

exempting them would affect the testing requirements for a large segment of the bottled water products on the market. Such products would not be subject to a certain frequency of testing that provides adequate assurance that such products manufactured by small businesses are as protective of the public health as those that have undergone the testing requirements for these nine contaminants under part 129. Therefore, exempting small businesses would reduce the potential public health benefits of lifting the stay.

c. *Extend compliance period.* FDA considered an extended compliance period. Lengthening the compliance period would provide regulatory relief to small entities because it would reduce the present value of the costs of testing. However, as stated in section V.B.4.b of this document, because small entities comprise a large part of the affected industry, longer compliance periods would delay any potential public health benefits of the rule. For example, if a small business had an excess level of one of the nine chemical contaminants in its bottled water product, it would not be aware of the potential public health problem as a result of the specific contaminant because the small business would not be testing during the longer compliance period. Therefore, the agency has concluded that lifting the stay is more protective of the public health.

d. *Reduced testing frequency.* Another alternative for alleviating the burden for small entities would be to reduce the testing frequency for certain chemical contaminants, including the nine chemical contaminants that are the subject of this rule. The agency believes that, in considering the issue of reduced frequency of testing, it needs to do so in the context of all chemical contaminants, not just the nine that are the subject of this rule. Reduced frequency of testing may include an entirely different scheme that may include waivers for certain chemical contaminants. The contemplation of such a scheme is better addressed in a context that includes consideration of all chemical contaminants, rather than considering and implementing a different regulatory scheme for only the nine chemical contaminants. Moreover, Congress mandated that the agency issue monitoring requirements for these nine chemical contaminants by August 6, 1998. Because the scope of this rule is limited to these nine chemical contaminants, and the agency does not have sufficient time to enlarge the scope of this rulemaking to the issue of reduced frequency of testing for all chemical contaminants, the agency is

not pursuing this alternative in this rulemaking. However, the agency plans to consider the issue of reduced frequency of monitoring for all chemical contaminants in bottled water in a future rule.

#### 5. Summary

FDA has examined the impact of the direct final rule on small businesses in accordance with RFA. This analysis, together with the preamble, constitutes RFA.

#### C. *Unfunded Mandates Reform Act of 1995*

FDA has examined the impacts of this direct final rule under the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). This rule does not require a written statement under section 202(a) of the UMRA because it does not impose a mandate that results in an expenditure of \$100 million (adjusted annually for inflation) or more by State, local, and tribal governments in the aggregate, or by the private sector, in any one year.

#### VI. Paperwork Reduction Act of 1995

FDA concludes that this direct final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### VII. Comments

Interested persons may, on or before July 27, 1998, submit to the Dockets Management Branch (address above) written comments regarding this direct final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

#### VIII. Effective Date

The agency intends to make the direct final rule effective 180 days after the publication of the confirmation notice in the **Federal Register**. The agency is providing a 180 day effective date to permit affected firms adequate time to take appropriate steps to bring their product into compliance with the standard imposed by the new rule.

#### List of Subjects in 21 CFR Part 165

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under

authority delegated to the Commissioner of Food and Drugs, 21 CFR part 165 is amended as follows:

#### PART 165—BEVERAGES

1. The authority citation for 21 CFR part 165 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 343, 343-1, 348, 349, 371, 379e.

#### § 165.110 [Amended]

2. Section 165.110 *Bottled water* is amended in the table in paragraph (b)(4)(iii)(A) by removing the superscript "1" after the entries for "Antimony," "Beryllium," "Cyanide," "Nickel," and "Thallium," and by removing the footnote to the table; in the table in paragraph (b)(4)(iii)(C) by removing the superscript "1" after the entries for "Diquat," "Endothall," "Glyphosate," and "2,3,7,8-TCDD (Dioxin)," and by removing the footnote to the table; and by removing the note that follows paragraph (b)(4)(iii)(G)(3)(iv).

Dated: May 5, 1998.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 98-12381 Filed 5-6-98; 3:57 pm]

BILLING CODE 4160-01-F

#### DEPARTMENT OF JUSTICE

#### Parole Commission

#### 28 CFR Part 2

#### Paroling, Recommitting, and Supervising Federal Prisoners: Expedited Revocation Procedure for Parole Violators

**AGENCY:** Parole Commission, Justice.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Parole Commission is adding to its regulations a provision whereby certain parolees who have been arrested and charged with violations of parole (or who are serving new sentences for crimes committed while on parole) may consent to revocation of parole upon the acceptance of a sanction within the applicable guideline range. The purpose of this procedure is to avoid the need for holding parole violators in local jails for revocation hearings, and to save the Parole Commission the time and expense of conducting hearings when an appropriate sanction can be imposed with the consent of the offender.

**DATES:** Effective June 10, 1998.

**FOR FURTHER INFORMATION CONTACT:** Pamela A. Posch, Office of General

Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492-5959.

