

Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,⁸ Section 20 of the Public Utility Holding Company Act of 1935,⁹ Section 319 of the Trust Indenture Act of 1939,¹⁰ and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.¹¹

List of Subjects in 17 CFR Part 232

Incorporation by reference; Investment companies; Registration requirements; Reporting and recordkeeping requirements; Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S— GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Electronic filings shall be prepared in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The June 1995 edition of the *EDGAR Filer Manual: Guide for Electronic Filing with the U.S. Securities and Exchange Commission (Release 4.30)* is incorporated into the Code of Federal Regulations by reference, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Compliance with the requirements found therein is essential to the timely receipt and acceptance of documents filed with or otherwise submitted to the Commission in electronic format. Paper copies of the EDGAR Filer Manual may be obtained at the following address: Public Reference Room, U.S. Securities and Exchange Commission, Mail Stop 1–2, 450 5th Street, N.W., Washington, D.C. 20549. They also may be obtained from Disclosure Incorporated by calling (800) 638–8241. Electronic format copies are available through the EDGAR electronic bulletin board. Information on becoming an EDGAR E-mail/electronic bulletin

board subscriber is available by contacting CompuServe Inc. at (800) 848–8199.

Dated: May 22, 1995.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–12846 Filed 5–23–95; 10:35 am]

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 550

[BOP–1010–F; BOP–1034–I]

RIN 1120–AA16; RIN 1120–AA36

Drug Abuse Treatment Programs: Early Release Consideration

AGENCY: Bureau of Prisons, Justice.

ACTION: Further issuance of interim rule with request for comments.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Drug Abuse Treatment Programs in order to allow for consideration of early release of eligible inmates who complete a residential drug abuse treatment program. This amendment is necessary to implement provisions of the Violent Crime Control and Law Enforcement Act of 1994. Further changes to the regulations are being made for the sake of clarification.

DATES: Effective June 26, 1995; comments are due July 24, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, N.W., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is further amending its regulations on Drug Abuse Treatment Programs. A final rule on this subject with interim provisions on eligibility requirements for the residential and nonresidential drug abuse treatment programs was published in the **Federal Register** on October 21, 1994. The Bureau has received no comment on the interim provisions, and the Bureau therefore adopts those interim provisions as final. For organizational reasons, §§ 550.55, 550.56, 550.57, and 550.58 are being redesignated respectively as §§ 550.56, 550.57, 550.55, and 550.59.

The Bureau, in this document, is also issuing interim provisions intended to

implement Section 32001 of the Violent Crime Control and Law Enforcement Act of 1994. This section provides, among other things, that the period a prisoner convicted of a non-violent offense remains in custody after successfully completing a program of residential substance abuse treatment may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

New § 550.58 establishes procedures to be used by the Bureau in determining eligibility for early release and for determination of the length of the reduction in sentence. In keeping with the statutory provision that possible reduction in sentence is applicable to an inmate convicted of a nonviolent offense, an inmate whose current offense falls under the definition in 18 U.S.C. 924(c)(3) of a crime of violence is excluded from consideration. Under this section, a crime of violence means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. Information contained in the Presentence Investigation Report ordinarily is sufficient to allow staff to determine if the inmate's committed offense meets this definition of crime of violence. In exercising the Bureau's discretion in reducing a sentence, the Bureau shall also review the criminal history of the inmate contained in the Presentence Investigation Report, and any inmate with a federal and/or state conviction for homicide, forcible rape, robbery, or aggravated assault shall also be excluded from consideration. Because state convictions may show a considerable range in the degree of violence used in the offense, the Bureau has chosen to use the above cited categories of crimes, which are reported under the FBI Violent Crime Index, as the sole determinant of violence in the criminal history. Inmates in Bureau custody who are not serving a sentence for a federal offense (for example, INS detainees, pretrial inmates, or contractual boarders) are not eligible for consideration of early release. An inmate with an INS detainer, however, may be eligible for consideration of early release to the detainer. An inmate eligible for parole is not eligible for consideration for early release by the Bureau; information concerning the successful completion of a residential drug abuse treatment program by a

⁸ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78w and 78ll.

