, or expected to attract, 25 or more persons and the use of National Forest System lands, resources, or facilities.

"Noncommercial printed material"—written and/or graphic material that does not advertise, offer, or otherwise attempt to buy, sell, or exchange a commodity, product, or service.

4. At § 251.53, revise paragraph (a) to read as follows:

§ 251.53 Authorities.

(a) Permits governing occupancy and use, including group events and distribution of noncommercial printed materials, under the act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

5. In § 251.54, redesignate paragraphs (h) and (i) as (i) and (h) respectively, revise new paragraphs (h) and (i) introductory text, and add a new paragraph (i)(6) to read as follows:

§ 251.54 Special use applications.

(h) *Response to applications for the distribution of noncommercial printed material or for a group event for the public expression of views.* An authorized officer shall grant an application for authorization of distribution of noncommercial printed material or for a group event for the purposes of public expression of views, unless the officer determines that:

(1) The planned event or use would conflict with another use which has been previously approved by special use authorization, contract, or approved operating plan, under this part or Parts 222, 223, or 228 of this chapter; or

(2) The planned event or use would present a clear and present danger to public health or safety; or,

(3) The planned event or use would be of such nature and duration that it could not reasonably be accommodated in the particular place and time applied for,

considering such factors as damage to resources or facilities, interference with ongoing resource program activities, or impairment of other public uses authorized for the area; or

(4) The application proposes activities that are prohibited by the rules at Part 261 of this chapter or that violate the provisions of Federal or State criminal law.

(5) There is no person or entity authorized to sign a special use authorization on behalf of the group applying for an authorization and/or there is not person or entity willing to accept responsibility for the group's adherence to the terms and conditions of the permit.

(i) *Response to applications for all other special uses.* An authorized officer may deny issuance of an authorization for all other special uses, including group events not subject to paragraph (h) of this section, if that officer determines that:

(6) There is no person or entity authorized to sign a special use authorization on behalf of the group applying for an authorization and/or there is no person or entity willing to accept responsibility for the group's adherence to the terms and conditions of the permit.

6. Revise § 251.62 to read as follows:

§ 251.62 Acceptance.

Except for an easement, a special use authorization shall become effective when signed by both the applicant and the authorized officer. The authorization must be signed by the applicant and returned to the authorized officer within 60 days of its receipt by the applicant, unless extended by the authorized officer. Refusal of an applicant to sign and accept a special use authorization within the time allowed, and before its final approval and signature by an authorized officer, shall terminate an application and constitute denial of the requested use and occupancy.

PART 261—PROHIBITIONS

7. Revise the authority citation for Part 261 to read as follows:

Authority: 16 U.S.C. 551; 16 U.S.C. 472; 7 U.S.C. 1011(f); 16 U.S.C. 1246(i); 16 U.S.C. 1133(c)-(d)(1).

Subpart A—General Prohibitions

8. In § 261.10, revise paragraph (g) to read as follows:

§ 261.10 Occupancy and use.

(g) Disseminating, posting, placing, or erecting any paper, notice, advertising

material, sign, handbill, petition, or similar written and/or graphic matter without a special use authorization.

Date: April 19, 1988.

George M. Leonard,
Associate Chief.

[FR Doc. 88-10316 Filed 5-9-88; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 435

[BERC-97-N]

Medicaid Program; Treatment of Social Security Cost of Living Increases for Individuals Who Lose SSI Eligibility

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notification.

SUMMARY: This document provides public notice that we did not seek further review of the court decision which ordered us to require States to deduct certain cost of living increases (COLAs) in Title II (Social Security) benefits in determining an individual's eligibility for coverage under what is commonly known as the Pickle Amendment. (Section 503 of Pub. L. 94-566, 42 U.S.C. 1396a (note).) These COLAs include the increases received by the individual or his or her financially responsible spouse or other family member (e.g., a parent) as specified in current regulation.

FOR FURTHER INFORMATION CONTACT: Roy Trudel, (301) 966-4457.

SUPPLEMENTARY INFORMATION: On April 10, 1986 we published in the Federal Register (51 FR 12325) a final rule that revised regulations to conform with a decision in *Lynch v. Rank*, 604 F. Supp. 30 (N.D. Cal. 1984), involving the Pickle amendment. That amendment provides that certain aged, blind, or disabled individuals who lost Supplemental Security Income (SSI) eligibility will be considered to be receiving SSI for purposes of Medicaid eligibility, if they would be eligible for SSI except for certain Title II COLAs which they have received. That regulation was published after notice and public comment. However, it included a change to paragraph (b) of 42 CFR 435.135. "Individuals who become ineligible for cash assistance as a result of OASDI cost-of-living increases received after April 1977". This change was dictated

by the *Lynch* decision, which was on appeal at the time the regulation was published. The issue on appeal was the requirement that States deduct COLAs received by an ineligible spouse or other financially responsible relatives of the individual from the income attributed to the individual in determining the individual's eligibility for protection under the Pickle amendment. We disagreed with the District Court's order, and in the preamble to the rule advised the public that we would change the rule if we prevailed on appeal.

In *Lynch v. Dawson*, 830 F.2d 1014 (9th Cir. 1987), the Court of Appeals subsequently affirmed the District Court's order. We did not appeal this decision and therefore will not change the rule as adopted.

The regulation also contained two other changes which were not in the original rule and with respect to which we solicited comments. Although we received two comments in response to the final rule, neither of them dealt with the revised provisions to the regulation, and accordingly we are not responding to them.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: April 5, 1988.

William L. Roper,
Administrator, Health Care Financing
Administration.

[FR Doc. 88-10241 Filed 5-9-88; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-501; RM-6051]

Radio Broadcasting Services; Old Forge, NY

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of George W. Kimble, allocates Channel 259A to Old Forge, New York, as the community's first local FM service. Channel 259A can be allocated to Old Forge in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.6 miles) southwest to avoid a short-spacing to the construction permit of Station WGFB, Channel 260C, Plattsburgh, New York. The coordinates for this allotment are North Latitude 43-39-35 and West Longitude 75-03-29. Canadian

concurrence has been received since Old Forge is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective June 13, 1988. The window period for filing applications will open on June 14, 1988, and close on July 14, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-501, adopted April 7, 1988, and released May 2, 1988. 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.

List of Subjects in 47 CFR Part 3

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for New York, is amended by adding Old Forge, Channel 259A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 88-10307 Filed 5-9-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-206; RM-5702]

Radio Broadcasting Services; Etowah and Jamestown, TN

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 276C2 for Channel 276A at Etowah, Tennessee, and modifies the license of Station WVKF(FM) to specify operation on the higher class co-channel, at the request of Bvack Broadcasting, Inc., as that community's first wide coverage area FM service. This action also substitutes Channel

286A for Channel 276A at Jamestown, Tennessee and modifies the license of Station WCLC-FM at Jamestown, Tennessee. Channel 276C2 at Etowah requires a site restriction of 13.5 kilometers (8.4 miles) north of the community. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 13, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-206, adopted April 6, 1988, and released May 2, 1988. 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 contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tennessee by deleting Channel 276A and adding Channel 276C2 for Etowah; and deleting Channel 276A and adding Channel 286A for Jamestown.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 88-10311 Filed 5-9-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-442; RM-4999 et al.]

Radio Broadcasting Services; Brenham, Round Rock, Austin, Caldwell, Belton, Killeen, Brownwood, West Lake Hills and Temple, TX

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 290C2 to Round Rock, Texas, as that community's first local FM service, at the request of Round Rock Radio Group. Additionally, this action substitutes Channel 291C2 for Channel 292A at