

FDC date	State	City	Airport	FDC number	Subject
06/26/03	NE	SEWARD	SEWARD MUNI	3/5060	GPS RWY 16, ORIG
06/27/03	NC	MONROE	MONROE REGIONAL	3/5067	RNAV (GPS) RWY 5, ORIG
06/27/03	SC	NORTH MYRTLE BEACH.	GRAND STRAND	3/5088	ILS RWY 23, AMDT 10C
06/27/03	TX	BEAUMONT	BEAUMONT MUNI	5138	3/RNAV (GPS) RWY 13, ORIG
06/27/03	TX	BEAUMONT	BEAUMONT MUNI	5139	3/VOR/DME RWY 13, AMDT 3
06/27/03	TX	BEUMONT	BEAUMONT MUNI	3/5140	RNAV (GPS) RWY 31, ORIG
06/27/03	TX	BEAUMONT	BEAUMONT MUNI	3/5145	VOR/DME RWY 31, AMDT 4
06/30/03	MA	STOW	MINUTE MAN AIRFIELD	3/5130	VOR/DME RWY 21, AMDT 3A
07/01OK/03	OK	NORMAN	UNIVERSITY OF OKLAHOMA WESTHEIMER.	5297	3/LOC RWY 3, AMDT 3D

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BILLING CODE 4910-13-M

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: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is amending a number of procedural rules to reflect changes in the structure of the Commission, and the transfer of District of Columbia felony offenders to the custody of the Bureau of Prisons. In addition to eliminating obsolete procedural rules, the Commission is simplifying a rule on the timing of interim hearings for Federal offenders and providing consistent instructions regarding the determination of a revocation hearing location for alleged parole and supervised release violators. Finally, the Commission is making a number of corrections and editorial changes, primarily amendments to the citations to the District of Columbia Code made necessary as a result of a recodification of D.C. criminal laws.

DATES: *Effective Date:* August 13, 2003.

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: Until October, 1991 the U.S. Parole Commission carried out its responsibilities through Regional Commissioners and staff located in five

regional offices across the country, and National Commissioners and staff located in its headquarters office in Chevy Chase, Maryland. Over the next five years the Commission gradually consolidated its operations into the headquarters office in Maryland as the agency faced the prospect of a reduced caseload of Federal prisoners and parolees due to laws that abolished parole for Federal offenders and limited the life of the Commission. The Commission made some changes in its voting procedures as the agency reduced its size (see 61 FR 55742 (Oct. 29, 1996)). But some procedures that were deemed necessary when regional offices existed were left in place though the rationale for the procedures was diminished. The voting and notice procedures that the Commission is eliminating through this publication fall into this category. The voting procedures, found at 28 CFR 2.24(b)(1) and (2) and 2.28(a)(1), allow a Regional Commissioner to make a modest modification (either an increase or a decrease) to a recommended or established release date without securing the concurring vote of a National Commissioner. Section 2.24(a) also includes a requirement that the prisoner be given notice when his case is transferred by the Regional Commissioner to the National Commissioners for a further vote due to the Regional Commissioner's significant disagreement with the recommendation of an examiner panel. The voting procedures were created as a response to the Regional Commissioners' desire for greater flexibility in decision-making and to avoid the process of securing National Commissioner votes (including shipping case files across the country) when there was only a modest disagreement on a release date. The notice requirement was implemented to ensure that the prisoner was informed of the reason the Commission would not be able to meet the normal 21-day time limit for making a release decision when the case was referred to the National

Commissioners. The rationales described above do not have the same force now that the Commissioners are all located in one office in Chevy Chase, Maryland, and case files do not have to be transferred across the country for Commissioner votes. In recent years the Commission has very rarely used the voting procedures of §§ 2.24(b)(1) and (2). The revised rules eliminate the requirement regarding notice of a referral for subsequent voting and provide that the concurrence of two Commissioners is needed to make a decision when the Regional Commissioner disagrees with the examiner panel on the disposition of the case, or when the Regional Commissioner votes to reopen a case under § 2.28(a) and advance a presumptive release date.