⁹ 15 U.S.C. 79t.

¹⁰ 15 U.S.C. 77sss.

¹¹ 15 U.S.C. 80a–8, 80a–29, 80a–30 and 80a–37.

parole-eligible inmate will be transmitted to the Parole Commission for appropriate consideration under procedures duly promulgated by the Commission.

Further eligibility requirements in § 550.58(a) pertain to completion of a residential drug abuse treatment program. An inmate who had previously completed a Bureau of Prisons drug abuse treatment program before October 1, 1989 (that is, before the current program design) may be eligible for consideration for early release. Staff must confirm that the program completed matches the treatment required by statute. The inmate must complete appropriate acknowledgement of program responsibility, complete a refresher treatment program and all applicable transitional services program, and maintain a discipline record as specified in § 550.58(a)(1)(iv). An inmate who has successfully completed a Bureau of Prisons drug abuse treatment program on or after October 1, 1989 is otherwise eligible if the inmate completes all applicable transitional services and maintains a discipline record as specified in § 550.58(a)(2)(ii).

Under the procedures for application contained in § 550.58(b), eligible inmates currently enrolled in a residential drug abuse treatment program are automatically considered without any further required action on their part; inmates who had previously completed a residential drug abuse treatment program (or which matches the treatment required by statute) must notify the institution's drug abuse coordinator via a request to staff in order to be considered for early release.

As specified in § 550.58(c), the length of reduction may be up to 12 months. If, upon completion of all required transitional services, the inmate has less than 12 months to serve, the amount of reduction may not exceed the amount of time left on service of sentence. The Community Corrections Regional Administrator may retard or disallow any portion of the maximum 12 months for an inmate in a community-based program (for example, a community corrections center) based on a disciplinary finding or based on program needs.

New § 550.60 is added to require that an inmate who files an administrative remedy request on the operation of a drug abuse treatment program affecting consideration for early release must so indicate in the beginning of the request. This is intended to assist staff in preparing a response.

Further changes to the Bureau's regulations on drug abuse treatment programs are summarized below.

Section 550.50 is revised to specify that the availability of drug abuse treatment programs is subject to the availability of appropriated funds. The former regulations had stated that these programs were made available to the extent practicable. This amendment conforms to the wording of the revised statutory authority.

Section 550.52 is revised for editorial reasons to clarify that drug abuse programming and treatment opportunities are separate from the Admission and Orientation program.

In § 550.54, paragraph (c) is amended to expand exemptions from the requirements for participation in the drug abuse education course.

In new § 550.55, the introductory text of paragraph (a) has been revised for the sake of clarity. Paragraph (a)(1) has been revised to ensure the integrity of documentation of a drug abuse problem.

In new § 550.56, the description of the residential drug abuse treatment program is expanded to indicate more clearly the duration of program involvement and the connection with subsequent transitional services programming. The introductory text of paragraph (a) has been revised for the sake of clarity. Paragraph (a)(1) has been revised to ensure the integrity of documentation of a drug abuse problem. A new paragraph (c) has been added to define requirements for program completion. Former paragraph (c) has been redesignated and revised as new paragraph (d) in order to specify more clearly expulsion criteria. Given the significance of the added incentive of possible early release, the Bureau believes these changes are necessary to reduce unnecessary confusion regarding program participation.

New § 550.57 has been revised to include reference in new paragraph (a)(4) to consideration for early release as an incentive for program participation. Provisions formerly contained in § 550.55(c) regarding the return of incentives previously received upon an inmate's withdrawal or expulsion have also been transferred to this section.

New § 550.59 has been reorganized and revised to clarify the requirements for transitional services, whether in an institution or in a community-based program. As revised in paragraph (c), transitional services may be required for all inmates with a documented drug abuse problem, regardless of the inmate's choice to participate in the residential drug abuse treatment program.

