

700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, an effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO TN E5 Tullahoma, TN [Revised]

Tullahoma Regional Airport/Wm Northern Field, TN

Lat. 35°22'52" N, long. 86°14'37" W

Arnold Air Force Base

Lat. 35°23'33"N, long. 86°05'09"W

Winchester Municipal Airport

Lat. 35°10'39" N, long. 86°03'58" W

Manchester Medical Center

Point in Space Coordinates

Lat. 35°29'56" N, long. 86°05'37" W

That airspace extending upward from 700 feet above the surface with a 7-mile radius of Tullahoma Regional Airport/Wm Northern Field Airport and within a 7-mile radius of Arnold Air Force Base and within an 11-mile radius of Winchester Municipal Airport and within a 6-mile radius of the point in space (Lat. 35°29'56" N, long. 86°05'37" W) serving Manchester Medical Center; excluding that airspace within the Shelbyville, TN, Class E airspace area.

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Issued in College Park, Georgia, on April 28, 2000.

Nancy B. Shelton,

*Acting Manager, Air Traffic Division,
Southern Region.*

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code

AGENCY: United States Parole Commission, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Parole Commission is soliciting public comment on a proposal to revise the guidelines at 28 CFR 2.80 that govern its decisions to grant and deny parole in the case of prisoners serving sentences for felony crimes under the District of Columbia Code. The proposal would translate the current Point Assignment Table at § 2.80 into guideline ranges, and would authorize the setting of presumptive release dates up to 36 months from the date of the parole hearing. The purpose of this proposal is to improve understanding by inmates and the public as to the impact that the guidelines will have in individual cases, and to facilitate successful release planning in advance of parole.

DATES: Comments must be received by July 10, 2000.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole

Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815.

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: The Commission solicits comment on a revision of 28 CFR 2.80 that it believes would make the guidelines for D.C. Code offenders more understandable to inmates and the public, fairer, and easier to administer. The proposal would: (1) Enhance the ability of inmates and the public, including victims of crime, to understand the guidelines and their impact in individual cases by translating the current point score into a guideline range at the initial and subsequent considerations; (2) provide more information to inmates as to their expected release dates by authorizing presumptive release dates up to 36 months from the date of the parole hearing (contingent upon good conduct and development of an adequate release plan); (3) facilitate release planning by setting presumptive release dates up to 36 months from the date of the parole hearing; (4) eliminate anomalies that occur in the current system with respect to penalizing inmates whose rehearings are delayed through no fault of their own or who are encouraged by staff to waive parole consideration until they complete institutional programs; and (5) reduce the maximum time between parole consideration hearings from five years to three years.

Summary of the Proposal

The proposed revision of § 2.80 would require the following decisionmaking procedure.

Under Step 1A, a Base Guideline Range would be determined from the Base Point Score. There is no change from the Base Point Score used in § 2.80. The Base Point Range (assuming no disciplinary infractions and ordinary program achievement) is simply made explicit.¹

¹ Multiplying (A) the rehearing range in the current D.C. guidelines by (B) [the Base Point Score minus 3 points] (the number of rehearing required before parole assuming no disciplinary infractions and ordinary program achievement) produces the Base Point Range. For example, an inmate with a Base Point Score of 6 with no disciplinary infractions and ordinary program achievement at each hearing would have two rehearings with a rehearing range of 18–24 months each before the guidelines indicated parole. This translates to a guideline range of the Parole Eligibility Date plus 36–48 months. For most cases, the results under the current and proposed system will be the same.

Continued

Under Step 1B, a disciplinary guideline range is determined. Under Option 1, the current D.C. guideline points (at § 2.80) for disciplinary infractions are used but are translated into explicit ranges.² Option 2 presents an alternative approach to measuring the seriousness of disciplinary infractions. Option 1 would maintain the policy of the current guidelines with respect to disciplinary infractions. Option 2 would focus more directly on the seriousness of the disciplinary infraction itself.

Under Step 1C, an outstanding program achievement range is determined. Under Option 1, the current D.C. guideline points for outstanding program achievement are used but translated into explicit ranges that are implicit in the current guidelines.³ In addition, the guidelines are simplified because the point for ordinary program achievement has already been built into the base guideline range. Option 2 presents an alternative approach to measuring outstanding program achievement. Under Option 2, the guideline range for outstanding program achievement is linked more directly on the number of months of outstanding program achievement.