Another rule amendment that the Commission is making to correspond to a change in its structure is the amendment to § 2.17. The Commission is amending the procedural rule regarding the voting quorum in original jurisdiction cases to reflect an increase in the agency's authorized membership, and the possibility that the number of Commissioners may change from the present number now holding office (three Commissioners). In section 11231(c) of the National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. 105-33, Congress increased the number of persons authorized to serve on the Parole Commission to five, in conjunction with giving the Commission new responsibilities regarding District of Columbia felony offenders. In original jurisdiction cases the Commission's intent is that all decisions, whether made after a hearing or after reviewing a petition for reconsideration, are made by a majority vote of the Commission. The voting requirements in the present rules for original jurisdiction cases are based on a three-member Commission. Therefore, the Commission is changing the original

jurisdiction voting requirements to provide that a decision is made on the basis of a majority vote of the Commissioners holding office at the time of the decision.

There are also several procedural rules governing hearing procedures for District of Columbia offenders that have been rendered obsolete by a change in circumstances unrelated to the structure of the Commission. When the Parole Commission took over the task of conducting parole hearings for DC offenders in 1998, as provided by the Revitalization Act, these offenders were incarcerated in correctional facilities of the DC Department of Corrections and the Federal Bureau of Prisons. Because of security and staffing concerns regarding the implementation of parole hearing procedures in DC facilities, the Commission's rules allowed the opportunity for the appearance of a representative and pre-hearing file disclosure for offenders in Bureau custody, but limited or denied these opportunities for offenders in DC custody. Section 11201 of the Revitalization Act required that all DC felony offenders had to be transferred to the custody of the Bureau of Prisons, and this transfer was accomplished by the end of 2001. This transfer has removed the need for different procedures for DC prisoners depending on the identity of the incarcerating authority. Therefore, the Commission is amending the rule at § 2.72 on hearing procedures for DC offenders to remove the difference in procedures regarding the opportunity for representation and pre-hearing file disclosure.

The Commission is amending the rule at 28 CFR 2.14 to provide that, for a prisoner who has had his initial hearing prior to the parole eligibility date and who must continue to serve the minimum term of his sentence before reaching parole eligibility, such a prisoner has the opportunity for an interim hearing nine months prior to the parole eligibility date. This amendment simplifies the Commission's present rule and ensures that such a prisoner is afforded the chance for an advancement of a presumptive release date to a parole effective date that coincides with the parole eligibility date, if the prisoner shows superior program achievement or other clearly exceptional circumstances that warrant a change in the previous decision.

The Commission is revising the rule at 28 CFR 2.49 to insert instructions on determining the type of revocation hearing that must be held when a Federal parolee has an unadjudicated violation charge that may be determinative of revocation and/or

reparole, and the parolee wants an adverse witness present at the hearing for confrontation and cross-examination on the contested charge. These instructions are presently found in the rules regarding revocation proceedings for DC parolees and supervised releasees, and the addition of the instructions in § 2.49 (with other editorial changes in § 2.49 and § 2.102) ensures that there is consistency in the application of agency policy on the place of a revocation hearing for all offenders under the Commission's jurisdiction.

The Commission is also making a number of corrections to the rules. In reviewing the rules on agency action following a hearing, the Commission discovered that a provision in § 2.13(c) on issuing the notice of the Commission's decision within 21 days of the hearing had been erroneously eliminated as a result of an amendment to § 2.13 promulgated in 1994. The Commission is correcting this error by restoring the notice provision, with an amendment conforming to the elimination of the requirement regarding notice of a referral to the National Commissioners. The Commission is also restoring part of an instruction regarding the scoring of Item A of the salient factor score, a component of the paroling policy guidelines (28 CFR 2.20). This part of the instruction on counting a prior instance of criminal conduct when the offender's case was diverted from a final criminal conviction was erroneously omitted when the Commission revised the salient factor scoring manual in November, 2002. Other obvious errors in the paroling policy guidelines that have been corrected are the omission of a reference to conduct causing "serious bodily injury" in the rating of property destruction offenses, the insertion of an instruction for rating a kidnaping offense in the instructions for rating an assault offense, and the repetition of an instruction in a general note on holding an offender accountable for the criminal acts of his co-conspirators.

Finally, the Commission is making editorial changes to a number of rules in order to use up-to-date terms (*e.g.*, substituting "Executive Hearing Examiner" for "administrative hearing examiner" or "community corrections center" for "community treatment center"). As a result of a recodification of the District of Columbia Code, almost all the citations to the DC Code in the present rules are to statutes that have been renumbered. The new rules provide citations to the revised statutes. The Commission is also amending the rule for offenders sentenced under the

DC Youth Rehabilitation Act to clarify the group of youth offenders who are eligible for parole given the delayed enactment of the DC Sentencing Reform Emergency Amendment Act of 2000.