Interested persons may participate in this rulemaking by submitting data, views, or arguments in writing to the

Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received on the interim rule provisions during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 550

Prisoners.
Kathleen M. Hawk,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), parts 545 and 550 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 550—DRUG PROGRAMS

1. The authority citation for 28 CFR part 550 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4251-4255, 5006-5024 (repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Section 550.50 is revised to read as follows:

§ 550.50 Purpose and scope.

The Bureau of Prisons provides, subject to the availability of appropriated funds, drug abuse treatment programs to inmates.

3. Section 550.52 is revised to read as follows:

§ 550.52 Admission and Orientation program.

Drug abuse treatment coordinators at all institutions shall ensure that inmates are informed during the Admission and Orientation program about local and Bureau-wide drug abuse programming and treatment opportunities.

4. In § 550.54, paragraph (c) is amended by revising the second sentence to read as follows:

§ 550.54 Requirements for drug abuse education course.

* * * * *

(c) * * * An inmate may also be exempted from the drug abuse education course if that inmate does not have enough time remaining to serve to complete the drug abuse education course, or if that inmate volunteers for, enters and completes a residential drug abuse treatment program, or if he/she completes a structured drug abuse treatment program at one of the Bureau of Prisons' Intensive Confinement Centers (ICC).

§§ 550.55 through 550.57 [Redesignated]

5. Sections 550.55, 550.56, and 550.57 are redesignated respectively as §§ 550.56, 550.57, and 550.55.

6. In newly designated § 550.55, paragraph (a) introductory text and (a)(1) are revised to read as follows:

§ 550.55 Non-residential drug abuse treatment program.

* * * * *

(a) *Eligibility.* An inmate must meet all of the following criteria to be eligible for the non-residential drug abuse treatment program.

(1) The inmate must have a verifiable documented drug abuse problem.

* * * * *

7. Newly designated § 550.56 is revised to read as follows:

§ 550.56 Institution residential drug abuse treatment program.

Residential drug abuse treatment is available at selected Bureau of Prisons institutions. It is a course of individual and group activities provided by a team of drug abuse treatment specialists and the drug abuse treatment coordinator in a treatment unit set apart from the general prison population, lasting a minimum of 500 hours over a six to twelve-month period. Inmates enrolled in a residential drug abuse treatment program shall be required to complete subsequent transitional services programming in a community-based program and/or in a Bureau institution.

(a) *Eligibility.* An inmate must meet all of the following criteria to be eligible for the residential drug abuse treatment program.

(1) The inmate must have a verifiable documented drug abuse problem.

(2) The inmate must have no serious mental impairment which would substantially interfere with or preclude full participation in the program.

(3) The inmate must sign an agreement acknowledging his/her program responsibility.

(4) Ordinarily, the inmate must be within thirty-six months of release.

(5) The security level of the residential program institution must be appropriate for the inmate.

(b) *Application/Referral/Placement.* Participation in the residential drug abuse treatment program is voluntary. An inmate may be referred for treatment by unit or drug treatment staff or apply for the program by submitting a request to a staff member (ordinarily, a member of the inmate's unit team or the drug abuse treatment coordinator). The decision on placement is made by the drug abuse treatment coordinator.

(c) *Completion.* Completion of the residential drug abuse treatment program requires attendance and participation in scheduled individual and group activities and a passing grade on examinations covering each separate subject module of the program. An inmate who fails an examination on any subject module ordinarily shall be allowed to retest one time. A certificate of achievement will be awarded to all who successfully complete the program. A copy of this certificate will be forwarded to the unit team for placement in the inmate's central file.

(d) *Withdrawal/expulsion.* (1) An inmate may withdraw voluntarily from the program.

