

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 00P-1275 and 00P-1276]

Food Labeling: Health Claims; Plant Sterol/Stanol Esters and Coronary Heart Disease; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an interim final rule that appeared in the **Federal Register** of September 8, 2000 (65 FR 54686). The interim final rule authorized the use in food labeling of health claims on the association between plant sterol/stanol esters and reduced risk of coronary heart disease (CHD), pending consideration of public comment and publication of a final regulation. The interim final rule was published with inadvertent errors. This document corrects those errors.

DATES: Effective September 8, 2000.

FOR FURTHER INFORMATION CONTACT:

James E. Hoadley, Center for Food Safety and Applied Nutrition (HFS-832), 200 C St. SW., Washington, DC 20204, 202-205-5372.

SUPPLEMENTARY INFORMATION: In FR Doc. 00-22892, appearing on page 54686 in the **Federal Register** of Friday, September 8, 2000, the following corrections are made:

1. On page 54687, in the second column, under the heading, "II. Petitions for Plant Sterol/Stanol Esters and Reduced Risk of CHD," in the 17th line, the phrase "extension of 30 days" is corrected to read "extension of 28 days".

2. On page 54687, in the second column, in the 18th line, at the end of the paragraph, the following sentence is added: "This interim final rule went on public display at the Office of the Federal Register on September 5, 2000."

3. On page 54687, in the second column, in the last sentence of the first full paragraph, the phrase "an extension of the deadline to publish a proposed regulation" is corrected to read "an extension of the deadline for the petition".

4. On page 54687, in the second column, after the last sentence of the first full paragraph, the following sentence is added: "As previously noted, this interim final rule went on public display at the Office of the Federal Register on September 5, 2000."

5. On page 54687, in the third column, in the last paragraph, under the heading "a. *Plant sterol esters*", beginning in the 4th line, the phrase "esterified to food-grade fatty acids" is corrected to read "esterified with food-grade fatty acids".

6. On page 54688, in the second column, under the heading "b. *Plant stanol esters*", beginning in the 4th line, the phrase "esterified to food-grade fatty acids" is corrected to read "esterified with food-grade fatty acids".

7. On page 54693, in the first column, in the first full paragraph, in the 17th line, the phrase "esterified to sunflower oil" is corrected to read "esterified with sunflower oil".

8. On page 54693, in the third column, in the first full paragraph, in the 35th line, the symbol "N" is corrected to read "n".

9. On page 54715, in the third column, in Ref. 37, the phrase "London: Academic" is corrected to read "London: Academic Press".

10. On page 54716, in the first and second columns, in Refs. 60 and 63, the word "Atherosclerosis" is corrected to read "Atherosclerosis".

11. On page 54717, in the second column, in Ref. 102, the word "IsokaAE4aAE4ntaAE4" is corrected to read "Isokaanta".

§ 101.83 [Corrected]

The following corrections are made in § 101.83 *Health claims: plant sterol/stanol esters and risk of coronary heart disease (CHD)*.

12. On page 54718, in the second column, in paragraph (c)(2)(ii)(A)(2), in the 4th line, the phrase "February 1, 2000, the method," is corrected to read "February 1, 2000. The method,".

13. On page 54719, in the second column, in paragraph (e)(1)(i), and in the third column, in paragraphs (e)(1)(ii), (e)(2)(i), and (e)(2)(ii), the phrase "serving of [name of the food] supplies grams" is corrected to read "serving of [name of the food] supplies _____ grams".

Dated: November 20, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00-30045 Filed 11-21-00; 9:47 am]

BILLING CODE 4160-01-F

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Offenders Serving Terms of Supervised Release Imposed by the Superior Court of the District of Columbia

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Parole Commission is publishing interim rules to govern the supervision of released prisoners who are serving terms of supervised release imposed by the Superior Court of the District of Columbia. The Commission has assumed this function pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997. Under that Act, an offender who is convicted of a crime under the District of Columbia Code that was committed on or after August 5, 2000, will receive a term of supervised release to follow the completion of the offender's term of imprisonment. Because parole is abolished for these offenders, supervised release will replace parole as the means of providing them with post-imprisonment supervision and treatment in order to minimize their chances of recidivism and protect the public safety.

DATES: Effective Date: December 26, 2000. Comments must be received by January 30, 2001.

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 the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Under the National Capital Revitalization and Self-Government Improvement Act of 1977, the District of Columbia was required to amend the District of Columbia Code in order to accomplish major changes in sentencing for offenses committed on or after August 5, 2000. Among those changes was a requirement that parole be abolished for many offenses, and replaced by terms of supervised release to be imposed at the time of sentencing and served following release from imprisonment. The District of Columbia carried out these requirements through the Sentencing Reform Amendment Act

of 2000, which abolishes parole and establishes maximum terms of supervised release to be imposed at the time of sentencing, together with maximum penalties to be followed in the event a term of supervised release is revoked. This law applies only to offenders who are convicted of crimes committed on or after August 11, 2000. (It does not apply to offenders who are serving sentences that include eligibility for parole.)

The Revitalization Act also provided that offenders who are sentenced to serve terms of supervised release imposed by the Superior Court of the District of Columbia shall be subject to the authority of the U.S. Parole Commission. The Commission was given the same authority over Superior Court supervised releasees as is exercised by the U.S. District Courts over federal supervised releasees under 18 U.S.C. 3583. The sole exception is that any extension of a term of supervised release imposed by the Superior Court must be ordered by the Superior Court. Further, the Revitalization Act specifies that the procedures to be followed by the Commission in exercising its authority over Superior Court supervised releasees are the procedures applicable to federal parolees under the Parole Commission and Reorganization Act of 1976, as set forth in Chapter 311 of Title 18, United States Code.

The Commission is, accordingly, soliciting public comment on the regulations it proposes to adopt in order to carry out this new function. The interim regulations cover all aspects of the supervised release function, from the commencement of a term of supervised release and the setting of the conditions of release, to the procedures and penalty provisions governing the revocation process in a case where the conditions of release are violated by the releasee. The regulations implement the substantive provisions of 18 U.S.C. 3583 and D.C. Code 24–1233 (the relevant provisions of the Revitalization Act), and incorporate the relevant procedural requirements of Chapter 311 of Title 18, U.S. Code, as implemented at 28 CFR part 2, subpart A.

To assist the Commission in making the determinations required by the supervised release function, the Commission is also proposing to adopt guidelines both for early termination decisions and for decisions to reimprison following revocation of supervised release. The early termination guidelines are based on the guidelines currently applicable to D.C. Code parolees with respect to the release of such parolees from active

supervision. See CFR 2.95 (2000). The guidelines for determining the length of any new term of imprisonment to be imposed upon revocation of supervised release are the reparole guidelines made applicable to federal parolees at 28 CFR 2.21 and to D.C. Code parolees at 28 CFR 2.81. However, the maximum authorized terms of reimprisonment and further supervised release that may be imposed upon revocation of supervised release are established by 18 U.S.C. 3583(h) and by the Sentencing Reform Amendment Act of 2000. These maximum penalty provisions, which are significantly different from those applicable in the context of parole revocations, are set forth in these regulations. Because the applicable penalties are determined by reference to the original offense of conviction, a comprehensive reference table is set forth in these interim regulations so that hearing examiners, supervised releasees, and their representatives, will clearly understand the limits within which the Commission's decision is to be made at a revocation hearing.

These interim rules are being made effective as interim rules so that any offender who commences a term of supervised release in the near future can be effectively supervised pending consideration of final regulations. Public comment is invited on all aspects of these interim rules, and will be considered by the Commission prior to adopting final rules.