Purpose

The Base Point Guideline Range, Disciplinary Range, and Outstanding Program Achievement Range are combined into a composite or total guideline range at the initial hearing. This would make clear to the inmate the amount of time he or she may expect to serve with continued good conduct and ordinary program achievement. The impact of outstanding program achievement as well as disciplinary infractions would also be made clear. Equally importantly, if release within three years was deemed appropriate by the Commission (as opposed to within 9 months under the current system), the inmate would be given a presumptive parole date (contingent upon continued good behavior and the development of a satisfactory release plan). In the Commission's opinion, presumptive

There are a few differences because the current system lumps together certain dissimilar cases; for example, under the current system, an offender with a base point score of 5 who has outstanding program achievement and no disciplinary infractions will serve the same amount of time as an offender with ordinary program achievement.

² Multiplying the number of disciplinary points by the current rehearing range applicable to the current base point score determines this guideline range.

³ Multiplying the outstanding program achievement point by the current rehearing range applicable to the current base point score determines this guideline range.

release dates allow the inmate to plan better for release and provide a strong incentive for continued good conduct.

Additionally, with presumptive release dates the final review nine months before release (to ensure that the inmate has continued good conduct and consider any additional outstanding program achievement) can be conducted on the record rather by personal hearing. This is administratively more efficient and reduces the possibility of delay in scheduling the final hearing (e.g., because of the transfer of the inmate between facilities) that may adversely impact the actual release date. Only if serious institutional misconduct is found at this record review would an in-person rehearing be scheduled.

Invitation for Comment

Comment is requested both on the overall structure, which would provide the inmate with a projected guideline range at the initial hearing (and at subsequent hearings, as modified by outstanding program achievement or disciplinary infractions) and allow the setting of presumptive release dates up to 36 months away. A record review would be conducted nine months prior to release to ensure that the inmate has continued good conduct and consider any additional outstanding program achievement. If a presumptive release date was not set, the prisoner would be heard no later than each 36 months in contrast to the current rules under which a rehearing may be delayed for up to 60 months.

Comment is specifically requested on whether the Commission, if it adopts the overall structure, should adopt Option 1 or Option 2 for consideration of disciplinary infractions. Option 1 replicates the current DC guidelines. Option 2 would provide results that in some cases would be the same as the current guidelines and in some cases would be different. In general, Option 2 provides results that have more gradations both at the upper and lower ends of the scale and deal with generic behaviors. Option 1 has more limited categories tied to how the conduct is classified by the D.C. Department of Corrections or Bureau of Prisons. Option 1 also weighs the defendant's current and prior record; e.g., if two inmates commit the same disciplinary infraction but one has a higher base point score because of a low salient factor score or current or past violent offense, that inmate will receive a more severe disciplinary guideline range for that infraction (in addition to having received a longer base guideline range in the first place). Under Option 2, the penalties for the same disciplinary

infraction will be the same for the two inmates. Because the inmate with the higher base point score will have the higher base guideline range, that inmate will continue to have a higher total guideline range, but the inmate's current or prior record will not be counted again in determining the time to be added for the disciplinary infraction itself.

Comment is specifically requested on whether the Commission, if it adopts the overall structure, should adopt Option 1 or Option 2 for consideration of outstanding program achievement. Option 1 replicates the current D.C. guidelines. Option 2 would provide results that in some cases would be the same as the current guidelines and in some cases would be different. Under Option 1, inmates with the same base point score (e.g., BPS 6) receive the same credit for outstanding program achievement whether it is based on 100 months (e.g., the time in custody prior to the initial hearing) or 18 months (e.g., the time until the next rehearing). Under Option 2, the credit for outstanding program achievement is tied more directly to the number of months of outstanding program achievement.

Proposed Implementation

The proposed revision of 28 CFR 2.80 would be applied prospectively, i.e., to D.C. Code prisoners who receive their initial hearings on or after the effective date of the final rule. If, however, a D.C. Code prisoner who was previously heard under § 2.80 would not be adversely affected by the new guidelines, the new guidelines would be applied retroactively at the prisoner's next scheduled rehearing.

Outline of Proposed Revised Section 2.80 and Conforming Changes to Other Guidelines

The proposed alternative to the guideline instructions at 28 CFR 2.80(h) would provide as follows. Both Option 1 and Option 2 are included:

Step 1. Determine the Base Guideline Range

A. Determine the Base Point Score (Using the SFS, Current or Prior Violence, and Death)

The Base Guideline Range for the Base Point Score is set forth below:

Base point score	Base guideline range=parole eligibility date (determined by minimum sentence) + —
10	136–172 months.
9	110–140 months.
8	72–96 months.

Base point score	Base guideline range=parole eligibility date (determined by minimum sentence) + —
7	54–72 months.
6	36–48 months.
5	18–24 months.
4 or 3	12–18 months.
2 or less	zero months.

The guideline range for the base point score assumes no disciplinary infractions and ordinary program achievement.

Note: The Base Point Score is determined exactly the same as under the current guidelines at § 2.80. There is no substantive change.