Implementation

These final rules will be applied to all cases as of the effective date of the rules.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this final rule does not constitute a significant rule within the meaning of Executive Order 12866. The final rule 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 Final Rule

■ Accordingly, the U.S. Parole Commission is adopting the following amendment 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. Amend § 2.9 by removing "U.S. Federal Prison System" and adding "Bureau of Prisons".

■ 3. Amend § 2.13 by revising paragraph (c) to read as follows:

§ 2.13 Initial hearing; procedure.

* * * * *

(c) At the conclusion of the hearing, the examiner shall discuss the decision to be recommended by the examiner and the reasons therefor, except in the extraordinary circumstance of a complex issue that requires further deliberation before a recommendation can be made. Written notice of the decision shall be mailed or transmitted to the prisoner within 21 days of the date of the hearing, except in emergencies. Whenever the Commission initially establishes a release date (or modifies the release date thereafter), the prisoner shall also receive in writing the reasons therefor.

* * * * *

- 4. Amend § 2.14 as follows:
- a. Revise paragraphs (a)(1), introductory text, and (a)(1)(ii) and (iii) to read as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* * * *
 (1) Notwithstanding a previously ordered presumptive release date or fifteen year reconsideration hearing, interim hearings shall be conducted pursuant to the procedures of § 2.13(b), (c), (e), and (f) at the following intervals from the date of the last hearing:

(ii) In the case of a prisoner with a maximum term or terms of seven years or more, every twenty-four months (until released);

(iii) In the case of a prisoner with an unsatisfied minimum term, the first interim hearing shall be scheduled under paragraphs (a)(1)(i) or (ii) of this section, or on the docket of hearings that is nine months prior to the month of parole eligibility, whichever is later.

- b. In paragraph (a)(2)(iii) by removing “Federal Prison System” wherever that term appears and adding “Bureau of Prisons”
- c. In paragraphs (a)(2)(iii) and (a)(4)(ii) by removing “an Institutional Disciplinary Committee” wherever that term appears and adding “the Discipline Hearing Officer”; and
- d. In paragraph (b)(4)(ii) by removing “administrative hearing examiner” wherever that term appears and adding “Executive Hearing Examiner”.

- 5. Amend § 2.17 by revising paragraph (a) to read as follows:

§ 2.17 Original jurisdiction cases.

(a) Following any hearing conducted pursuant to these rules, the Regional Commissioner may designate that a case should be decided as an original jurisdiction case. If the Regional Commissioner makes such a designation, the Regional Commissioner shall vote on the case and then refer the case to the other Commissioners for their votes. The decision in an original jurisdiction case shall be made on the basis of a majority vote of Commissioners holding office at the time of the decision.

- 6. Amend § 2.20 as follows:
- a. Amend the Offense Behavior Severity Index, Chapter Two Offenses Involving the Person, Subchapter B—Assault Offenses, 212 Assault, by removing paragraph (e).
- b. Amend the Offense Behavior Severity Index, Chapter Three Offenses Involving Property, Subchapter A—

Arson and Other Property Destruction Offenses, 303 Property Destruction Other Than Listed Above, by revising paragraph (a).

- c. Amend the Offense Behavior Severity Index, Chapter Thirteen General Notes and Definitions, Subchapter A—General Notes, by revising Note 4.
- d. Amend the Salient Factor Scoring Manual, Item A, by revising paragraph A.5.
- e. Amend the Salient Factor Scoring Manual, Item D, paragraph D.3(c) by removing “CTC” wherever that term appears and adding “CCC”.

The revised and added text reads as follows:

§ 2.20 Paroling policy guidelines: Statement of general policy.

* * * * *

U.S. Parole Commission Offense Behavior Severity Index

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CHAPTER THREE—OFFENSES INVOLVING PROPERTY

SUBCHAPTER A—ARSON AND OTHER PROPERTY DESTRUCTION OFFENSES

* * * * *

303 Property Destruction Other Than Listed Above

(a) If the conduct results in bodily injury *, or serious bodily injury *, or if serious bodily injury is the result intended *, grade as if “assault during commission of another offense;”

* * * * *

CHAPTER THIRTEEN—GENERAL NOTES AND DEFINITIONS

SUBCHAPTER A—GENERAL NOTES

* * * * *

4. The prisoner is to be held accountable for his own actions and actions done in concert with others; however, the prisoner is not to be held accountable for activities committed by associates over which the prisoner has no control and could not have been reasonably expected to foresee. However, if the prisoner has been convicted of a conspiracy, he must be held accountable for the criminal activities committed by his co-conspirators, provided such activities were committed in furtherance of the conspiracy and subsequent to the date the prisoner joined the conspiracy, except in the case of an independent, small-scale operator whose role in the conspiracy was neither established nor significant. An offender has an “established” role in a conspiracy if, for example, he takes orders to perform a function that assists others to further the

objectives of the conspiracy, even if his activities did not significantly contribute to those objectives. For such offenders, however, a “peripheral role” reduction may be considered.

* * * * *

Salient Factor Scoring Manual

* * * * *

Item A. * * * *

A.5 *Diversion.* Conduct resulting in diversion from the judicial process without a finding of guilt (*e.g.*, deferred prosecution, probation without plea, or a District of Columbia juvenile consent decree) is not to be counted in scoring this item. However, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be counted as a conviction even if a conviction is not formally entered.

* * * * *

§ 2.21 [Amended]

- 7. Amend § 2.21, paragraph (c), by removing “§§ 2.47(d)” and adding “§§ 2.47(e)”.

- 8. Revise § 2.24 to read as follows:

§ 2.24. Review of panel recommendation by the Regional Commissioner.

(a) Upon review of the examiner panel recommendation, the Regional Commissioner may make the decision by concurring with the panel recommendation. If the Regional Commissioner does not concur, the Regional Commissioner shall refer the case to another Commissioner and the decision shall be made on the concurring votes of two Commissioners.

(b) Upon review of the panel recommendation, the Regional Commissioner may also:

(1) Designate the case for the original jurisdiction of the Commission pursuant to § 2.17, vote on the case, and then refer the case to another Commissioner for further review; or

(2) Remand the case for a rehearing, with the notice of action specifying the purpose of the rehearing.

- 9. Amend § 2.28 by revising paragraph (a) to read as follows:

§ 2.28 Reopening of cases.

(a) *Favorable information.* Upon the receipt of new information of substantial significance favorable to the prisoner, the Regional Commissioner may reopen a case (including an original jurisdiction case), and order a special reconsideration hearing on the next available docket, or modify the previous decision. The advancement of a

presumptive release date requires the concurrence of two Commissioners.

* * * * *

■ 10. Amend § 2.27 by revising paragraph (a) to read as follows:

§ 2.27 Petition for reconsideration of original jurisdiction decisions.

(a) A petition for reconsideration may be filed with the Commission in a case decided under the procedure specified in § 2.17 within thirty days of the date of such decision. A form is provided for this purpose. A petition for reconsideration will be reviewed at the next regularly scheduled meeting of the Commission provided the petition is received thirty days in advance of such meeting. A petition received by the Commission less than thirty days in advance of a regularly scheduled meeting will be reviewed at the next regularly scheduled meeting. The previous decision made under § 2.17 may be modified or reversed only by a majority vote of the Commissioners holding office at the time of the review of the petition. If a majority vote is not obtained, the previous decision shall stand. A decision under this rule shall be final.

* * * * *

§ 2.29 [Amended]

■ 11. Amend § 2.29, paragraph (b) by removing "Community Treatment Center" and adding "community corrections center".

§ 2.33 [Amended]

■ 12. Amend § 2.33, paragraph (c) by removing "adviser" and adding "advisor".

§ 2.34 [Amended]

■ 13. Amend § 2.34 as follows:
■ a. Remove "disciplinary hearing officer" wherever that term appears in paragraphs (a) and (c) and add "Discipline Hearing Officer".
■ b. In paragraph (a), remove "Community Treatment Center" and add "community corrections center".
■ c. In paragraph (e), remove "examiner panel" and add "hearing examiner", and remove "presiding".

§ 2.36 [Amended]

■ 14. Amend § 2.36 by removing "Community Treatment Center" or "community treatment center" wherever the latter terms appear, and adding "community corrections center".

§ 2.43 [Amended]

■ 15. Amend § 2.43, paragraph (d), by removing "in the region of supervision".
■ 16. Amend § 2.49 by redesignating paragraphs (d) and (e) as paragraphs (e)

and (f), revising paragraphs (b)–(c) and adding paragraph (d) to read as follows:

§ 2.49 Place of revocation hearing.