**SUPPLEMENTARY INFORMATION:** In certain categories of cases, the U.S. Parole Commission has found that an appropriate sanction for parole failure can be determined through a review of the parolee's record and by reference to the applicable reparole guidelines. The majority of these cases involve administrative violations, drug use, and drug treatment program failure, as well as petty crimes. The sanction is revocation and a presumptive reparole date. In other cases, the violation of parole may be serious enough that the only appropriate sanction is revocation and denial of reparole. The Commission has found that many arrested parole violators in these categories are willing to waive their right to a hearing under 18 U.S.C. 4214 in order to be removed from a local jail and complete the prescribed period of imprisonment in an institution where programming and other amenities are available.

Accordingly, in 1996, the Commission approved a pilot project for an "expedited revocation procedure." After the preliminary interview has been conducted following the arrest of the accused parole violator, the Commission offers the parolee the opportunity to consent to revocation and a sanction of a definite number of months in prison. The procedure was initially limited to Category One violations on the guidelines at 28 CFR 2.20. Category Two violations and cases where the Commission proposed to deny reparole altogether ("continue to expiration") were eventually added. The procedure is also used in the case of parolees who will complete an adequate sanction by serving a new state or federal sentence, but for whom revocation of parole is necessary in order to guarantee an adequate period of parole supervision following release from imprisonment. This is accomplished by an order forfeiting the time spent on parole, which accompanies an order of revocation.

Over the course of the pilot project, 1223 cases were considered for the expedited revocation procedure, with an acceptance rate of 76.2%. The project has saved agency resources as well as critical jail space without diminishing in any respect the sanctions normally imposed by the Commission on these types of parole violators. It is to be emphasized that the "expedited revocation procedure" is in no sense a form of plea-bargaining; the Parole Commission offers the accused violator

the sanction that is considered appropriate by the Commission. If the parolee does not accept the proposed sanction, a revocation hearing is conducted. Following the hearing, any appropriate sanction may be imposed. Moreover, the parolee's acceptance of the Commission's offer does not create a "plea agreement" that can be subsequently enforced to avoid consequences required by regulation or law (e.g., a consecutive sentence that is not referenced in the Commission's offer).

It is also to be emphasized that the Parole Commission may, in its discretion, decide not to offer an expedited revocation if there is any aspect of the case that appears to warrant an in-person revocation hearing, and may rescind an offer at any time in order to schedule an in-person hearing.

#### **Executive Order 12866 and Regulatory Flexibility Statement**

The U.S. Parole Commission has determined that this proposed rule is not a significant rule within the meaning of Executive Order 12866, and the proposed rule has, accordingly, not been reviewed by the Office of Management and Budget. The proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

#### **List of Subjects in 28 CFR Part 2**

Administrative practice and procedure, Prisoners, Probation and parole.

#### **The Final Rule**

Accordingly, the U.S. Parole Commission makes the following changes to 28 CFR Part 2:

#### **PART 2—[AMENDED]**

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

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

2. 28 CFR Part 2 is amended by adding § 2.67 to read as follows:

#### **§ 2.67 Expedited Revocation Procedure.**

(a) In addition to the actions available to the Commission under § 2.47(a) and (b), and under § 2.48, the Commission may offer an alleged parole violator an opportunity to accept responsibility for his violation behavior, to waive a revocation hearing, and to accept the sanction proposed by the Commission in the Notice of Eligibility for Expedited

Revocation Procedure that is sent to the alleged parole violator.

(b) The following cases may be considered under the expedited revocation procedure:

(1) Cases in which the alleged parole violator has been given a preliminary interview under § 2.48, and the alleged violation behavior would be graded Category One or Category Two;

(2) Cases in which the alleged violator has been given a preliminary interview under § 2.48 and the proposed decision is continue to expiration of sentence, regardless of offense category; and

(3) Cases in which an alleged violator has received a dispositional review under § 2.47, and the Commission determines that conditional withdrawal of the warrant would be appropriate, but forfeiture of street time is deemed necessary to provide an adequate period of supervision.

(c) The alleged violator's consent shall not be deemed to create an enforceable agreement with respect to any action the Commission is authorized to take by law or regulation, or to limit in any respect the normal statutory consequences of a revocation of parole or mandatory release.

Dated: May 5, 1998.

**Michael J. Gaines,**

*Chairman, U.S. Parole Commission.*

[FR Doc. 98-12388 Filed 5-8-98; 8:45 am]

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## **DEPARTMENT OF JUSTICE**

### **Parole Commission**

#### **28 CFR Part 2**

#### **Paroling, Recommitting, and Supervising Federal Prisoners: Electronic Issuance of Paroling Violation Warrants**

**AGENCY:** Parole Commission, Justice.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Parole Commission is amending a regulation that requires parole violation warrants to be issued by U.S. Mail. In order to expedite the receipt of warrants by the U.S. Marshals Service, the regulation is being amended to permit warrants to be sent by electronic transmission. Although an alleged parole violator may be arrested by authorized officials who have been alerted to the issuance of a warrant but have not actually received the warrant, a procedure that will ensure the immediate receipt of warrants by arresting authorities will avoid confusion as to the Commission's instructions and the parolee's status.