Implementation

The interim regulations set forth below will be applied solely to offenders serving terms of supervised release that have been imposed by the Superior Court of the District of Columbia for crimes committed on or after August 5, 2000. There is no retroactive application to other offenders. Supervision will be provided by the Court Services and Offender Supervision Agency (CSOSA). In the case of terms of supervised release under the District of Columbia Code that are imposed by the U.S. District Court for the District of Columbia, such terms of supervised release will be under the exclusive jurisdiction of the U.S. District Court for the District of Columbia and supervision will be carried out by the U.S. Probation Office rather than CSOSA.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that these interim rules do not constitute a significant rule within the meaning of Executive Order 12866. The rules 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 are deemed by the Commission to be rules of agency practice that will not substantially effect 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, Probation and parole, Prisoners.

The Amendment

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. 28 CFR part 2 is amended to add a new subpart D consisting of §§ 2.200 through 2.219, which is to read as follows:

Subpart D—District of Columbia Code Supervised Releasees

Sec.

- 2.200 Authority, jurisdiction and functions of the U.S. Parole Commission with respect to offenders serving terms of supervised release imposed by the Superior Court of the District of Columbia.
- 2.201 Period of supervised release.
- 2.202 Prerelease procedures.
- 2.203 Certificate of supervised release.
- 2.204 Conditions of supervised release.
- 2.205 Confidentiality of supervised release records.
- 2.206 Travel approval and transfers of supervision.
- 2.207 Supervision reports to Commission.
- 2.208 Termination of a term of supervised release.
- 2.209 Order of termination.
- 2.210 Extension of term.
- 2.211 Summons to appear or warrant for retaking releasee.
- 2.212 Execution of warrant and service of summons.
- 2.213 Warrant placed as detainer and dispositional review.
- 2.214 Revocation; preliminary interview.
- 2.215 Place of revocation hearing.
- 2.216 Revocation hearing procedure.
- 2.217 Issuance of subpoena for appearance of witnesses or production of documents.
- 2.218 Revocation decisions.
- 2.219 Maximum terms of imprisonment and supervised release.

Subpart D—District of Columbia Code Supervised Releasees**§ 2.200 Authority, jurisdiction, and functions of the U.S. Parole Commission with respect to offenders serving terms of supervised release imposed by the Superior Court of the District of Columbia.**

(a) The U.S. Parole Commission has jurisdiction, pursuant to D.C. Code 24–1233(c)(2), over all offenders serving terms of supervised release imposed by the Superior Court of the District of Columbia under the Sentencing Reform Amendment Act of 2000.

(b) The U.S. Parole Commission shall have and exercise the same authority with respect to a term of supervised release as is vested in the United States district courts by 18 U.S.C. 3583(d) through(i), except that:

(1) The procedures followed by the Commission in exercising that authority shall be those set forth with respect to offenders on federal parole at 18 U.S.C. 4209 through 4215 (Chapter 311 of 18 United States Code); and

(2) An extension of a term of supervised release under subsection (e)(2) of 18 U.S.C. 3583 may only be ordered by the Superior Court upon motion from the Commission.

(c) Within the District of Columbia, supervision of offenders on terms of supervised release under the Commission's jurisdiction is carried out by the Community Supervision Officers of the Court Services and Offender Supervision Agency (CSOSA), pursuant to D.C. Code 24–1233(c)(2). Outside the District of Columbia, supervision is carried out by United States Probation Officers pursuant to 18 U.S.C. 3655. For the purpose of this subpart, any reference to a "Supervision Officer" shall include both a Community Supervision Officer of CSOSA and a United States Probation Officer in the case of a releasee who is under supervision outside the District of Columbia.

§ 2.201 Period of supervised release.

A period of supervised release that is subject to the Commission's jurisdiction begins to run on the day the offender is released from prison and continues to the expiration of the full term imposed by the Superior Court, unless early termination is granted by the Commission. In the case of multiple terms of supervised release imposed by the Superior Court, all terms are deemed to be absorbed by the longest term imposed, which shall be the controlling term for all purposes under this part, including the calculation of the maximum authorized penalties that may be imposed if supervised release is

revoked. A term of supervised release shall run concurrently with any federal, state, or local term of probation, parole or supervised release for another offense, but does not run while the offender is imprisoned in connection with a conviction for a federal, state, or local crime unless the period of imprisonment is less than 30 days. Such interruption of the term of supervised release is automatic, and is not dependent upon the issuance of a warrant or an order of revocation by the Commission.

§ 2.202 Prerelease procedures.

(a) At least three months, but not more than six months, prior to the release of a prisoner who has been sentenced to a term or terms of supervised release by the Superior Court, the responsible prison officials shall have the prisoner's release plan forwarded to CSOSA (or to the appropriate U.S. Probation Office) for investigation. If the CSOSA Supervision Officer (or U.S. Probation Officer) believes that any special condition of supervised release should be imposed prior to the release of the prisoner, he shall forward a request for such condition to the Commission. The Commission may, upon such request or of its own accord, impose any special condition in addition to the standard conditions specified in § 2.204, which shall take effect on the day the prisoner is released.

(b) Upon the release of the prisoner, the responsible prison officials shall instruct the prisoner, in writing, to report to his assigned Supervision Officer within 72 hours, and shall inform the prisoner that failure to report on time shall constitute a violation of supervised release. If the prisoner is released to the custody of other authorities, the prisoner shall report to his Supervision Officer within 72 hours after his release from the physical custody of such authorities. If he is outside the District of Columbia and is unable to report to the Supervision Officer to whom he is assigned within 72 hours, he shall report instead to the nearest U.S. Probation Office.

§ 2.203 Certificate of supervised release.

When an offender who has been released from prison to serve a term of supervised release imposed by the Superior Court reports to his Supervision Officer for the first time, the Supervision Officer shall deliver to the releasee a certificate bearing the conditions of supervised release imposed by the Commission and shall explain the conditions to the releasee.

§ 2.204 Conditions of supervised release.

(a) The following conditions shall apply to every term of supervised release, and are deemed by the Commission to be necessary to provide adequate supervision and to protect the public from further crimes of the releasee:

(1) The releasee shall not commit any federal, state, or local crime during the term of supervision, nor shall he associate with persons engaged in criminal activity. The releasee shall report within two days to his Supervision Officer if he is arrested or questioned by any law enforcement officer.

(2) The releasee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use or administer any controlled substance unless prescribed for the releasee by a physician. The releasee shall not frequent places where such controlled substances are illegally sold, dispensed, used, or given away.

(3) The releasee shall submit to a drug urinalysis test, within 15 days of being placed on supervision, and to at least two periodic drug tests thereafter, as ordered by his Supervision Officer. The Commission may modify or suspend this condition if the record indicates that there is a low risk of future substance abuse by the releasee.

(4) The releasee shall submit to a drug or alcohol test at any time during the term of supervision, whenever such testing is ordered by his Supervision Officer.

(5) The releasee shall not leave the limits fixed by his certificate of supervised release without permission from his Supervision Officer.

(6) The releasee shall notify his Supervision Officer of the address where he will reside and of any change in his place of residence within two days of such change.

(7) The releasee shall make a complete and truthful written report (on a form provided for that purpose) to his Supervision Officer between the first and third day of each month. He shall also report to his Supervision Officer at other times as the officer directs, providing complete and truthful information.

(8) The releasee shall not enter into any agreement to act as an informant or special agent for any law-enforcement agency without prior authorization from the Commission.

(9) The releasee shall work regularly unless excused by his Supervision Officer, and shall support his legal dependants, if any, to the best of his ability. He shall report within two days to his Supervision Officer any changes

in his employment or employment status.

(10) The releasee shall not associate with persons who have a criminal record without the permission of his Supervision Officer.

(11) The releasee shall not possess a firearm or other dangerous weapon.

(12) The releasee shall permit visits by his Supervision Officer to his residence and to his place of business or occupation. He shall permit confiscation by his Supervision Officer of any material which the officer believes may constitute contraband in the releasee's residence, place of business or occupation, vehicle, or on his person. The Commission may also, when a reasonable basis for so doing is presented, modify the conditions of supervised release to require the releasee to permit his Supervision Officer to conduct searches and seizures of concealed contraband on the releasee's person, and in any building, vehicle, or other area under the releasee's control, at such times as the officer shall decide.

(13) The releasee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, and/or court ordered child support or alimony payment that has been, or may be, imposed, and shall provide such financial information as may be requested by his Supervision Officer that is relevant to the payment of the obligation. If unable to pay the obligation in one sum, the releasee shall cooperate with his Supervision Officer in establishing an installment payment schedule. In determining whether to revoke supervised release for non-compliance with this condition, the Commission shall consider the releasee's employment status, earning ability, financial resources, and any other special circumstances that may have a bearing on the matter. Revocation shall not be ordered unless the releasee is found to be deliberately evading or refusing compliance.

(14) If released to the District of Columbia, the releasee shall submit to the sanctions imposed by his Community Supervision Officer (within the limits established by the CSOSA Administrative Sanctions Schedule) if the Community Supervision Officer finds that the releasee has tested positive for illegal drugs or that he has committed any non-criminal violation of the conditions of supervised release. Graduated sanctions may include community service, curfew with electronic monitoring, and/or a period of time in a community corrections center. The releasee's failure to cooperate with a graduated sanction

imposed by his Supervision Officer will subject the releasee to the issuance of a summons or warrant by the Commission, and a revocation hearing at which the releasee will be afforded the opportunity to contest the allegations upon which the sanction was based. In addition, the Commission may override the imposition of a graduated sanction at any time and issue a warrant or summons if it believes that the releasee is a risk to the public safety or that he is not complying with this condition in good faith.

(b) The Commission or a member thereof may at any time modify the conditions of supervised release, which may include imposing additional conditions. In so doing, the Commission shall consider the factors referenced in 18 U.S.C. 3583(d). The releasee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following the ten day period, the Commission shall have 21 days, exclusive of holidays, to modify the conditions of supervised release. The ten-day notice requirement shall not apply to a modification of the conditions of release in the following circumstances:

(1) Following a revocation hearing;

(2) Upon a finding that immediate modification of the conditions of release is required to prevent harm to the releasee or to the public; or

(3) In response to a request by the releasee.

(c) The Commission may, as a condition of supervised release, require the releasee to reside in a community corrections center, or to participate in the program of a residential treatment center, or both, for all or part of the period of supervised release, as part of a program of treatment.

(d) The Commission may require the releasee to remain at his place of residence during non-working hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices. A condition under this paragraph may be imposed only as an alternative to incarceration.

(e) The Commission may require a releasee, when there is evidence of prior or current alcohol dependence or abuse, to participate in an alcohol aftercare treatment program. In such a case, the Commission will require that the releasee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(f) The Commission may require a releasee, where there is evidence of prior or current drug dependence or

abuse, to participate in a drug treatment program, which shall include at least two periodic tests to determine whether the releasee has reverted to the use of drugs (including alcohol). In such a case, the Commission will require that the releasee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(g) If the conviction resulting in the term of supervised release is the releasee's first conviction for a crime of domestic violence as defined in 18 U.S.C. 3561(b), the releasee shall, at the direction of his Supervision Officer, attend a public, private, or private nonprofit offender rehabilitation program that has been approved by CSOSA (or the U.S. Probation Office), in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if such an approved program is readily available within a 50-mile radius of the legal residence of the releasee. For the purposes of this condition, a "court of the United States" in 18 U.S.C. 3561(b) shall include the District of Columbia Superior Court. The Commission shall not be limited by this requirement from imposing any appropriate condition with respect to a repeat offender.

(h) A releasee who has committed an offense for which sex offender registration is required under D.C. Code 24-1121 *et seq.*, shall comply with the registration requirements of Chapter 11 of Title 24, D.C. Code, and with the sex offender registration laws of any state in which the releasee resides, works, or attends school.

(i) Any releasee who absconds from supervision has effectively prevented his term of supervised release from expiring. Therefore, the releasee remains bound by the conditions of his release, and violations committed at any time prior to execution of a warrant issued by the Commission, whether before or after the originally scheduled expiration date of the term of supervised release, may be charged as a basis for revocation. In such a case, the warrant may be supplemented at any time.

(j) Releasees are expected by the Commission to understand the conditions of supervision according to their plain meaning, and to seek the guidance of their Supervision Officers before engaging in any conduct that may constitute a violation thereof. Supervision Officers may issue instructions to releasees to refrain from particular conduct that would violate supervised release, or to take specific steps to avoid or correct a violation thereof, as well as such other directives as may be authorized by the conditions imposed by the Commission.

§ 2.205 Confidentiality of supervised release records.

(a) Consistent with the Privacy Act of 1974 (5 U.S.C. 552a(b)), the contents of supervised release records shall be confidential and shall not be disclosed outside the Commission and CSOSA (or the U.S. Probation Office) except as provided in paragraphs (b) and (c) of this section.

(b) Information pertaining to a releasee may be disclosed to the general public, without the consent of the releasee, as authorized by § 2.37.

(c) Information other than as described in § 2.37 may be disclosed without the consent of the releasee only pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(b)) and the implementing rules of the Commission or CSOSA, as applicable.

§ 2.206 Travel approval and transfers of supervision.

(a) A releasee's Supervision Officer may approve travel outside the district of supervision without approval of the Commission in the following situations:

(1) Trips not to exceed thirty days for family emergencies, vacations, and similar personal reasons;

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities; and

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Commission is required for all foreign travel, employment requiring recurring travel more than fifty miles outside the district, and vacation travel outside the district of supervision exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

(c) A special condition imposed by the Commission prohibiting certain travel shall apply instead of any general rules relating to travel as set forth in paragraph (a) of this section.

(d) The district of supervision for a releasee under the supervision of CSOSA shall be the District of Columbia, except that for the purpose of travel permission under this section, the district of supervision shall include the D.C. metropolitan area as defined in the certificate of supervised release.

(e) A supervised releasee who is under the jurisdiction of the Commission, and who is released or transfers to a district outside the District of Columbia, shall be supervised by a U.S. Probation Officer pursuant to 18 U.S.C. 3655.

(f) A supervised releasee may be transferred to a new district of

supervision with the permission of the supervision offices of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.207 Supervision reports to Commission.

An initial supervision report to confirm the satisfactory initial progress of the releasee shall be submitted to the Commission 90 days after the offender's release from prison, by the Supervision Officer responsible for the releasee's supervision. A regular supervision report shall be submitted to the Commission by the officer responsible for the supervision of the releasee after the completion of 12 months of continuous community supervision and annually thereafter. The Supervision Officer shall submit such additional reports and information concerning both the releasee, and the enforcement of the conditions of supervised release, as the Commission may direct. All reports shall be submitted according to the format established by the Commission.

§ 2.208 Termination of a term of supervised release.

(a) The Commission, in its discretion, may terminate a term of supervised release and discharge the releasee from further supervision at any time after the expiration of one year of supervised release, if the Commission is satisfied that such action is warranted by the conduct of the releasee and the interest of justice.

(b) Two years after release on supervision, and at least annually thereafter, the Commission shall review the status of each releasee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release prior to the most recent release, nor any period served in confinement on any other sentence. A review shall also be conducted whenever termination of supervision is specially recommended by the releasee's Supervision Officer. If the term of supervised release imposed by the court is two years or less, termination of supervision shall be considered only if specially recommended by the releasee's Supervision Officer.

(c) In determining whether to grant early termination of supervision, the Commission shall calculate for the releasee a Salient Factor Score under § 2.20, and shall apply the following early termination guidelines, provided that case-specific factors do not indicate a need for continued supervision:

(1) For a releasee classified in the very good risk category and whose current

offense did not involve violence, termination of supervision may be ordered after two continuous years of incident-free supervision in the community.

(2) For a releasee classified in the very good risk category and whose current offense involved violence other than high level violence, termination of supervision may be ordered after three continuous years of incident-free supervision in the community.

(3) For a releasee classified in the very good risk category and whose current offense involved high level violence (without death of victim resulting), termination of supervision may be ordered after four continuous years of incident-free supervision in the community.

(4) For a releasee classified in other than the very good risk category, whose current offense did not involve violence, and whose prior record includes not more than one episode of felony violence, termination of supervision may be ordered after three continuous years of incident-free supervision in the community.

(5) For a releasee classified in other than the very good risk category whose current offense involved violence other than high level violence, or whose current offense did not involve violence but his prior record includes two or more episodes of felony violence, termination of supervision may be ordered after four continuous years incident-free supervision in the community.

(6) For releasees in the following categories, release from supervision prior to five years may be ordered only upon a case-specific finding that, by reason of age, infirmity, or other compelling factors, the releasee is unlikely to be a threat to the public safety:

(i) A releasee in other than the very good risk category whose current offense involved high level violence;

(ii) A releasee whose current offense involved high level violence with death of victim resulting; and

(iii) A releasee who is a sex offender serving a term of supervised release that exceeds five years.

(7) The terms "violence" and "high level violence" are defined in § 2.80. The term "incident-free supervision" means that the releasee has had no reported violations, and has not been the subject of any arrest or law enforcement investigation that raises a reasonable doubt as to whether the releasee has been able to refrain from law violations while under supervision.

(d) Except in the case of a releasee covered by paragraph (c)(6) of this

section, a decision to terminate supervision below the guidelines may be made if it appears that the releasee is a better risk than indicated by the salient factor score (if classified in other than the very good risk category), or is a less serious risk to the public safety than indicated by a violent current offense or prior record. However, termination of supervision prior to the completion of two years of incident-free supervision will not be granted in any case unless case-specific factors clearly indicate that continued supervision would be counterproductive to the releasee's rehabilitation.

(e) A releasee with a pending criminal charge who is otherwise eligible for an early termination from supervision shall not be discharged from supervision until the disposition of such charge is known.

§ 2.209 Order of termination.

When the Commission orders the termination of a term of supervised release, it shall issue a certificate to the releasee granting the releasee a full discharge from his term of supervised release. The termination and discharge shall take effect only upon the actual delivery of the certificate of discharge to the releasee by his Supervision Officer, and may be rescinded for good cause at any time prior to such delivery.

§ 2.210 Extension of term.

(a) At any time during service of a term of supervised release, the Commission may move the Superior Court to extend the term of supervised release to the maximum term authorized by law, if less than the maximum authorized term was originally imposed. If the Superior Court grants the Commission's motion prior to the expiration of the term originally imposed, the extension ordered by the Court shall take effect upon its issuance.

(b) The Commission may move the Superior Court for an extension of a term of supervised release if, for any reason, it finds that the rehabilitation of the releasee, and/or the protection of the public safety, is likely to require a longer period of supervision than the Court originally contemplated. The Commission's grounds for making such a finding shall be stated in the motion filed with the Court.

(c) The provisions of this section shall not apply to the Commission's determination of an appropriate period of further supervised release following revocation of a term of supervised release.

§ 2.211 Summons to appear or warrant for retaking releasee.

(a) If a releasee is alleged to have violated the conditions of his release, and satisfactory evidence thereof is presented, a Commissioner may:

(1) Issue a summons requiring the releasee to appear for a preliminary interview or local revocation hearing; or

(2) Issue a warrant for the apprehension and return of the releasee to custody.

(b) A summons or warrant under paragraph (a) of this section may be issued or withdrawn only by a Commissioner.

(c) Any summons or warrant under this section shall be issued as soon as practicable after the alleged violation is reported to the Commission, except when delay is deemed necessary. Issuance of a summons or warrant may be withheld until the frequency or seriousness of the violations, in the opinion of a Commissioner, requires such issuance. In the case of any releasee who is charged with a criminal offense and who is awaiting disposition of such charge, issuance of a summons or warrant may be:

- (1) Temporarily withheld;
- (2) Issued by the Commission and held in abeyance;
- (3) Issued by the Commission and a detainer lodged with the custodial authority; or
- (4) Issued for the retaking of the releasee.

(d) A summons or warrant may be issued only within the maximum term or terms of the period of supervised release being served by the releasee, except as provided for an absconder from supervision in § 2.204(i). A summons or warrant shall be considered issued when signed and either:

- (1) Placed in the mail; or
- (2) Sent by electronic transmission to the appropriate law enforcement authority.

(e) The issuance of a warrant under this section operates to bar the expiration of the term of supervised release. Such warrant maintains the Commission's jurisdiction to retake the releasee either before or after the normal expiration date of his term, and for such time as may be reasonably necessary for the Commission to reach a final decision as to revocation of the term of supervised release.

(f) A summons or warrant issued pursuant to this section shall be accompanied by a warrant application stating the charges against the releasee, the applicable procedural rights under the Commission's regulations, and the possible actions which may be taken by the Commission. A summons shall

specify the time and place the releasee shall appear. Failure to appear in response to a summons shall be grounds for issuance of a warrant.

§ 2.212 Execution of warrant and service of summons.

(a) Any officer of any Federal or District of Columbia correctional institution, any Federal Officer authorized to serve criminal process, or any officer or designated civilian employee of the Metropolitan Police Department of the District of Columbia, to whom a warrant is delivered, shall execute such warrant by taking the releasee and returning him to the custody of the Attorney General.

(b) Upon the arrest of the releasee, the officer executing the warrant shall deliver to him a copy of the warrant application.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the releasee is to be continued under supervision by the Supervision Officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the releasee must continue to abide by all the conditions of release.

(d) If any other warrant for the arrest of the releasee has been executed or is outstanding at the time the Commission's warrant is executed, the arresting officer may, within 72 hours of executing the Commission's warrant, release the arrestee to such other warrant and lodge the Commission's warrant as a detainer, voiding the execution thereof, provided such action is consistent with the instructions of the Commission. In other cases, the arrestee may be released from an executed warrant whenever the Commission finds such action necessary to serve the ends of justice.

(e) A summons to appear at a preliminary interview or revocation hearing shall be served upon the releasee in person by delivering to the releasee a copy of the summons and the application therefore. Service shall be made by any Federal or District of Columbia officer authorized to serve criminal process and certification of such service shall be returned to the Commission.

(f) Official notification of the issuance of a Commission warrant shall authorize any law enforcement officer within the United States to hold the releasee in custody until the warrant can be executed in accordance with paragraph (a) of this section.

§ 2.213 Warrant placed as detainer and dispositional review.

(a) When a releasee is a prisoner in the custody of other law enforcement authorities, or is serving a new sentence of imprisonment imposed for a crime (or for a violation of some other form of community supervision) committed while on supervised release, a violation warrant may be lodged against him as a detainer.

(b) The Commission shall review the detainer upon the request of the prisoner pursuant to the procedure set forth in § 2.47(a)(2). Following such review, the Commission may:

(1) Withdraw the detainer and order reinstatement of the prisoner to supervision upon release from custody;

(2) Order a dispositional revocation hearing to be conducted at the institution in which the prisoner is confined; or

(3) Let the detainer stand until the new sentence is completed. Following the execution of the Commission's warrant, and the transfer of the prisoner to an appropriate federal facility, an institutional revocation hearing shall be conducted.

(c) Dispositional revocation hearings pursuant to this section shall be conducted in accordance with the provisions at § 2.216 governing institutional revocation hearings. A hearing conducted at a state or local facility may be conducted either by a hearing examiner or by any federal, state, or local official designated by a Commissioner. Following a revocation hearing conducted pursuant to this section, the Commission may take any action authorized by § 2.218 and 2.219.

(d) The date the violation term commences is the date the Commission's warrant is executed. A releasee's violation term (i.e., the term of imprisonment and/or further term of supervised release that the Commission may require the releasee to serve after revocation) shall start to run only upon the offender's release from the confinement portion of the intervening sentence.

(e) An offender whose supervised release is revoked shall be given credit for all time in confinement resulting from any new offense or violation that is considered by the Commission as a basis for revocation, but solely for the purpose of satisfying the time ranges in the reparole guidelines at § 2.21. The computation of the offender's sentence, and the forfeiture of time on supervised release, are not affected by such guideline credit.

§ 2.214 Revocation; Preliminary interview.

(a) Interviewing officer. A releasee who is retaken on a warrant issued by the Commission shall promptly be offered a preliminary interview by a Supervision Officer (or other official designated by the Commission). The purpose of the preliminary interview is to enable the Commission to determine if there is probable cause to believe that the releasee has violated his conditions of release as charged, and if so, whether a local or institutional revocation hearing should be conducted. Any Supervision Officer or U.S. Probation Officer in the district where the releasee is confined may conduct the preliminary interview, provided he is not the officer who recommended that the warrant be issued.

(b) Notice and opportunity to postpone interview. (1) At the beginning of the preliminary interview, the interviewing officer shall ascertain that the warrant application has been given to the releasee as required by § 2.212(b). The interviewing officer shall advise the releasee that he may go forward with the interview, or have the interview postponed in order to obtain an attorney and/or witnesses and evidence on his behalf. A postponement may be requested by signing the form provided by the interviewing officer, and by indicating on such form the reason for the requested postponement. If the releasee wishes to be represented by counsel, and counsel is not already available and present, the releasee may request a postponement to engage the services of counsel, to apply for counsel to be assigned by the D.C. Public Defender Service, or to apply for appointment of counsel under 28 U.S.C. 3006A in cases where the releasee has been arrested outside the District of Columbia.

(2) If a postponement is requested, the releasee may request the Commission to obtain the presence of adverse witnesses (i.e., persons who have given information upon which revocation may be based). Such adverse witnesses may be requested to attend the postponed preliminary interview if the releasee meets the requirements at § 2.215(a) for a local revocation hearing. The releasee shall be given advance notice of the time and place of a postponed preliminary interview.

(c) Review of the charges. At the preliminary interview, the interviewing officer shall review the violation charges with the releasee and shall apprise the releasee of the evidence that has been presented to the Commission. The interviewing officer shall ascertain whether the releasee admits or denies each charge listed on the warrant

application, as well as the releasee's explanation of the facts giving rise to each charge. The officer shall also receive the statements of any witnesses and documentary evidence on behalf of the releasee. At a postponed preliminary interview, the hearing officer shall also permit the cross-examination of any adverse witnesses in attendance. However, in such cases, the Commission will ordinarily have ordered a combined preliminary interview and local revocation hearing as provided in paragraph (f) of this section.

(d) Probable cause determination. At the conclusion of the preliminary interview, the interviewing officer shall inform the releasee of his recommended decision as to whether there is probable cause to believe that the releasee has violated the conditions of release, and shall submit to the Commission a digest of the interview together with a recommended decision.

(1) If the interviewing officer's recommended decision is that there is no probable cause to believe that the releasee has violated the conditions of his release, a Commissioner shall review the recommended decision and notify the releasee of his final decision concerning probable cause as expeditiously as possible. A finding of no probable cause shall be implemented without delay.

(2) If the interviewing officer's recommended decision is that there is probable cause to believe that the releasee has violated the conditions of his release, the Commissioner shall notify the releasee of the final decision concerning probable cause within 21 days of the date of the preliminary interview. The Commission shall either schedule a revocation hearing, or offer the releasee the option of an expedited revocation without a hearing, pursuant to the procedure set forth in § 2.66.

(3) If the Commission finds probable cause to believe that the releasee has violated the conditions of his release, reinstatement to supervision or release pending further proceedings may be ordered in the Commission's discretion if it determines that:

(i) Continuation of revocation proceedings is not warranted despite the violations found; or

(ii) Incarceration pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations, and the releasee is neither likely to fail to appear for further proceedings, nor constitutes a danger to himself or others.

(e) Conviction as probable cause. Conviction of any Federal, District of Columbia, State, or local crime

committed subsequent to the commencement of the term of supervised release shall constitute probable cause for the purposes of this section, and no preliminary interview shall be conducted unless ordered by a Commissioner to consider additional violation charges that may be determinative of the Commission's decision regarding revocation.

(f) Local revocation hearing. A postponed preliminary interview may be conducted as a local revocation hearing if the releasee has been advised that the postponed preliminary interview will constitute his final revocation hearing. It shall be the Commission's policy to conduct a combined preliminary interview and local revocation hearing whenever adverse witnesses are required to appear and give testimony with respect to contested charges.

(g) Late received charges. If, after probable cause has been found to proceed with a revocation hearing, the Commission is notified of an additional charge, the Commission may:

(1) Remand the case for a supplemental preliminary interview if the new charge may require a local revocation hearing;

(2) Notify the releasee that the additional charge will be considered at the revocation hearing without conducting a supplemental interview; or

(3) Determine that the new charge will not be considered at the revocation hearing.

§ 2.215 Place of revocation hearing.

(a) If the releasee requests a local revocation hearing, he shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, with the opportunity to contest the charges against him, if the following conditions are met:

(1) The releasee has not been convicted of a crime committed while under supervision; and

(2) The releasee denies all charges against him.

(b) The releasee 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 or the length of any new term of imprisonment, and the releasee requests the presence of one or more adverse witnesses regarding that contested charge. If the appearance of such witnesses 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 contested charges, a local revocation hearing may be conducted near the place of the violation chiefly relied upon by the Commission as a basis for the issuance of the warrant or summons.

(d) A releasee who voluntarily waives his right to a local revocation hearing, or who admits one or more charged violations without contesting any unadjudicated charge that may be determinative of the Commission's decision regarding revocation and/or imposition of a new term of imprisonment, or who is retaken following completion of a sentence of imprisonment for a new crime, shall be given an institutional revocation hearing upon his return or recommitment to an institution. An institutional revocation hearing may also be conducted in the District of Columbia jail or prison facility in which the releasee is being held. (However, a Commissioner may, on his own motion, designate any such case for a local revocation hearing instead.) The difference in procedures between a "local revocation hearing" and an "institutional revocation hearing" is set forth in § 2.216(b).

(e) A releasee who is retaken on a warrant issued by the Commission shall remain in custody until final action relative to the revocation of his term of supervised release, unless otherwise ordered by the Commission under § 2.214(d)(3). A releasee who has been given a revocation hearing pursuant to the issuance of a summons shall remain on supervision pending the decision of the Commission, unless the Commission has ordered otherwise.

(f) A local revocation hearing shall be scheduled to be held within sixty days of the probable cause determination. An institutional revocation hearing shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the releasee was retaken. However, if a releasee requests and receives any postponement, or consents to a postponement, or by his actions otherwise precludes the prompt conduct of such proceedings, the above-stated time limits may be extended.

(g) A local revocation hearing may be conducted by a hearing examiner or by any federal, state, or local official who is designated by a Commissioner to be the presiding hearing officer. An institutional revocation hearing may be conducted by an examiner of the Commission.

§ 2.216 Revocation hearing procedure.

(a) The purpose of the revocation hearing shall be to determine whether the releasee has violated the conditions

of his supervised release, and, if so, whether his release should be revoked or reinstated.

(b) At a local revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf. The alleged violator may also request the Commission to compel the attendance of any adverse witnesses for cross-examination, and any other relevant witnesses who have not volunteered to attend. At an institutional revocation hearing, the alleged violator may present voluntary witnesses and documentary evidence in his behalf, but may not request the Commission to secure the attendance of any adverse or favorable witness. At any hearing, the presiding hearing officer may limit or exclude any irrelevant or repetitious statement or documentary evidence, and may prohibit the releasee from contesting matters already adjudicated against him in other forums.

(c) At a local revocation hearing, the Commission shall, on the request of the alleged violator, require the attendance of any adverse witnesses who have given statements upon which revocation may be based, subject to a finding of good cause as described in paragraph (d) of this section. The adverse witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator. The Commission may also require the attendance of adverse witnesses on its own motion.

(d) The Commission may excuse any requested adverse witness from appearing at the hearing (or from appearing in the presence of the alleged violator) if it finds good cause for so doing. A finding of good cause for the non-appearance of a requested adverse witness may be based, for example, on a significant possibility of harm to the witness, or the witness not being reasonably available when the Commission has documentary evidence that is an adequate substitute for live testimony.

(e) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at or before the revocation hearing. The presiding hearing officer may disclose documentary evidence by permitting the alleged violator to examine the document during the hearing, or where appropriate, by reading or summarizing the document in the presence of the alleged violator.

(f) An alleged violator may be represented by an attorney at either a local or an institutional revocation hearing. In lieu of an attorney, an alleged violator may be represented at any revocation hearing by a person of

his choice. However, the role of such non-attorney representative shall be limited to offering a statement on the alleged violator's behalf. Only licensed attorneys shall be permitted to question witnesses, make objections, and otherwise provide legal representation for supervised releasees, except in the case of law students appearing before the Commission as part of a court-approved clinical practice program. Such law students must be under the personal direction of a lawyer or law professor who is physically present at the hearing, and the examiner shall ascertain that the releasee consents to the procedure.

§ 2.217 Issuance of subpoena for appearance of witnesses or production of documents.

(a)(1) If any adverse witness (*i.e.*, a person who has given information upon which revocation may be based) refuses, upon request by the Commission, to appear at a preliminary interview or local revocation hearing, a Commissioner may issue a subpoena for the appearance of such witness.

(2) In addition, a Commissioner may, upon a showing by the releasee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) A subpoena may also be issued at the discretion of a Commissioner if an adverse witness is judged unlikely to appear as requested, or if the subpoena is deemed necessary for the orderly processing of the case.

(b) A subpoena may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal or District of Columbia officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such a person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district in which the revocation proceeding is being conducted, or in

which such person may be found, to require such person to appear, testify, or produce evidence. If the court issues an order requiring such person to appear before the Commission, failure to obey such an order is punishable as contempt, as provided in 18 U.S.C. 4214(a)(2).

§ 2.218 Revocation decisions.

(a) Whenever a releasee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence that the releasee has violated one or more conditions of his supervised release, the Commission may take any of the following actions:

(1) Restore the releasee to supervision, and where appropriate:

(i) Reprimand the releasee;

(ii) Modify the releasee's conditions of release;

(iii) Refer the releasee to a residential community corrections center for all or part of the remainder of his term of supervised release; or

(2) Revoke the term of supervised release.

(b) If supervised release is revoked, the Commission shall determine whether the releasee shall be returned to prison to serve a new term of imprisonment, and the length of that term, or whether a new term of imprisonment shall be imposed but limited to time served. If the Commission imposes a new term of imprisonment that is less than the applicable maximum term authorized by law, the Commission shall also determine whether to impose a further term of supervised release to commence after the new term of imprisonment has been served. If the new term of imprisonment is limited to time served, any further term of supervised release shall commence upon the issuance of the Commission's order.

Notwithstanding the above, if a releasee is serving another term of imprisonment of 30 days or more for any federal, state, or local crime, any further term of supervised release imposed by the Commission shall not commence until that term of imprisonment has been served.

(c) A releasee whose term of supervised release is revoked by the Commission shall receive no credit for time spent on supervised release, including any time spent in confinement on other sentences (or in a halfway house as a condition of supervised release) prior to the execution of the Commission's warrant.

(d) The Commission's decision regarding the imposition of a term of imprisonment following revocation of supervised release, and any further term

of supervised release, shall be made pursuant to the limitations set forth in § 2.219. Within those limitations, the appropriate length of any term of imprisonment shall be determined by reference to the guidelines at § 2.21.

(e) Whenever the Commission imposes a term of imprisonment upon revocation of supervised release that is less than the authorized maximum term, it shall be the Commission's general policy to impose a further term of supervised release that is the maximum permitted by § 2.219. If the Commission imposes a new term of imprisonment that is equal to the maximum term authorized by law (or in the case of a subsequent revocation, that uses up the remainder of the maximum term of imprisonment authorized by law), the Commission may not impose a further term of supervised release.

(f) Where deemed appropriate, the Commission may depart from the guidelines at § 2.21 (with respect to the imposition of a new term of imprisonment) in order to permit the imposition of a further term of supervised release.

(g) Decisions under this section shall be made upon the concurrence of two Commissioner votes, except that a decision to override an examiner panel recommendation shall require the concurrence of three Commissioner votes. The Commission's decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

§ 2.219 Maximum terms of imprisonment and supervised release.

(a) Imprisonment; first revocation. When a term of supervised release is revoked, the maximum authorized term of imprisonment that the Commission may require the offender to serve, in accordance with D.C. Code § 24–203.1(b)(7), shall be:

(1) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is life, or if the offense is statutorily designated as a Class A felony;

(2) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is 25 years or more, but less than life, and the offense is not statutorily designated as a Class A felony;

(3) Not more than 2 years, if the maximum term of imprisonment authorized for the offense is 5 years or more, but less than 25 years; or

(4) Not more than 1 year, if the maximum term of imprisonment authorized for the offense is less than 5 years.

(b) Further term of supervised release; first revocation. (1) When a term of supervised release is revoked, and the Commission imposes less than the maximum term of imprisonment authorized by paragraph (a) of this section, the Commission may also impose a further term of supervised release after imprisonment.

(2) The maximum authorized length of such further term of supervised release shall be the original maximum term of supervised release that the sentencing court was authorized to impose, less the term of imprisonment imposed by the Commission upon revocation of supervised release. The original maximum authorized term of supervised release is as follows:

(i) Five years if the maximum term of imprisonment authorized for the offense of conviction is 25 years or more;

(ii) Three years if the maximum term of imprisonment authorized for the offense of conviction is more than one year but less than 25 years; and

(iii) Life if the person is required to register for life, and 10 years in any other case, if the offender has been sentenced for an offense for which registration is required by the Sex Offender Registration Act of 1999.

(3) For example, in the case of a five-year term of supervised release carrying a maximum period of imprisonment of three years, the Commission may impose a three-year term of imprisonment with no supervised

release to follow, or any term of imprisonment of less than three years with a further term of supervised release of five years minus the term of imprisonment actually imposed (such as a one-year term of imprisonment followed by a four-year term of supervised release, or a two-year term of imprisonment followed by a three-year term of supervised release).

(c) Reference table. The following table may be used in most cases as a reference to determine both the maximum authorized term of imprisonment and the original maximum authorized term of supervised release:

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
Title 22			
22-103, 23-1331	Attempted crime of violence	3 years	2 years.
22-104(a)	1 prior	various	various.
22-104(a)(1)	2+ priors	various	various.
22-104a(a)(1)	Three strikes for felonies*	5 years	5 years.
22-104a(a)(2)	Three strikes for violent felonies*	5 years	5 years.
22-105	Aiding & abetting	various	various.
22-105a(a)	Conspiracy	3 years	2 years.
22-106	If underlying offense < 5	3 years	1 year.
22-107	Accessory after the fact	various	various.
22-401	Capital crimes	3 years	2 years.
22-402	Offenses not covered by DC Code	3 years	2 years.
22-403	Arson	3 years	2 years.
22-501; see 24-203.1(e)	Arson-own property	3 years	2 years.
22-501, 3202	DP \$200+	3 years	2 years.
22-502	Assault with intent to kill/rob/poison/ 1°, 2°, child sex abuse.	3 years or not > period of SOR.	2 years.
22-503	Assault with intent to kill etc. while armed	5 years	5 years.
22-504	Assault with a Dangerous Weapon	3 years	2 years.
22-504.1(a), 3202	Assault with intent to commit an offense other than those in § 22 501.	3 years	2 years.
22-504.1(b)	Stalking—2nd offense	3 years	1 year.
22-504.1(c)	3rd+ offense	3 years	1 year.
22-505(a), 24-203.1(f)	Aggravated assault while armed*	5 years	5 years.
22-505(b)	Aggravated assault	3 years	2 years.
22-506	Attempted aggravated assault	3 years	2 years.
22-601	Assault on a police officer	3 years	2 years.
22-704(a)	Assault on a police officer while armed	3 years	2 years.
22-712(c)	Mayhem/malicious disfigurement	3 years	2 years.
22-713(c)	Bigamy	3 years	2 years.
22-722(b)	Corrupt influence	3 years	2 years.
22-723(b)	Bribery—Public Servant	3 years	2 years.
22-752(b)(2)	Bribery—Witness	3 years	2 years.
22-752(b)(3)	Obstructing Justice*	5 years	5 years.
22-901(a), (c)(1)	Evidence Tampering	3 years	1 year.
22-901(b), (c)(2)	Counterfeiting	3 years	1 year.
22-1122(d)	Counterfeiting	3 years	2 years.
22-1303	1° Cruelty to Children	3 years	2 years.
22-1304	2° Cruelty to Children	3 years	2 years.
22-1410	Inciting riot w/injury	3 years	2 years.
22-1501	False impersonation	3 years	2 years.
22-1504	Impersonating a public official	3 years	1 year.
22-1510, 1511	Bad Checks \$100+	3 years	1 year.
22-1513(a)	Illegal lottery	3 years	1 year.
22-1801(a)	Gaming	3 years	2 years.
22-1801(b)	Bucketing—2nd+ offense	3 years	2 years.
22-1801, 3202	Corrupt influence—Athletics	3 years	2 years.
	1° Burglary	5 years	3 years.
	2° Burglary	3 years	2 years.
	Burglary while armed*	5 years	5 years.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
22-1901	Incest	3 years or not > period of SOR.	2 years.
22-2001(e)	Obscenity 2nd+ offense	3 years or not > period of SOR.	1 year.
22-2012, 2013	Sex performance w/minors— 1st offense 2nd offense	3 years or not > period of SOR.	2 years.
22-2101	Kidnapping*	5 years	5 years.
22-2101, 3202	Kidnapping while armed*	5 years	5 years.
22-2307	Felony Threats	3 years	2 years.
22-2401, 2404	Murder I*	5 years	5 years.
22-2401, 2402, 3202	Murder I while armed*	5 years	5 years.
22-2402, 2402	Murder I—obstruction of railway*	5 years	5 years.
22-2403, 2402	Murder II*	5 years	5 years.
22-2403, 2402, 3202	Murder II while armed*	5 years	5 years.
22-2405	Manslaughter	5 years	3 years.
22-2405, 3202	Manslaughter while armed*	5 years	5 years.
22-2406	Murder of Police Officer	None (LWOR).	
22-2511(b)	Perjury	3 years	2 years.
22-2512	Subornation of Perjury	3 years	2 years.
22-2513(b)	False Swearing	3 years	1 year.
22-2601(b)	Escape	3 years	2 years.
22-2603	Introducing contraband into prison	3 years	2 years.
22-2704	Child Prostitution: Abducting Harboring	3 years or not > period of SOR.	2 years.
22-2705	Prostitution: Inducing	3 years or not > period of SOR (if child victim).	2 years.
22-2706	Compelling.		
22-2707	Arranging.		
22-2709	Detaining.		
22-2710	Procuring.		
22-2711	Procuring.		
22-2712	Operating.		
22-2708	Prostitution, causing spouse to	3 years	2 years.
22-2901	Robbery	3 years	2 years.
22-2901, 3202	Armed Robbery*	5 years	5 years.
22-2902	Attempted Robbery	3 years	1 year.
22-2903(a)	Carjacking	3 years	2 years.
22-2903(b)	Armed Carjacking*	5 years	5 years.
22-3103	Grave Robbing	3 years	1 year.
22-3105	Destruction of property by explosives	3 years	2 years.
22-3118	Malicious water pollution	3 years	1 year.
22-3119	Obstructing railways	3 years	2 years.
22-3202	Committing or attempting to commit violent crime while armed.	5 years	5 years.
22-3202.1	Gun-free zone	various	various.
22-3203, 24-203.1(f)	Unlawful possession of a pistol by a felon, etc. (UPP) 2nd+offense.	3 years	2 years.
22-3204(a)(1)–(2)	Carrying a pistol without a license	3 years	2 years.
	1st offense	3 years	2 years.
	2nd+offense		
22-3204(b)	Possession of a firearm while committing a crime of violence or dangerous crime (PFDCVDC).	3 years	2 years.
22-3214	Possession of a prohibited weapon (PPW)	3 years	2 years.
	2nd+offense		
22-3215a	Molotov cocktails—1st offense	3 years	2 years.
	2nd offense	3 years	2 years.
	3rd* offense	5 years	5 years.
22-3427	B&E vending machines	3 years	1 year.
22-3601, 24-203.1(f)	Possessing Implements of Crime 2nd+ offense	3 years	2 years.
22-3812	1° Theft	3 years	2 years.
22-3814.1 (d)(2)	Deceptive Labeling	3 years	2 years.
22-3815(d)(1)	Unlawful use of a vehicle—private	3 years	2 years.
22-3815(d)(2)	Unlawful use of a vehicle—rental	3 years	1 year.
22-3821(a), 3822(a)	1° Fraud \$250+	3 years	2 years.
22-3821(b), 3822(b)	2° Fraud \$250+	3 years	1 year.
22-3823	Credit Card Fraud	3 years	2 years.
	\$250+		
22-3825.2, 3825.4(a)	1° Insurance Fraud	3 years	2 years.
22-3825.3, 3825.4(b)	2° Insurance Fraud.		
	1st offense	3 years	2 years.
	2nd offense	3 years	2 years.
22-3831(d)	Trafficking in stolen property	3 years	2 years.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
22-3832	Receiving stolen property \$250+	3 years	2 years.
22-3841, 3842	Forgery: Legal tender	3 years	2 years.
	Token	3 years	2 years.
	Other	3 years	1 year.
22-3851(b)	Extortion	3 years	2 years.
22-3851(b), 3852(b), 3202 ..	Armed extortion or blackmail with threats of violence*	5 years	5 years.
22-3852(b)	Blackmail	3 years	2 years.
22-3901	Senior Citizen Victim	various	various.
22-3902	Citizen Patrol Victim	various	various.
22-4003	Bias-related crime	various	various.
22-4102, 24-203.1(e)	1° Sex Abuse*	5 years or not > period of SOR.	5 years.
22-4102, 3202	1° Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22-4103, 24-203.1(e)	2° Sex Abuse	3 years or not > period of SOR.	2 years.
22-4103, 3202	2° Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22-4104	3° Sex Abuse	3 years or not > period of SOR.	2 years.
2-4105	4° Sex Abuse	3 years or not > period of SOR.	2 years.
2-4108, 24-203.1(e)	1° Child Sex Abuse*	5 years or not > period of SOR.	5 years.
22-4108, 3202	1° Child Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22-4109, 24-203.1(e)	2° Child Sex Abuse	3 years or not > period of SOR.	2 years.
22-4109, 3202	2° Child Sex Abuse while armed*	5 years or not > period of SOR.	5 years.
22-4110, 24-203.1(e)	Enticing a child	3 years or not > period of SOR.	2 years.
2-4113	1° Sex Abuse Ward	3 years or not > period of SOR.	2 years.
2-4114	2° Sex Abuse Ward	3 years or not > period of SOR.	2 years.
2-4115	1° Sex Abuse Patient	3 years or not > period of SOR.	2 years.
2-4116	2° Sex Abuse Patient	3 years or not > period of SOR.	2 years.
2-4118	Attempt 1° Sex and 1° Child Sex Abuse	3 years or not > period of SOR.	2 years various.
	Attempt Other	various or not > period of SOR.	
22-4120	Aggravated 1° Sex and Child Sex Abuse	5 years or not > period of SOR.	5 years various.
	Aggravated other	various or not > period of SOR.	
Title 23			
23-1327(a)(1)	Bail Reform Act	3 years	2 years.
23-1328(a)(1)	Committing a felony on release	3 years	2 years.
Title 24			
24-1113	Sex offender failure to register—2nd offense	3 years	2 years.
Title 33			
33-541(a)–(b)	Manufacture, distribute, or PWID I, II narcotics (heroin, cocaine, PCP).	5 years	3 years.
	I, II, III non-narcotic	3 years	2 years.
	IV	3 years	1 year.
33-541 et seq., 22-3202	Distribution or PWID drugs while armed*	5 years	5 years.
33-543	Drugs—Fraud	3 years	1 year.
33-543a	Drugs—Maintaining house	3 years	3 years.
33-546	Drugs—Distribution to minors	various	various.
33-547	Drugs—Enlisting minors—1st offense	3 years	2 years.
	2nd + offense	3 years	2 years.
33-547.1(b)	Drug-free zones	various	various.
33-548	Drugs—2nd + offense	various	various.
33-549	Drugs—Attempt or Conspiracy	various	various.

D.C. Code reference (original conviction)	Offense description	Original authorized term of supervised release	Maximum authorized new term of imprisonment
33-603(b)	Possession of drug paraphernalia w/intent to use it— 2nd + offense.	3 years	1 year.
33-603(c)	Delivering drug paraphernalia to a minor	3 years	2 years.

Title 40

40-713	Negligent homicide (vehicular)	3 years	2 years.
40-718	Smoke screens	3 years	2 years.

NOTES: (1) An asterisk means that the offense is statutorily designated as a Class A felony.

(2) If the defendant is a sex offender subject to registration, the Original Authorized Term of Supervised Release is the maximum period of registration to which the sex offender is subject (ten years or life). Sex offender registration is required for crimes such as first degree sexual abuse, and such crimes are listed on this Table with the notation "> periods of SOR" as the Original Authorized Term of Supervised Release. Sex offender registration, however, may also be required for numerous crimes (such as burglary or murder) if a sexual act or contact was involved or was the offender's purpose. In such cases, the offender's status will be determined by the presence of an order from the sentencing court pursuant to D.C. Code 24-1123 certifying that the defendant is a sex offender.

(3) If the defendant committed his offense on or after August 5, 2000, but before August 11, 2000, the maximum authorized terms of imprisonment and further supervised release shall be determined by reference to 18 U.S.C. 3583.

(d) Imprisonment; successive revocations. (1) When the Commission revokes a term of supervised release that was imposed by the Commission upon a previous revocation of supervised release, the maximum term of imprisonment is the maximum term authorized by paragraph (a) of this section, less the term or terms of imprisonment that were previously imposed by the Commission. In calculating such previously-imposed term or terms of imprisonment, the Commission shall use the term as imposed without deducting any good time credits that may have been earned by the offender prior to his release from prison. In no case shall the total of successive terms of imprisonment imposed by the Commission exceed the maximum term of imprisonment that the Commission was authorized to impose in the first revocation order.

(2) For example, in the case of a five-year term of supervised release carrying a maximum term of imprisonment of three years, the Commission at the first revocation may have imposed a one-year term of imprisonment and a further four-year term of supervised release. At the second revocation, the maximum authorized term of imprisonment will be two years, which is the original maximum authorized term of imprisonment of three years minus the one-year term of imprisonment that was imposed at the first revocation.

(e) Further term of supervised release; successive revocations. (1) When the Commission revokes a term of supervised release that was imposed by the Commission following a previous revocation of supervised release, the Commission may also impose a further term of supervised release. The maximum authorized length of such a term of supervised release shall be the original maximum authorized term of supervised release as set forth in

paragraph (b) of this section, less the total of the terms of imprisonment imposed by the Commission on the same sentence (including the term of imprisonment imposed in the current revocation).

(2) For example, in the case of a five-year term of supervised release carrying a maximum period of imprisonment of three years, the Commission at the first revocation may have imposed a one-year term of imprisonment and a four-year further term of supervised release. If, at a second revocation, the Commission imposes another one-year term of imprisonment, the maximum authorized further term of supervised release will be three years (the original five-year period minus the total of two years imprisonment).

(f) Effect of sentencing court imposing less than the maximum authorized term of supervised release. If the Commission has revoked supervised release, the maximum authorized period of further supervised release is determined by reference to the original maximum authorized term as a set forth in paragraph (b) of this section, even if the sentencing court did not originally impose the maximum authorized term.

* * * * *

Dated: November 15, 2000.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 00-29964 Filed 11-22-00; 8:45 am]

BILLING CODE 4410-31-U

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

[CO-032-FOR]

Colorado Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Colorado regulatory program (hereinafter, the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Colorado proposed revisions to and additions of rules about definitions; permit application requirements; comment period for revisions; requirements for permit approval or denial; and performance standards for sedimentation ponds, discharge structures, impoundments, stream buffer zones, coal exploration, and coal processing plants and support facilities not located at or near the mine site or not within the permit area for the mine. Colorado revised its program to be consistent with the corresponding Federal regulations and clarify ambiguities.

EFFECTIVE DATE: November 24, 2000.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

- I. Background on the Colorado Program.
- II. Submission of the Proposed Amendment.
- III. Director's Findings.