* * * * *

(b) The parolee shall also be given a local revocation hearing if he admits (or has been convicted of) one or more charged violations, but denies at least one unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or reparole, and requests the presence of one or more adverse witnesses regarding that contested charge. If the appearance of such witness at the hearing is precluded by the Commission for good cause, a local revocation hearing shall not be ordered.

(c) If there are two or more alleged violations, the hearing may be conducted near the place of the violation chiefly relied upon as a basis for the issuance of the warrant or summons as determined by the Regional Commissioner.

(d)(1) A parolee shall be given an institutional revocation hearing upon the parolee's return or recommitment to an institution if the parolee:

- (i) Voluntarily waives the right to a local revocation hearing; or
- (ii) Admits (or has been convicted of) one or more charged violations without contesting any unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or reparole.

(2) On his own motion, the Regional Commissioner may designate any case described in paragraph (d)(1) of this section for a local revocation hearing. The difference in procedures between a "local revocation hearing" and an "institutional revocation hearing" is set forth in § 2.50(c).

* * * * *

§ 2.52 [Amended]

■ 17. Amend § 2.52, paragraph (a)(1)(iii) by removing "residential community treatment center" and adding "community corrections center".

§ 2.64 [Amended]

■ 18. Amend § 2.64 as follows:
■ a. In paragraph (b)(3), remove "by the Commission's regional administrator".
■ b. In paragraph (c)(2), remove "community treatment center" and add "community corrections center".
■ c. In paragraph (c)(6), remove "\$ 2.20" and add "\$ 2.28".

§ 2.65 [Amended]

■ 19. Amend § 2.65, paragraph (i), by removing "D.C. Code 24–206(a)" and adding "D.C. Code 24–406(a)".

§ 2.70 [Amended]

- 20. Amend § 2.70 as follows:
■ a. In paragraph (a), remove "D.C. Code 24–209" and add "D.C. Code 24–409".
■ b. In paragraph (b), remove "D.C. Code 24–208" and "D.C. Code 24–804(a)" and add "D.C. Code 24–404 and 408" and "D.C. Code 24–904(a)", respectively.
■ c. In paragraph (c), remove "D.C. Code 24–201(c)" and add "D.C. Code 24–401c".
■ d. In paragraph (d), remove "D.C. Code 24–263 through 267" and add "D.C. Code 24–461 through 467".
■ e. In paragraph (e), remove "D.C. Code 24–206" and add "D.C. Code 24–406".
- 21. Amend § 2.72 by revising paragraph (b), removing paragraphs (c) and (d), and redesignating paragraphs (e), (f), (g), and (h), as paragraphs (c), (d), (e), and (f).

The revised text is as follows:

§ 2.72 Hearing procedure.

* * * * *

(b) A prisoner may have a representative at the hearing pursuant to § 2.13(b) and the opportunity for prehearing disclosure of file material pursuant to § 2.55.

* * * * *

§ 2.73 [Amended]

■ 22. Amend § 2.73, paragraph (a), by removing "D.C. Code 24–204(a)" and adding "D.C. Code 24–404(a)".

§ 2.76 [Amended]

■ 23. Amend § 2.76 by removing "D.C. Code 24–201c" wherever that term appears and adding "D.C. Code 24–401c".

§ 2.77 [Amended]

- 24. Amend § 2.77 as follows:
■ a. In paragraph (g)(1), remove "D.C. Code 22–2903, 22–3202 or 22–3204(b)" and "D.C. Code 24–267" and add "D.C. Code 22–4502, 22–4504(b), or 22–2803" and "D.C. Code 24–467", respectively.
■ b. In paragraph (g)(2), remove "D.C. Code 24–262" and add "D.C. Code 24–462".

§ 2.78 [Amended]

- 25. Amend § 2.78 as follows:
■ a. In paragraph (e), remove "D.C. Code 24–265(c)(1)–(7)" and add "D.C. Code 24–465(c)(1)–(7)".
■ b. In paragraph (g)(1), remove "D.C. Code 22–2903, 22–3202 or 22–3204(b)" and "D.C. Code 24–267" and add "D.C. Code 22–4502, 22–4504(b), or 22–2803" and "D.C. Code 24–467", respectively.
■ c. In paragraph (g)(2) remove "D.C. Code 24–262" and add "D.C. Code 24–462".

■ 26. Amend § 2.79 by removing “D.C. Code 24–204” and adding “D.C. Code 24–404”.