(2) The drug abuse treatment coordinator may remove an inmate from the program based upon disruptive behavior related to the program. Ordinarily, staff shall provide the inmate with at least one warning prior to removal. An inmate may not ordinarily be removed immediately without warning unless the inmate, pursuant to an incident report, is found by the DHO to have:

(i) Used or possessed alcohol or drugs;

(ii) Been violent or threatened violence against staff or another inmate;

or

(iii) Committed a 100 level prohibited act.

(3) Withdrawal or removal from the residential program may result in the inmate's being returned to his/her prior institution (when the inmate had been specifically transferred for the purpose of program participation).

8. Newly designated § 550.57 is revised to read as follows:

§ 550.57 Incentives for residential drug abuse treatment program participation.

(a) An inmate may receive incentives for his or her satisfactory involvement in the residential program. These incentives may include, but are not limited to, the following.

(1) Limited financial awards, based upon the inmate's achievement/completion of program phases.

(2) Consideration for the maximum period of time (currently 180 days) in a

Community Corrections Center placement, provided the inmate is otherwise eligible for this designation.

(3) Local institution incentives such as preferred living quarters or special recognition privileges.

(4) If eligible under § 550.58, consideration for early release.

(b) An inmate must meet his/her financial program responsibility obligations (see 28 CFR part 545) prior to being able to receive an incentive for his/her residential program participation.

(c) Withdrawal or removal from the residential program may result in the loss of incentives previously achieved.

§ 550.58 [Redesignated as § 550.59]

9. Section 550.58 is redesignated as § 550.59 and revised to read as follows:

§ 550.59 Transitional drug treatment services.

Transitional treatment programming is required for all inmates completing an institution's residential treatment program. Transitional treatment includes treatment provided to inmates who, upon completing the residential program, return to the general population of that or another institution or who are transferred to a community-based program. An inmate's refusal to participate in this program is considered a program failure and disqualifies the inmate for any additional incentives consideration, and may result in the inmate's redesignation.

(a) An inmate who successfully completes a residential drug abuse program and who participates in transitional treatment programming at an institution is required to participate in such programming for a minimum of one hour per month.

(b) An inmate who successfully completes a residential drug abuse program and who, based on eligibility, is transferred to a Community Corrections Center (CCC), is required to participate in a community-based treatment program, in addition to the required employment and other program activities of the CCC. The inmate's failure to meet the requirements of treatment may result in the inmate's being returned to the institution for refusing a program assignment.

(c) An inmate with a documented drug abuse problem but who did not choose to volunteer for the residential drug abuse program may be required to participate in transitional services as a condition of participation in a community-based program with the approval of the transitional services manager.

10. A new § 550.58 is added to read as follows:

§ 550.58 Consideration for early release.

An inmate who completes a residential drug abuse treatment program during his or her current commitment may be eligible for early release by a period not to exceed 12 months, in accordance with paragraph (a) of this section, unless the inmate is an INS detainee, a pretrial inmate, a contractual boarder (for example, a D.C., State, or military inmate), or eligible for parole, or unless the inmate's current offense is determined to be a crime of violence as defined in 18 U.S.C. 924(c)(3), or unless the inmate has a prior federal and/or state conviction for homicide, forcible rape, robbery, or aggravated assault.

(a) *Eligibility.* (1) An inmate who had successfully completed a Bureau of Prisons residential drug abuse treatment program before October 1, 1989 is otherwise eligible if:

(i) Staff confirm that the completed program matches the treatment required by statute;

(ii) The inmate signs an agreement acknowledging his/her program responsibility;

(iii) The inmate completes a refresher treatment program and all applicable transitional services programs; and

(iv) Since completion of the program, the inmate has not been found to have committed a 100 level prohibited act and has not been found to have committed a prohibited act involving alcohol or drugs.

(2) An inmate who has successfully completed a Bureau of Prisons residential drug abuse treatment program on or after October 1, 1989 is otherwise eligible if:

(i) The inmate completes all applicable transitional services programs; and

(ii) Since completion of the program, the inmate has not been found to have committed a 100 level prohibited act and has not been found to have committed a prohibited act involving alcohol or drugs.