B. Determine the Guideline Range for Disciplinary Infractions

Two options are set forth for comment. Option 1 translates the current D.C. point score into actual guideline ranges without any substantive change. Option 2 uses § 2.36 (the guidelines for disciplinary infractions used in Federal cases).

Option 1. Use the Current D.C. Disciplinary Points to determine the guideline range as follows:

Base point score	Type of mis-behavior	Guideline range
10	Aggravated	52–64 months
10	Ordinary	26–32 months
9	Aggravated	44–56 months
9	Ordinary	22–28 months
5–8	Aggravated	36–48 months
5–8	Ordinary	18–24 months
0–4	Aggravated	24–36 months
0–4	Ordinary	12–24 months

Option 2. Determine the guideline range applicable to disciplinary infractions from section 2.36.

Note: Option 1 translates the current disciplinary point score into a guideline range without any substantive change. Option 2, in contrast, applies the guideline ranges for disciplinary infractions used in federal cases. The two options will produce different results in different cases. In general, Option 2 focuses more on the conduct underlying the disciplinary infraction and has finer gradations. Option 1 has fewer gradations for the disciplinary conduct and also varies the penalty for disciplinary infractions in part on the original base point score.

C. Determine the Guideline Range for Outstanding Program Achievement

Two options are set forth for comment. Option 1 translates the current D.C. outstanding program achievement points into a guideline range without any substantive change. Option 2 uses a formula based on the number months of in custody since the

last consideration (or in the case of the initial hearing, the number of months in confinement).

Option 1. The outstanding program achievement guidelines as translated from the current D.C. point score are as follows:

Base point score	Guideline range
0–4	12–18 months
5–8	18–24 months
9	22–28 months
10	26–32 months

Option 2. If outstanding program achievement is found, the outstanding program achievement guideline is 25% of the number of months of outstanding program achievement.

- If this calculation results in a fractional month, it will be rounded up to the nearest whole month.
- If outstanding program achievement is found, the offender is ordinarily assumed to have outstanding program achievement for the total time in custody from the last consideration (or from the commitment date in the case of an initial hearing). If, however, the Commission expressly finds outstanding program achievement for only part of the time in custody (e.g., at an initial hearing the inmate has been in custody for 10 years but has shown outstanding program achievement for only 5 years), the Commission may determine the outstanding program achievement guidelines on the actual amount of time with outstanding program achievement.

Notes: (1) Option 1 (the current D.C. guidelines) gives the same weight to outstanding program achievement whether over a period of 12 months or over a period of 100 months, and varies the weight according to the offenders base point score. Option 2, in contrast, determines on the number of months of outstanding program achievement credit for each offender directly according to the number of months of outstanding program participation.

(2) The current D.C. guidelines have an additional complexity of treating lack of ordinary program participation as equivalent to a separate disciplinary factor. Under both options of the proposed system, such lack of program participation could be addressed by placement of the decision within the applicable guideline range—or by an upward departure in extreme cases (e.g., a serious offender who refused to participate in a necessary treatment program).

Step 2. Determine the Total Guideline Range

At the initial hearing, the total guideline range is: (1) The Base Guideline Range; plus (2) the Disciplinary Guideline Range (if any), minus the outstanding program

achievement range. This is a straightforward arithmetic calculation (the same type of calculation is done in federal cases).

Example 1

- A. Base Guideline Range=[58–64 months]
(Base Pt Score=5; Parole Eligibility Date at 40 months)
Base guideline range=[40 + (18–24) months]
- B. Disciplinary Range=[12–18 months]
- C. Outstanding Program Achievement Range=None
Total Guideline Range=70–82 months

Example 2

- A. Base Guideline Range=[76–88 months]
(Base Pt Score=6; Parole Eligibility Date at 40 months)
Base guideline range=[40 + (36–48) months]
- B. Disciplinary Range=Not applicable
- C. Outstanding Program Achievement Range (Based Option 1)=[– (18–24 months)]
Total Guideline Range=56–64 months

Example 3

- A. Base Guideline Range=[116–128 months]
(Base Pt Score=6; Parole Eligibility Date at 80 months)
Base guideline range=[80 + (36–48) months]
- B. Disciplinary Range=Not applicable
- C. Outstanding Program Achievement Range=[– (20 months) (Based on 80 months outstanding program from top and bottom achievement— Option 2) of guideline range]
Total Guideline Range=[96–108 months]

Step 3. Select One of the Following Decisions

- A. Parole effective within 9 additional months;
- B. Presumptive parole after 10–36 additional months; or
- C. A Reconsideration hearing after 36 months; or
- D. Continue to Expiration within 36 months.

If a presumptive parole date was given, there would be a record review 9 months prior to release (a changeover review) that would evaluate any disciplinary infractions or additional outstanding program achievement and retard or advance the date as appropriate, or schedule a rescission hearing if required.

