

**SUPPLEMENTARY INFORMATION:** Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. On August 11, 2006, the Commission published proposed Class II technical standards in the **Federal Register** (71 FR 46336).

Dated: December 14, 2006.

**Philip N. Hogen,**  
Chairman, National Indian Gaming Commission.

**Cloyce V. Choney,**  
Commissioner, National Indian Gaming Commission.

[FR Doc. E6-21784 Filed 12-20-06; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Parts 571 and 572

[BOP-1120-P]

RIN 1120-AB10

#### Reduction in Sentence for Medical Reasons

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Prisons (Bureau) is revising its regulations on procedures for reductions in sentence (RIS) for medical reasons. 28 CFR Part 571, Subpart G, is currently entitled “Compassionate Release (Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A)(i) and 4205(g)).” We are revising these regulations to (1) more accurately reflect our authority under these statutes and our current policy, (2) clarify procedures for RIS consideration, and (3) describe procedures for RIS consideration of D.C. Code offenders, for whom the Bureau has responsibility under the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Revitalization Act), D.C. Official Code § 24-101(b). The new Subpart G will be entitled “Reduction in Sentence for Medical Reasons.”

**DATES:** Comments due by February 20, 2007.

**ADDRESSES:** Regulations Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. Our e-mail address is [BOPRULES@bop.gov](mailto:BOPRULES@bop.gov).

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General

Counsel, Bureau of Prisons, phone (202) 353-8248.

**SUPPLEMENTARY INFORMATION:** The Bureau is revising its regulations on procedures for reductions in sentence (RIS) for medical reasons. 28 CFR Part 571, Subpart G, is currently entitled “Compassionate Release (Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A) and 4205(g)).”

Title 18 of the United States Code, section 3582(c)(1)(A)(i) states that a court, on motion of the Director of the Bureau, may reduce a term of imprisonment if “extraordinary and compelling reasons warrant such a reduction.” Based on the Bureau’s experience in implementing this statute and resultant policy decisions, we clarify through these proposed regulations the specific criteria that the Bureau will consider for a RIS.

It is important to note we do not intend this regulation to change the number of RIS cases recommended by the Bureau to sentencing courts. It is merely a clarification that we will only consider inmates with extraordinary and compelling medical conditions for RIS, and not inmates in other, non-medical situations which may be characterized as “hardships,” such as a family member’s medical problems, economic difficulties, or the inmate’s claim of an unjust sentence.

In this regulation, we explain that an inmate may be a candidate for RIS consideration if Bureau medical staff, or a Bureau-selected doctor consulting on his/her case, conclude with reasonable medical certainty that the inmate has one of the following two conditions:

- A terminal illness with a life expectancy of one year or less; or
- A profoundly debilitating medical condition that:

(1) May be physical or cognitive in nature;

(2) is irreversible and cannot be remedied through medication or other measures; and

(3) has eliminated or severely limited the inmate’s ability to attend to fundamental bodily functions and personal care needs without substantial assistance from others, including personal hygiene and toilet functions, basic nutrition, medical care, and physical safety.

If an inmate has such a medical condition, we will not automatically give that inmate a RIS recommendation. Instead, as is our current practice, we will carefully consider whether the inmate is a danger to society, and other relevant considerations which focus on potential risks to public safety and the nature of the offense, before

recommending a RIS. These considerations may include but are not limited to: Potential impact on victims or witnesses, criminal history, inmate’s age and length of sentence, and the previous existence of the medical condition.

#### Section-by-Section Explanation

##### Subpart G—New Title

Previously, this subpart was entitled “Compassionate Release.” We are changing the title of subpart G to read “Reduction in Sentence for Medical Reasons.” The Bureau has received letters and Administrative Remedy appeals from inmates who mistakenly believe that we will consider circumstances other than the inmate’s medical condition for reducing a sentence. Such is not the Bureau’s practice. We believe this title more accurately describes our criteria and procedures.

##### Section 571.60 Purpose

In this section, we state that the purpose of this part is to describe the procedures used to assess whether an inmate in Bureau custody is appropriate for a reduction in sentence.

