

used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(x) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Testing-21 Reports

(y) Within 60 days of test date, report the results of the cool-engine fuel spike stability assessment tests (Testing-21) and on-wing Testing-21 to the ANE-142 Branch Manager, Engine Certification Office, 12 New England Executive Park, Burlington, MA 01803-5299, or by electronic mail to 9-ane-surge-ad-reporting@faa.gov. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120-0056. Be sure to include the following information:

- (1) Engine serial number.
- (2) Engine configuration designation per Table 1 of this AD.
- (3) Date of the cool-engine fuel spike stability test or on-wing Testing-21, as applicable.
- (4) HPC Serial Number, and HPC time and cycles-since-new and since-compressor-overhaul at the time of the test.
- (5) Results of the test (Pass or Fail).

Issued in Burlington, Massachusetts, on March 31, 2003.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03-8328 Filed 4-4-03; 8:45 am]

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to revise three rules that describe the conditions of release for federal and District of Columbia offenders on parole supervision, and District of Columbia offenders serving terms of supervised release. The

proposed revision consolidates similar provisions for the three groups of offenders and makes the conditions easier to read and understand. There are some minor changes in the directions given to the releasees. Finally, the Commission proposes to generally apply a condition presently required for some DC supervised releasees convicted of domestic violence offenses to all persons under supervision who were convicted of domestic violence offenses.

DATES: Comments must be received by May 7, 2003.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492-5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: The Parole Commission has the responsibility of imposing and enforcing conditions of release for those federal and District of Columbia offenders who have been released to parole supervision¹ and those District of Columbia felon offenders sentenced to a term of supervised release. Section 4209 of Title 18 U.S. Code describes the conditions of release that must be imposed for federal parolees, and permits the Commission to impose other conditions that are reasonably related to the nature and circumstances of the parolee's offense and the history and characteristics of the parolee, and other limitations that are reasonable to protect the public welfare. As a result of the transfer of parole authority required by the National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. 105-33, and laws now codified at DC Code 24-131(a) and (c) the Commission has the same broad authority granted to the former District of Columbia Board of Parole to release a prisoner on parole "upon such terms and conditions as the Board shall from time to time prescribe." DC Code 24-404(a). For District of Columbia offenders on supervised release, the Commission has the authority to impose conditions of supervised release as provided in 18 U.S.C. 3583 using the procedures outlined in the federal

parole statutes. DC Code 24-133(c)(2) and 24-403.01(b)(6).

Through the conditions of release the Commission provides guides and limitations for the releasee's conduct while under supervision. See 18 U.S.C. 4209(b) and 3583(f). The Commission imposes and enforces the conditions primarily to protect the public from a recurrence of criminal behavior by the releasee. The conditions are listed on a certificate given to the releasee at the outset of the supervision term. Examples of general conditions of release are requirements that the releasee obey all laws, remain within the geographical limits of the supervision district, and give complete and accurate reports of his activities to the supervision officer. Some conditions are required by statute, *e.g.*, that the offender refrain from unlawful use of a controlled substance or that a sex offender comply with sex offender registration laws. The Commission may also impose special conditions of release to address specific problems evident from the releasee's history, such as a requirement that the releasee participate in a drug treatment program or a mental health aftercare program.

The releasee's supervision officer is responsible for the day-to-day implementation of the release conditions.² If the releasee violates a condition of release, the consequence may range from an informal reprimand from the supervision officer or modification of release conditions to the releasee's return to prison through a revocation proceeding. Therefore, it is important that the release conditions should be sufficiently clear and specific to effectively inform the releasee of the rules he must follow under supervision. The releasee has the responsibility of seeking the guidance of the supervision officer if there is any ambiguity concerning the duties required of the releasee by the conditions.

Under the present format of the rules, the Commission has described the conditions of release that generally apply to persons on supervision in three separate rules within Part 2 of 28 CFR. Section 2.40 describes the conditions of parole for federal parolees. Section 2.85 covers conditions of parole for DC parolees. Section 2.204 lists the conditions of supervised release for DC supervised releasees. Each of these rules lists in full the general conditions of

² For federal parolees, the supervision officer is a U.S. Probation Officer. 28 CFR 2.38. DC Code offenders on parole or supervised release in the District of Columbia are supervised by community supervision officers of the Court Services and Offender Supervision Agency of the District of Columbia. 28 CFR 2.91.

¹ "Parole supervision" includes supervision of offenders for the remainder of the sentence of imprisonment after release by good time deduction. See, *e.g.*, 18 U.S.C. 4164.

release. Since the general conditions of release are virtually identical for all three groups of offenders, the rules are unnecessarily duplicative. The proposed rules reduce this duplication by using § 2.204 as the rule for the full statement of applicable conditions and then placing cross-references to § 2.204 in § 2.40 and § 2.85. Provisions that are unique to a particular group of offenders are maintained in the rules for the respective group, e.g., the rule on the effect of a prisoner's refusal to sign a release certificate is maintained in § 2.40 and § 2.85.

The rules were reorganized and edited to make the conditions easier to read and understand. The revision includes minor changes and clarifications in the directions given to releasees. For example, the revised rule at § 2.204(a)(3) changes the direction given to a releasee who has an emergency and cannot report to the designated supervision office within 72 hours of release. The revised rule instructs that a releasee in this situation shall contact the designated supervision office by telephone, rather than report to the U.S. Probation Office nearest to the releasee's location. The revised rule at § 2.204(a)(5)(ii) clarifies that a releasee is prohibited from possessing ammunition, in addition to firearms and other dangerous weapons. (Convicted felons are prohibited by 18 U.S.C. 922(g) from possessing a firearm or ammunition.) The revised rule at § 2.204(a)(4)(iii), with the cross-references in the other sections, removes any question whether the condition advising a releasee to permit visits of the supervision officer to the releasee's residence and workplace applies to federal parolees as well as DC parolees and supervised releasees.

The Commission proposes § 2.204 as the repository for the full statement of the release conditions because the Commission's workload will eventually shift from parole to DC supervised release cases, and the statute governing supervised release cases (18 U.S.C. 3583) outlines the greatest number of release conditions that Congress has mandated for persons on supervision. The proposed revision incorporates in the rules all release conditions and other provisions required by statutory law for persons in the three groups. The proposal includes a decision to generally extend a condition mandating treatment for a supervised releasee convicted of a crime of domestic violence those persons on parole supervision. The statute at 18 U.S.C. 4209 does not require the condition for federal parolees and there is no DC law that mandates this condition for DC

parolees. The Commission believes that this condition should be required for all persons on supervision who have been convicted of a crime of domestic violence.

The proposed revision retains rules on such matters as the consequence of an offender's failure to acknowledge his acceptance of release conditions by signing the release certificate and the procedures for modifying release conditions after an offender is released to the community.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this proposed rule does not constitute a significant rule within the meaning of Executive Order 12866. 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), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Proposed Rule

Accordingly, the U.S. Parole Commission proposes the following amendments 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. Section 2.40 is revised to read as follows:

§ 2.40 Conditions of release.

(a) *General conditions of release.* (1) The conditions set forth in § 2.204(a)(3)–(6) apply for the reasons set forth in § 2.204(a)(1). These conditions are printed on the certificate of release issued to each releasee.

(2) The refusal of a prisoner who has been granted a parole date to sign the certificate of release (or any other document necessary to fulfill a condition of release) constitutes withdrawal of that prisoner's application for parole as of the date of refusal. To be considered for parole again, that prisoner must reapply for parole consideration. A prisoner who is released to supervision through good-

time deduction who refuses to sign the certificate of release is nevertheless bound by the conditions set forth in that certificate.

(b) *Special conditions of release.* (1) The Commission may impose a condition other than one of the general conditions of release if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee. Examples of special conditions of release that the Commission frequently imposes are found at § 2.204(b)(2).

(2) If the Commission requires the releasee's participation in a drug-treatment program, the releasee must submit to a drug test before release, if the special condition was imposed before release, and to at least two other drug tests, as determined by the supervision officer. A decision not to impose this special condition, because available information indicates a low risk of future substance abuse by the releasee, shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 4209(a). If the Commission imposes this special condition before release, a grant of parole or reparole is contingent upon the prisoner passing all pre-release drug tests administered by the Bureau of Prisons.

(c) *Changing conditions of release.* The provisions of § 2.204(c) apply.

(d) *Appeal.* A releasee may appeal under § 2.26 an order to impose or modify a release condition not later than 30 days after the date the condition is imposed or modified.

(e) *Application of release conditions to absconder.* The provisions of § 2.204(d) apply.

(f) *Revocation for possession of a controlled substance.* If the Commission finds after a revocation hearing that a releasee, released after December 31, 1988, has possessed a controlled substance, the Commission shall revoke parole or mandatory release. If such a releasee fails a drug test, the Commission shall consider appropriate alternatives to revocation. The Commission shall not revoke parole on the basis of a single, unconfirmed positive drug test, if the releasee challenges the test result and there is no other violation found by the Commission to justify revocation.

(g) *Supervision officer guidance.* The provisions of § 2.204(f) apply.

(h) *Definitions.* For purposes of this section—

(1) The terms *supervision officer*, *domestic violence crime*, *approved offender-rehabilitation program* and *firearm*, as used in § 2.204, have the

meanings given those terms by § 2.204(g);

(2) The term *releasee*, as used in this section and in § 2.204 means a person convicted of a federal offense who has been released on parole or released through good-time deduction; and

(3) The term *certificate of release*, as used in this section and § 2.204, means the certificate of parole or mandatory release delivered to the prisoner under § 2.29.

3. Section 2.85 is revised by revising the section to read as follows:

§ 2.85 Conditions of Release.

(a) *General conditions of release.* (1) The conditions set forth in § 2.204(a)(3)–(6) apply for the reasons set forth in § 2.204(a)(1). These conditions are printed on the certificate of release issued to each releasee.

(2) The refusal of a prisoner who has been granted a parole date to sign the certificate of release (or any other document necessary to fulfill a condition of release) constitutes withdrawal of that prisoner's application for parole as of the date of refusal. To be considered for parole again, the prisoner must reapply for parole consideration. A prisoner who is released to supervision through good-time deduction who refuses to sign the certificate of release is nevertheless bound by the conditions set forth in that certificate.

(b) *Special conditions of release.* The Commission may impose a condition other than one of the general conditions of release if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee. Examples of special conditions of release that the Commission frequently imposes are found at § 2.204(b)(2).

(c) *Changing conditions of release.* The provisions of § 2.204(c) apply.

(d) *Application of release conditions to absconder.* The provisions of § 2.204(d) apply.

(e) *Supervision officer guidance.* The provisions of § 2.204(f) apply.

(f) *Definitions.* For purposes of this section—

(1) The terms *supervision officer*, *domestic violence crime*, *approved offender-rehabilitation program* and *firearm*, as used in § 2.204, have the meanings given those terms by § 2.204(g);

(2) The term *releasee*, as used in this section and in § 2.204, means a person convicted of an offense under the District of Columbia Code who has been released on parole or released through good-time deduction; and

(3) The term *certificate of release*, as used in this section and in § 2.204, means the certificate of parole or mandatory release delivered to the releasee under § 2.86.

4. Section 2.204 is revised to read as follows:

§ 2.204 Conditions of Supervised Release.

(a)(1) *General conditions of release and notice by certificate of release.* The conditions set forth in paragraphs (a)(3)–(6) of this section apply to every releasee and are necessary to protect the public welfare and to provide adequate supervision of the releasee. The certificate of release issued to each releasee by the Commission notifies the releasee of these conditions.

(2) *Effect of refusal to sign certificate of release.* A releasee who refuses to sign the certificate of release is nonetheless bound by the conditions set forth in that certificate.

(3) *Reporting arrival.* The releasee shall go directly to the district named in the certificate, appear in person at the supervision office, and report the releasee's residence address to the supervision officer. If the releasee is unable to appear in person at that office within 72 hours of release because of an emergency, the releasee shall contact that office by telephone. A releasee who is initially released to the physical custody of another authority shall follow these directions upon release from the custody of the other authority.

(4) *Providing information to and cooperating with the supervision officer.*

(i) The releasee shall, between the first and third day of each month, make a written report to the supervision officer on a form provided for that purpose. The releasee shall also report to the supervision officer at such times and in such a manner as that officer directs and shall provide such information as the supervision officer requests. All information that a releasee provides to the supervision officer shall be complete and truthful.

(ii) The releasee shall notify the supervision officer within two days of an arrest or questioning by a law-enforcement officer, a change in place of residence, or a change in employment.

(iii) The releasee shall permit the supervision officer to visit the releasee's residence and workplace.

(iv) The releasee shall permit the supervision officer to confiscate any material that the supervision officer believes may constitute contraband and that is in plain view in the releasee's possession, including in the releasee's residence, workplace, or vehicle.

(v) The releasee shall submit to a drug or alcohol test whenever ordered to do so by the supervision officer.

(5) *Prohibited conduct.*

(i) The releasee shall not violate any law and shall not associate with a person who is violating any law.

(ii) The releasee shall not possess a firearm, other dangerous weapon, or ammunition.

(iii) The releasee shall not drink alcoholic beverages to excess and shall not illegally buy, possess, use, or administer a controlled substance. The releasee shall not frequent a place where a controlled substance is illegally sold, dispensed, used, or given away.

(iv) The releasee shall not leave the geographic limits set by the certificate of release without written permission from the supervision officer.

(v) The releasee shall not associate with a person who has a criminal record without permission from the supervision officer.

(vi) The releasee shall not enter into an agreement to act as an informer or special agent for a law-enforcement agency without the prior approval of the Commission.

(6) *Additional conditions.*

(i) The releasee shall make a diligent effort to work regularly, unless excused by the supervision officer, and to support any legal dependent. The releasee shall participate in an employment readiness program if so directed by the supervision officer.

(ii) The releasee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, or court-ordered child support or alimony payment to which the releasee is subject. The releasee shall provide financial information relevant to the payment of such a financial obligation that is requested by the supervision officer. If unable to pay such a financial obligation in one sum, the releasee shall cooperate with the supervision officer to establish an installment-payment schedule.

(iii) If the term of supervision results from a conviction for a domestic violence crime, and such conviction is the releasee's first conviction for such a crime, the releasee shall, as directed by the supervision officer, attend an approved offender-rehabilitation program if such a program is readily available within a 50-mile radius of the releasee's residence.

(iv) The releasee shall comply with any applicable sex-offender registration law.

(v) The releasee shall provide a DNA sample, as directed by the supervision officer, if collection of such sample is

authorized by the DNA Analysis Backlog Elimination Act of 2000.

(vi) If the releasee is supervised by the District of Columbia Court Services and Offender Supervision Agency, the releasee shall submit to the sanctions imposed by the supervision officer within the limits established by an approved schedule of graduated sanctions if the supervision officer finds that the releasee has tested positive for illegal drugs or has committed a noncriminal violation of the conditions of release. Notwithstanding the imposition of a graduated sanction, if the releasee is a risk to the public safety, or is not complying in good faith with the sanction imposed, the Commission may revoke the term of supervision based upon the violation that caused the imposition of the sanction, the failure to comply with the sanction imposed, or both.

(b)(1) *Special conditions of release.* The Commission may impose a condition other than a condition set forth in paragraphs (a)(3)–(6) of this section if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee.

(2) The following are examples of special conditions frequently imposed by the Commission—

(i) That the releasee reside in or participate in the program of a community corrections center, or both, for all or part of the period of supervision;

(ii) That the releasee participate in a drug- or alcohol-treatment program, and abstain from all use of alcohol and other intoxicants;

(iii) That, as an alternative to incarceration, the releasee remain at home during nonworking hours and have compliance with this condition monitored by telephone or electronic signaling devices; and

(iv) That the releasee permit a supervision officer to conduct a search of the releasee's person, or of any building, vehicle, or other area under the control of the releasee, at such time as that supervision officer shall decide, and to seize contraband found thereon or therein.

(3) If the Commission requires the releasee's participation in a drug-treatment program, the releasee must submit to a drug test within 15 days of release, if the special condition was imposed before release, and to at least two other drug tests, as determined by the supervision officer. A decision not to impose this special condition, because available information indicates a low risk of future substance abuse by the releasee, shall constitute good cause

for suspension of the drug testing requirements of 18 U.S.C. 3583(d).

(c) *Changing conditions of release.* (1) The Commission, sua sponte or at the request of the supervision officer or the releasee, may at any time modify or add to the conditions of release if the Commission determines that such modification or addition is necessary to protect the public welfare and provide adequate supervision.

(2)(i) Except as provided in paragraph (c)(2)(ii) of this section, before the Commission orders a change of condition, the releasee shall be notified of the proposed modification or addition and, unless waived, shall have 10 days from receipt of such notification to comment on the proposed modification or addition. Following that 10-day period, the Commission shall have 21 days, exclusive of holidays, to determine whether to order such modification or addition to the conditions of release.

(ii) The 10-day notice requirement of paragraph (c)(2)(i) of this section does not apply to a change of condition that results from a revocation hearing for the releasee, a determination that the modification or addition must be ordered immediately to prevent harm to the releasee or to the public, or a request from the releasee.

(d) *Application of release conditions to absconder.* A releasee who absconds from supervision prevents the term of supervision from expiring and the running of the term is tolled during the time that the releasee is an absconder. A releasee who absconds from supervision remains bound by the conditions of release, even after the date that the term of supervision originally was scheduled to expire. The Commission may revoke the term of supervision based on a violation of a release condition committed by such a releasee before the expiration of the term of supervision, as extended by the period of absconding.

(e) *Revocation for certain violations of release conditions.* If the Commission finds after a revocation hearing that a releasee has possessed a controlled substance, refused to comply with drug testing, or possessed a firearm, the Commission shall revoke the term of supervision and impose a term of imprisonment as provided at § 2.218.

(f) *Supervision officer guidance.* The Commission expects a releasee to understand the conditions of release according to the plain meaning of those conditions and to seek the guidance of the supervision officer before engaging in conduct that may violate a condition of release. The supervision officer may instruct a releasee to refrain from

particular conduct that would violate a condition of release or to take specific steps to avoid or correct a violation of a condition of release.

(g) *Definitions.* As used in this section, the term—

(1) *Releasee* means a person who has been sentenced to a term of supervised release by the Superior Court of the District of Columbia;

(2) *Supervision officer* means a Community Supervision Officer of the District of Columbia Court Services and Offender Supervision Agency or United States Probation Officer;

(3) *Domestic violence crime* has the meaning given that term by 18 U.S.C. 3561, except that the term “court of the United States” as used in that definition shall be deemed to include the District of Columbia Superior Court;

(4) *Approved offender-rehabilitation program* means a program that has been approved by the District of Columbia Court Services and Offender Supervision Agency (or the United States Probation Office) in consultation with a State Coalition Against Domestic Violence or other appropriate experts;

(5) *Certificate of release* means the certificate of supervised release delivered to the releasee under § 2.203; and

(6) *Firearm* has the meaning given by 18 U.S.C. 921.

Dated: March 21, 2003.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Instruction 37–132]

Privacy Act; Implementation

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is proposing to exempt those records contained in the systems of records identified as F033 AF A, entitled “Information Requests—Freedom of Information Act” and F033 AF B, entitled “Privacy Act Request Files” when an exemption has been previously claimed for the records in “other” Privacy Act systems of records. The exemptions are intended to preserve the exempt status of the records when the purposes underlying