Step 4. Conducting a Reconsideration Hearing [if Required]

At a three-year reconsideration hearing, the guideline ranges for

disciplinary record (since the last hearing) [step 1(b)] and outstanding program achievement (from the last hearing) [step 1(c)] will be determined and added to or subtracted from the total guideline range determined at the last hearing. Otherwise, the actions available to the Commission will be the same as at an initial hearing.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this proposed rule would not be a significant rule within the meaning of Executive Order 12866. The proposed rule would 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 will 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.

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

Dated: May 2, 2000.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 00-11521 Filed 5-8-00; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Loading Requirements for PVDS Mailings

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 23, 1999, the Postal Service published a Proposed Rule (64 FR 72044) seeking comments on a proposed revision to the Domestic Mail Manual (DMM) to require that, if Periodicals mail is on the same vehicle as Standard Mail in a plant-verified drop shipment (PVDS), then the Periodicals mail must be loaded toward the tail end of the trailer so that Periodicals mail can be offloaded first for each destination entry. On February 11, 2000, the Postal Service published a notice that extended the comment period for this proposed rule until March 15, 2000 (65 FR 6950).

Based on the comments received, the Postal Service is withdrawing the proposed rule. The loading requirement

for Periodicals mail in a PVDS mailing will continue to be an optional—or preferred—method, but will not be required. Customers may access the current DMM requirements by going to the Postal Explorer Web site (<http://pe.usps.gov>). These specific mailing standards can be found in DMM E651.2.2, E652.4.2, P750.2.12, and P750.2.13.

SUPPLEMENTARY INFORMATION:

Summary of Comments Received

The Postal Service received a total of 16 comments in response to the Proposed Rule.

Seven comments supported making the loading of Periodicals toward the tail end of the trailer a requirement. All of these comments came from Periodicals publishers. Their support for the Proposed Rule is based on the assumption that delivery service would improve if Periodicals mail could be identified, offloaded from vehicles, and processed as soon as possible. One commenter pointed out that this Proposed Rule is consistent with the Postal Service's commitment to the mailing industry to improve the delivery service of Periodicals mail. The same commenter raised questions about how this Proposed Rule might affect Periodicals costs.

One commenter gave cautious support to the Proposed Rule for the reasons cited above.

Eight comments opposed the Proposed Rule. Most of these commenters are in the printing and mail transportation industries. These comments focused on the cost and logistics implications of a requirement to load Periodicals mail toward the tail end of the trailer for each stop. Many commenters believed that having to "stagger" Periodicals and Standard Mail within a vehicle for each scheduled stop would increase their costs. There also were concerns about OSHA and Department of Transportation requirements for vehicle loading and unloading.

All of the commenters who opposed the Proposed Rule mentioned that they support the current standards in the Domestic Mail Manual, which allows mailers the option of loading Periodicals mail toward the tail end of vehicles for each stop.

Based on these reasons and after extensive discussions with customers and internal departments, the Postal Service has decided to withdraw the Proposed Rule. The Domestic Mail Manual will continue to contain the optional, or preferred, method of loading Periodicals mail toward the tail

end of vehicles so that the Periodicals mail can be offloaded first at each stop.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-11451 Filed 5-8-00; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AR-8-1-7409; FRL-6603-9]

Approval and Promulgation of Implementation Plans; Arkansas; Regulation 19

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Arkansas State Implementation Plan (SIP or plan). Specifically, EPA proposes to approve a recodification of and revisions to Arkansas' SIP. These revisions were adopted by the Arkansas Department of Environmental Quality (ADEQ) on January 22, 1999, and submitted to EPA by the Governor of Arkansas on March 5, 1999. The EPA also proposes to incorporate into the Arkansas SIP portions of Arkansas regulation for its operating permits program which relate to the construction and modification of major sources. This is necessary because the submitted SIP revision incorporates these provisions to ensure that major sources which must receive an operating permit meet the Federal requirements relating to the construction and modification of major sources.

The EPA proposes to approve these revisions based upon our finding that the regulations meet the requirements of the Clean Air Act (the Act) pertaining to the approval of SIPs and the Federal regulations which describe the requirements that a SIP must meet.

Furthermore, EPA proposes to approve revisions to Arkansas' program for the prevention of significant deterioration (PSD) of air quality to replace the increments for total suspended particulates (TSP) with increments for particulate matter less than 10 microns (PM-10). In conjunction with this action, EPA also proposes to remove the TSP area designation tables in title 40 of the Code of Federal Regulations (40 CFR) part 81 for Arkansas. The EPA is taking no action on a Chapter 8 of the submittal of Regulation 19 which pertains to