##### Section 571.61 Legal Authority for Reducing the Term of Imprisonment of an Inmate Requesting a Reduction in Sentence

This section describes the statutes that allow the Director to make a motion to the sentencing court requesting a RIS. In addition to previous authority, 18 U.S.C. 3582(c)(1)(A)(i) and 4205(g), we added the District of Columbia (D.C.) Code § 24-101, §§ 24-461 through 24-465, § 24-467, and § 24-468.

Under the D.C. Revitalization Act, enacted August 5, 1997, the Bureau is responsible for the care and custody of “the felony population sentenced pursuant to the District of Columbia Official Code” (D.C. Code offenders). (D.C. Official Code § 24-101(b)). D.C. Code offenders in Bureau custody are subject to Federal laws and Bureau regulations as long as they are “consistent with the sentence imposed.”

Under the D.C. Revitalization Act, we must follow the D.C. Code when reviewing a RIS for D.C. Code offenders in Bureau custody. We therefore add the relevant D.C. Code provisions to this regulation.

##### Section 571.62 Medical Conditions Considered for a Reduction in Sentence

In this section, we clarify what extraordinary and compelling circumstances may warrant a RIS. We explain that an inmate may be a candidate for RIS consideration if

Bureau medical staff, or a Bureau-selected doctor consulting on his/her case, conclude with reasonable medical certainty that the inmate suffers from a terminal illness with a life expectancy of one year or less, or a profoundly debilitating medical condition that may be physical or cognitive in nature, is irreversible and cannot be remedied through medication or other measures, and has eliminated or severely limited the inmate's ability to attend to fundamental bodily functions and personal care needs without substantial assistance from others (including personal hygiene and toilet functions, basic nutrition, medical care, and physical safety).

In each of these conditions, inmates may be unable to care for themselves. We may find that such inmates are not likely to pose a danger to the public or the community if released. We may find that issues of confinement, punishment, and rehabilitation may no longer be principal considerations. These types of conditions, viewed in totality, may be extraordinary and compelling circumstances warranting a RIS.

#### *Section 571.63 How To Request a Reduction in Sentence*

This section instructs inmates to request a RIS in writing at the institution. This does not change any previous substantive requirements. We currently have this requirement in 28 CFR 571.61(a).

This section also explains what the RIS request should include. This does not change any previous substantive requirements, which are currently in 28 CFR 571.61(a)(1) and (2).

#### *Section 571.64 Submitting a Request for a Reduction in Sentence on Behalf of an Inmate Who Is Too Ill To Make a Request in Writing*

This section allows inmates who are too ill to make written requests to make their requests verbally to staff or to have someone else make a request on their behalf. We intend this regulation to be more permissive, and allow more ways for ill inmates to make this request.

#### *Section 571.65 Bureau Review of a Request for a Reduction in Sentence*

This section simply explains that Bureau medical staff or a Bureau-selected doctor consulting on an inmate's case at the institution must first conclude that an inmate has a medical condition as described in § 571.62. If an inmate is medically eligible under § 571.62, Bureau staff at the institution must then determine that the inmate will not pose a danger to society. If both

these threshold requirements are met, staff will then carefully assess other relevant factors before determining that a RIS is appropriate in the inmate's case. In assessing other relevant factors, Bureau staff will be guided by national Bureau policy statements on this subject.

This section also explains that staff at the institution, the Warden, the Regional Office, and the Central Office of the Bureau all review inmate RIS requests. This is merely a codification of currently existing practice, and will notify inmates and the public that a RIS request is reviewed by all three levels of the Bureau before approval.

#### *Section 571.66 Director's Determination That a Reduction in Sentence Is Appropriate*

This section explains that, if the Director determines that a RIS is appropriate, he/she will ask the United States Attorney's Office in the district where the inmate was sentenced to submit the Director's motion to the sentencing court on the Bureau's behalf. A RIS can only occur if the court grants the motion under 18 U.S.C. 3582(c)(1)(A)(i) or § 4205(g). If the court grants a motion under § 4205(g), release also depends on a decision by the Parole Commission to grant parole. This does not change any previous substantive language.

For D.C. Code offenders, a RIS can only occur if the United States Parole Commission grants medical or geriatric parole under D.C. Official Code §§ 24-463 through 24-465 to inmates in Bureau custody for offenses that were committed before August 5, 2000, or the court grants a motion under D.C. Official Code § 24-468 for inmates in Bureau custody for offenses that were committed on or after August 5, 2000.

#### *Section 571.67 Denial of a Request for a Reduction in Sentence*

This section explains how the Warden, Regional Director, and General Counsel will notify inmates if they deny a RIS request and how inmates may appeal that decision. This does not change any previous substantive language. We currently have similar language in 28 CFR 571.63(a)(4).

We note that D.C. Code offenders, as described below, may appeal RIS decisions or any other Bureau action or inaction through the Bureau's Administrative Remedy Program.

#### *Sections 571.68-571.74 D.C. Code Offenders*

We add these sections to comply with the D.C. Revitalization Act. The D.C. Revitalization Act makes the Bureau

responsible for "the felony population sentenced pursuant to the District of Columbia Code" (D.C. Code offenders). (D.C. Official Code § 24-101(b)) D.C. Code offenders in Bureau custody are subject to Federal laws and Bureau regulations as long as they are "consistent with the sentence imposed."

The D.C. Code contains specific provisions that govern D.C. Code sentences regarding RIS based on medical reasons. Because the Bureau is now responsible for the custody of D.C. Code felony offenders, we add regulations stating the eligibility requirements that D.C. Code offenders in Bureau custody must meet to be considered for RIS. The process described in §§ 571.62 through 571.67 will otherwise be followed.

#### *Section 571.68 Eligibility of D.C. Code Offenders With Indeterminate (Parolable) Sentences for Reduction in Sentence*

In this section, we describe the ways in which D.C. Code offenders who committed a felony before August 5, 2000, and were sentenced to an indeterminate (parolable) sentence, might be eligible for a reduction in sentence, which is described in the D.C. Code as "medical parole" and "geriatric parole." This section also describes inmates who are excluded from RIS eligibility: D.C. Code offenders (1) whose physical or medical condition existed at the time of sentencing; or (2) who were convicted of first degree murder (D.C. Official Code §§ 22-2101, 2106), an armed crime of violence or dangerous crime (D.C. Official Code § 22-4502), possession of a firearm while committing a crime of violence or dangerous crime (D.C. Official Code § 22-4504(b)), or armed or unarmed carjacking (D.C. Official Code § 22-2803).

#### *Section 571.69 Eligibility of D.C. Code Offenders With Determinate (Non-Parolable) Sentences for Reduction in Sentence*

In this section, we describe RIS eligibility for D.C. Code offenders who committed a felony on or after August 5, 2000, and were sentenced to terms of imprisonment not subject to parole. Such inmates may be eligible for a reduction in sentence if they: (1) meet the medical conditions described in § 571.62, or (2) are 65 years of age or older, have a chronic infirmity, illness, or disease related to aging, and release under supervision would not endanger public safety. This section also describes inmates who are excluded from RIS eligibility: D.C. Code offenders (1) whose physical or medical condition

was known by the court at the time of sentencing; or (2) who are serving a term of imprisonment imposed pursuant to the District of Columbia Official Code §§ 22–2803(c) (carjacking), or 22–2104(b) (first degree murder).

*Section 571.70 How To Request a Reduction in Sentence Under the D.C. Code*

Under this section, D.C. Code offenders with indeterminate (parolable) sentences may request a reduction in sentence either by following the procedures in §§ 571.63 and 571.64, or by sending an application directly to the Parole Commission. D.C. Code offenders with determinate (non-parolable) sentences may request a reduction in sentence only by following the procedures in §§ 571.63 and 571.64.