(b) *Application.* (1) *Inmates currently enrolled.* Eligible inmates currently enrolled in a residential drug abuse treatment program shall automatically be considered for early release.

(2) *Inmates who had previously completed program requirements.* Eligible inmates who have previously completed a residential drug abuse treatment program (or which matches the treatment required by statute) must notify the institution's drug abuse program coordinator via a Request to

Staff in order to be considered for early release.

(c) *Length of reduction.* (1) Except as specified in paragraphs (c)(2) and (3) of this section, an inmate who is approved for early release may receive a reduction of up to 12 months.

(2) If the inmate has less than 12 months to serve after completion of all required transitional services, the amount of reduction may not exceed the amount of time left on service of sentence.

(3) If, based upon a disciplinary finding or based on program needs (for example, the inmate has not established an adequate release plan), the Community Corrections Regional Administrator may retard or disallow any portion of the maximum 12 months for an inmate in a community-based program.

11. Section 550.60 is added to read as follows:

§ 550.60 Inmate appeals.

(a) Administrative remedy procedures for the formal review of a complaint relating to any aspect of an inmate's confinement (including the operation of the drug abuse treatment programs) are contained in 28 CFR 542, subpart B.

(b) In order to expedite staff response, an inmate who has previously been found to be eligible for early release must, when filing an administrative remedy request pursuant to 28 CFR 542, subpart B on an action which would result in the inmate's loss of early release eligibility, indicate in the first sentence of the request that the request affects the inmate's early release.

[FR Doc. 95-12802 Filed 5-24-95; 8:45 am]

BILLING CODE 4410-05-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD05-93-103]

RIN 2115-AA98

Anchorage Grounds; Spa Creek, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is consolidating Anchorages A and B in Spa Creek Anchorage in Annapolis Harbor, Md. into one anchorage. This action is necessary because the City of Annapolis has experienced difficulty enforcing safe boating operations within the separate anchorages. Consolidation

of the two anchorages tightens control over the use and access to the composite anchorage, thereby increasing the efficiency of mooring operations and vessel safety.

EFFECTIVE DATE: This is effective June 26, 1995.

FOR FURTHER INFORMATION CONTACT: LCDR Tom Flynn (804) 398-6690.

SUPPLEMENTARY INFORMATION: This action follows completion of an Army Corps of Engineers study of the Annapolis Harbor conducted in December 1990, under the authority of Section 4(i) of the Water Resources Development Act of 1988, Public Law 100-676. The Corps of Engineers' study recommended a realignment of the channel in Annapolis Harbor by nonstructural, nondredging measures, in order to promote more efficient mooring operations in the harbor. Recognizing the desirability of accommodating existing users, increasing harbor safety by making mooring operations more efficient, and doing so in a cost effective manner, the study determined that the existing anchorage configuration should be revised by consolidating anchorages A and B, in Spa Creek, Annapolis, MD, into a single anchorage. The City of Annapolis, MD and asked the Coast Guard to initiate the process for effecting a consolidation. Pursuant to this request, the Coast Guard published a Notice of Proposed Rulemaking concerning this section in the **Federal Register** (58 FR 57769; October 27, 1993). The Commander, Fifth Coast Guard District, also published the proposal in Local Notice to Mariners 45-93 dated November 9, 1993. Each notice allowed interested persons to submit comments through December 13, 1993. Total comment on the rule consisted of one letter, the substance of which was beyond the scope of this rulemaking and contained no constructive recommendations. The comment was considered, discussed and forwarded to the City of Annapolis. There are no substantive differences between the proposed rule and the final rule.

Drafting Information

The drafters of this rule are LCDR Tom Flynn, project officer, Fifth Coast Guard District, Aids to Navigation and Waterways Management Branch and LCDR Bill Shelton, project attorney, Fifth Coast Guard District Legal Office.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs