

applied to a sample of over 1,000 federal prisoners released in 1987.

Approximately 5% of those prisoners received an improved parole prognosis category placement as compared with the current version of the score (SFS-81). Moreover, the revised version of the score displayed a high degree of predictive accuracy. The Mean Cost Rating increased from .54 to .56, the highest recorded for a recidivism prediction device that has been subjected to validation.

Accordingly, the Commission has decided that the Salient Factor Score should be revised, in order to ensure that the Commission's decisions are based upon the most accurate available risk-prediction device. This decision accords with the intent of Congress that the Parole Commission should "* * * continue to refine both the criteria which are used (to judge the probability that an offender will commit a new offense) and the means for obtaining the information used therein." 2 U.S. Code Cong. and Admin. News at 359 (1976).

Implementation

The revised Salient Factor Score (SFS-95) would be applied at every initial parole hearing and revocation hearing held on or after the effective date of the final regulation, and retroactively to federal prisoners who have already been heard for parole or reparole, at the next scheduled statutory interim hearing under 28 CFR 2.14 and any hearing under § 2.28 or § 2.34.

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 C.F.R. Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2.

The Proposed Amendment

(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 § 2.20 is proposed to be amended by adding an instruction to the Salient Factor Scoring Manual under a new Item G as follows:

ITEM G. IF CURRENT OFFENSE WAS COMMITTED AT AGE 41 OR OLDER, ADD 1 POINT IF THE TOTAL SCORE DETERMINED ABOVE IS 9 OR LESS.

This instruction would add a seventh item to the current six-item score, without changing its current structure as a prediction device with possible scores ranging from 0 to 10 points. (A point would not be added if the total score is already 10, placing the offender at the top of the "very good" parole prognosis category.) As in any case, the Commission will exercise authority to override the prediction made by the revised score if case-specific factors indicate undiminished risk despite advancing age, eg, the career criminal offender who has played a leadership role in organized crime.

Dated: March 31, 1995.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 95-8912 Filed 4-10-95; 8:45 am]

BILLING CODE 4410-01-P

28 CFR Part 2

Paroling, Recommending, and Supervising Federal Prisoners: Fraud Offenses That Involve Multiple Millions of Dollars In Losses

AGENCY: Parole Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to establish a dollar amount range of \$1 million to \$5 million for Category Six fraud offenses in the paroling policy guidelines at 28 CFR 2.20. Frauds that cause losses of over \$5 million would be rated Category Seven. At the present time, the Category Six offense severity rating is reserved for all frauds exceeding \$1 million. The proposed guideline revision is necessary because of the increased frequency of frauds involving losses in multiples of the \$1 million threshold for Category Six, and the need for an appropriate benchmark to determine the point at which dollar amount losses are so excessive as to warrant a decision above the Category Six guidelines. The figure of \$5 million will provide that benchmark.

DATES: Comments must be received by June 12, 1995.

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

Chevy Chase, Maryland 20815. For further information contact: Pamela A. Posch, Office of General Counsel. Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: As a result of the widespread criminal investigations into unlawful practices in the banking and savings and loan industries during the 1980's, the U.S. Parole Commission has seen a significant increase in prisoners serving sentences for frauds greatly exceeding the \$1 million threshold established by the Commission in 1987 for Category Six offenses. (The guidelines at 28 CFR 2.20 do not currently provide a fraud guideline higher than Category Six.) The Commission has typically responded to such cases by determining that, if the dollar loss caused by the fraud exceeded the \$1 million threshold by significant multiples (e.g., a \$15 million fraud), a decision above the Category Six guidelines is warranted.

However, the guidelines have not provided a way for the Commission consistently to determine at what point a large-scale fraud is significant enough to warrant such a decision. Some frauds involving multiples of the \$1 million threshold are deemed to be within the guidelines, and some are not. The situation has been complicated by the fact that plea agreements in large-scale fraud offenses often produce a sentence of five years (the maximum for one count of mail fraud), which requires release (with good time credits) at 39 months. Such sentences preclude the Commission from determining where a parole decision should be made in relation to the guideline range of 40-52 months that is applicable to the typical first offender who has committed a fraud offense involving more than \$1 million in losses. This makes it difficult for the Commission to achieve a consistent practice that can inform its decision-making when the sentence is longer than five years.

Accordingly, the Commission has decided to establish a dollar range of \$1 million to \$5 million for Category Six offenses, that will be followed whenever the sentence is long enough to permit such a decision. For fraud offenses exceeding \$5 million, the offense will be rated Category Seven. Under this rating system, for example, a prisoner serving an 8-year sentence for a fraudulent investment scheme that caused losses of \$2.4 million may expect the Commission to establish a release date toward the middle of the 40-52 month guideline range for Category Six offenses, if he is a first offender and there are no other aggravating or mitigating circumstances.

Finally, it is important to emphasize that relevant factors not reflected by the dollar amount alone, such as unusually vulnerable victims, are always taken into account in reaching a final parole decision.

Implementation

The proposed rule would be applied at any initial parole hearing, or revocation hearing, conducted on or after the effective date of the final rule adopted by the Commission, if the rule is applicable to the prisoner's case. The proposed rule would also be applied retroactively to prisoners who were given parole or reparole decisions prior to that effective date, at the next statutory interim hearing conducted pursuant 28 CFR 2.14. For example, at such a statutory interim hearing, a prisoner who was continued above the Category Six guidelines for a \$5 million fraud offense, could argue for a release date within the guidelines if he can show that no other factor continues to justify a departure from the guideline range.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a significant regulatory action for the purposes 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, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2:

The Proposed Amendment

(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, § 2.20 Chapter 3, Subchapter D, Paragraph 331, is proposed to be amended to require a Category Seven rating if the value of the property is more than \$5,000,000, and to require a Category Six offense severity rating if the value of the property is more than \$1,000,000 but not more than \$5,000,000. All other dollar ranges and offense severity categories will remain as presently listed.

Dated: March 31, 1995.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-235; Amendment Number 70]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations.

This document sets forth the times and locations that the Ohio program and proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., E.D.T. on May 11, 1995. If requested, a public hearing on the proposed amendment will be held at 1:00 p.m., E.D.T. on May 8, 1995. Requests to speak at the hearing must be received by 4:00 p.m. E.D.T., on April 26, 1995.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free

copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866-0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 70 by letter dated March 28, 1995 (Administrative Record No. OH-2104). In this amendment, Ohio proposes to revise one rule at Ohio Administrative Code (OAC) section 1501:13-14-01 to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations. The substantive rule revisions proposed by Ohio in this amendment are briefly described below:

1. *Definition of "Abandoned Coal Mining and Reclamation Operation"*: Ohio is revising paragraph (A)(3) to define the term "abandoned coal mining and reclamation operation." Ohio is revising paragraph (A)(4) to exclude abandoned operations from the definition of "active coal mining and reclamation operation."

2. *Alternative Inspection Frequency at Abandoned Operations*: Ohio is adding a new paragraph (E) to authorize less frequent inspections of abandoned operations. Ohio is proposing to select a specific inspection frequency for each abandoned operation which shall be