§ 2.91 [Amended]

■ 27. Amend § 2.91, paragraph (a), by removing “D.C. Code 24–1233(c) and 4203(b)(4)” and adding “D.C. Code 24–133(c)”.

§ 2.92 [Amended]

■ 28. Amend § 2.92, paragraph (a), by removing “D.C. Code 24–431(a)” and adding “D.C. Code 24–221.03(a) and 24–405”.

§ 2.98 [Amended]

■ 29. Amend § 2.98, paragraph (e), by removing “D.C. Code 24–206(a)” and adding “D.C. Code 24–406(a)”.

§ 2.100 [Amended]

■ 30. Amend § 2.100, paragraph (d)(2), by removing “D.C. Code 24–206(a)” and adding “D.C. Code 24–406(a)”.

■ 31. Amend § 2.102 by revising paragraph (d) to read as follows:

§ 2.102 Place of revocation hearing.

* * * * *

(d)(1) A parolee shall be given an institutional revocation hearing upon the parolee’s return or recommitment to an institution if the parolee:

(i) Voluntarily waives the right to a local revocation hearing; or

(ii) Admits (or has been convicted of) one or more charged violations without contesting any adjudicated charge that may be determinative of the Commission’s decision regarding revocation and/or reparole.

(2) An institutional revocation hearing may also be conducted in the District of Columbia jail or prison facility in which the parolee is being held. On his own motion, a Commissioner may designate any case described in paragraph (d)(1) of this section for a local revocation hearing. The difference in procedures between a “local revocation hearing” and an “institutional revocation hearing” is set forth in § 2.103(b).

* * * * *

§ 2.105 [Amended]

■ 32. Amend § 2.105 by removing “D.C. Code 24–206(a)” wherever it appears in paragraphs (b), (d), and (e) and adding “D.C. Code 24–406(a)”.

■ 33. Amend § 2.106 by revising paragraph (a) as set forth below, and, in paragraph (c), by removing “D.C. Code 24–805” and adding “D.C. Code 24–905”.

The revised text reads as follows:

§ 2.106 Youth Rehabilitation Act.

(a) *Regulations governing YRA offenders and D.C. Code FYCA offenders.* Unless the judgment and commitment order provides otherwise, the provisions of this section shall apply to an offender sentenced under the Youth Rehabilitation Act of 1985 (D.C. Code 24–901 *et seq.*) (YRA) who committed his offense before 5 p.m., August 11, 2000, and a D.C. Code offender sentenced under the former Federal Youth Corrections Act (former 18 U.S.C. 5005 *et seq.*) (FYCA). An offender sentenced under the YRA who committed his offense (or who continued to commit his offense) on or after 5 p.m., August 11, 2000, is not eligible for release on parole, but may be terminated from a term of supervised release before the expiration of the term and receive a certificate setting aside the conviction under § 2.208(f). *See* D.C. Code 24–904(c) and 24–906(c).

* * * * *

§ 2.107 [Amended]

■ 34. Amend § 2.107, paragraph (a), by removing “D.C. Code 24–1233(b)(2)(G)” and “D.C. Code 24–251” and adding “D.C. Code 24–133(b)(2)(G)” and “D.C. Code 24–451”, respectively.

Dated: June 27, 2003.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 03–17175 Filed 7–11–03; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–235]

RIN 1625–AA00

Safety Zone; Gary Air and Water Show, Lake Michigan, Gary, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Gary Air and Water Show. The safety zone is necessary to protect vessels, participants and spectators during the Gary Air and Water Show. This safety zone is intended to restrict vessel from a portion of Lake Michigan.

DATES: This temporary final rule is effective from 8:30 a.m. on July 17, 2003, until 7 p.m. on July 20, 2003.

ADDRESSES: Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket [CGD09–03–235] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Chicago, Illinois 60527, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

MST2 Kenneth Brockhouse, U.S. Coast Guard Marine Safety Office Chicago, at (630) 986–2155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of participants and spectators from the hazards associated with an air and water show. All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port Chicago’s designated on scene representative will be the Patrol Commander. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Discussion of Rule

The safety zone will encompass all waters and adjacent shoreline of Lake Michigan bounded by the arc of a circle with a radius of 5 nautical miles with its center in approximate position 41°37’25” N, 087°15’42” W (off of Miller Beach Ogden Dunes). These coordinates are based upon North American Datum 1983 (NAD 1983).