*Section 571.71 Evaluating a Request for RIS by a D.C. Code Offender*

This section makes it clear that the Bureau will use the same procedures to assess a D.C. Code offender's application for a reduction in sentence as it uses for federal offenders.

*Section 571.72 Ineligibility for Reduction in Sentence*

Aside from provisions concerning D.C. Code offenders, this is not a substantive change from the current § 571.64. An inmate is not eligible for a RIS if he/she is (a) a state prisoner housed in a Bureau facility, (b) a federal offender who committed an offense before November 1, 1987, and serving a non-parolable sentence, or (c) a military prisoner housed in a Bureau facility.

*Section 572.40 Reduction in Sentence (RIS) Under 18 U.S.C. 4205(g)*

We make minor changes to this section to conform with changes to our regulations on RIS for medical reasons.

**Executive Order 12866**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director, Bureau of Prisons has determined that this regulation is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this regulation has not been reviewed by the Office of Management and Budget.

**Executive Order 13132**

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and

responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulatory Flexibility Act**

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

**Unfunded Mandates Reform Act of 1995**

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This regulation is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects**

*28 CFR Parts 571 and 572*

Prisoners.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we propose to amend 28 CFR parts 571 and 572, chapter V, subchapter D, as follows.

**Subchapter D—Community Programs and Release**

**PART 571—RELEASE FROM CUSTODY**

1. Revise the authority citation for 28 CFR part 571 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3565; 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 and 4201–4218 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5031–5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 1.1–1.10; D.C. Official Code § 24–101, §§ 24–461–24–465, § 24–467, and § 24–468.

**Subpart G—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A) and 4205(g))**

2. Revise subpart G of part 571 to read as follows:

**Subpart G—Reduction in Sentence for Medical Reasons**

Sec.

571.60 Purpose.

571.61 Legal authority for reducing the term of imprisonment of an inmate requesting a reduction in sentence.

571.62 Medical conditions considered for a reduction in sentence.

571.63 How to request a reduction in sentence.

571.64 Submitting a request for a reduction in sentence on behalf of an inmate who is too ill to make a request in writing.

571.65 Bureau review of a request for a reduction in sentence.

571.66 Director's determination that a reduction in sentence is appropriate.

571.67 Denial of a request for a reduction in sentence.

571.68 Eligibility of D.C. Code offenders with indeterminate (parolable) sentences for reduction in sentence.

571.69 Eligibility of D.C. Code offenders with determinate (non-parolable) sentences for reduction in sentence.

571.70 How to request a reduction in sentence under the D.C. Code.

571.71 Evaluating a request for RIS by a D.C. Code Offender.

571.72 Ineligibility for reduction in sentence.

**§ 571.60 Purpose.**

The purpose of this subpart is to describe the criteria and procedures used to assess whether an inmate in Bureau of Prisons (Bureau) custody is appropriate for a reduction in sentence.

**§ 571.61 Legal authority for reducing the term of imprisonment of an inmate requesting a reduction in sentence.**

(a) Pursuant to 18 U.S.C. 3582(c)(1)(A)(i), the Director of the

Bureau of Prisons is authorized to file a motion in the sentencing court for a reduction in an inmate's sentence when the Director of the Bureau determines that extraordinary and compelling circumstances exist to warrant a reduction in sentence. The sentencing court may reduce the term of imprisonment on the Director's motion, and the inmate becomes immediately eligible for release.

(b) 18 U.S.C. 4205(g) (Repealed as to offenses committed on or after November 1, 1987) provides that the court, on the Director's motion, may make an inmate serving a parolable sentence immediately eligible for parole consideration.

(c) The District of Columbia Official Code (D.C. Official Code) § 24-101, §§ 24-461-24-465, § 24-467, and § 24-468, collectively authorize the Bureau to determine whether a RIS may be warranted for D.C. Code offenders in Bureau custody.

**§ 571.62 Medical conditions considered for a reduction in sentence.**

An inmate may be considered for a RIS if Bureau medical staff, or a Bureau-selected doctor consulting on his/her case, conclude with reasonable medical certainty that the inmate suffers from:

(a) A terminal illness with a life expectancy of one year or less; or

(b) A profoundly debilitating medical condition that:

(1) May be physical or cognitive in nature;

(2) Is irreversible and cannot be remedied through medication or other measures; and

(3) Has eliminated or severely limited the inmate's ability to attend to fundamental bodily functions and personal care needs without substantial assistance from others, including personal hygiene and toilet functions, basic nutrition, medical care, and physical safety.

**§ 571.63 How to request a reduction in sentence.**

(a) You may request a reduction in sentence (RIS) in writing at your institution.

(b) The RIS request should include:

(1) A statement explaining the medical condition(s) that create the extraordinary or compelling circumstances for a RIS; and

(2) A proposed release plan, including information about where you will live, receive medical treatment, and how you will support yourself and pay for medical care.

**§ 571.64 Submitting a request for a reduction in sentence on behalf of an inmate who is too ill to make a request in writing.**

If an inmate is too ill to make a request in writing, that inmate may make the request verbally to Bureau staff, or someone else may submit a written request for that inmate.

**§ 571.65 Bureau review of a request for a reduction in sentence.**

(a) *Institution staff review.*

(1) Bureau medical staff at the institution level must first conclude that you have a qualifying medical condition as described in § 571.62 or, for D.C. Code offenders who committed a felony before August 5, 2000, as described in § 571.68.

(2) If you are medically eligible for RIS consideration, Bureau staff at the institution level will carefully assess the public safety concerns and the totality of the circumstances before determining that you are, in fact, appropriate for a RIS, including a review of the impact a RIS will have on any victims.

(b) *Warden review.* If the Warden, after reviewing all the relevant documents, determines that a RIS is appropriate, the Warden sends a written recommendation to the Regional Director.

(c) *Regional Director review.* If the Regional Director agrees, the Regional Director sends a written recommendation to the Office of General Counsel.

(d) *General Counsel review.* The General Counsel will ascertain whether the United States Attorney's Office in the district in which you were sentenced agrees with the Regional Director's recommendation. If the General Counsel and the U.S. Attorney's Office agree with the recommendation, the Director will then determine whether to request the U.S. Attorney's office to submit a RIS motion to the sentencing court on the Bureau's behalf.

**§ 571.66 Director's determination that a reduction in sentence is appropriate.**

If the Director determines that your situation makes you appropriate for a RIS under 18 U.S.C. 3582(c)(1)(A)(i) or § 4205(g), or for D.C. Code offenders, D.C. Official Code §§ 24-461-465, 467-468, the Director will request the U.S. Attorney's Office in the district where you were sentenced to submit a RIS motion to the sentencing court on the Bureau's behalf. A RIS can only occur if the court grants the motion or if the Parole Commission grants the application for certain D.C. Code offenders. If the court grants a motion under § 4205(g), release also depends on

a decision by the Parole Commission to grant you parole.

**§ 571.67 Denial of a request for a reduction in sentence.**

If the Warden, the Regional Director, or the Director determines that a RIS is not appropriate and denies your RIS request, you will receive a written notice stating the reason(s) for denial.

(a) If the Warden or Regional Director denies the RIS request, you may appeal the denial through the Administrative Remedy Program (28 CFR part 542, subpart B).

(b) If the Director denies the RIS request, you may not appeal the denial through the Administrative Remedy Program.

**§ 571.68 Eligibility of D.C. Code offenders with indeterminate (parolable) sentences for reduction in sentence.**

(a) If you are a D.C. Code offender who committed a felony before August 5, 2000, and you were sentenced to an indeterminate (parolable) term of imprisonment, you may be eligible for:

(1) *Medical parole* only if you are:

(i) *Terminally ill*, which means that you have an incurable condition caused by illness or disease which would, within reasonable medical judgment, produce death within 6 months, and you do not constitute a danger to yourself or society; or

(ii) *Permanently incapacitated*, which means that, by reason of an existing physical or medical condition which is not terminal, you are permanently and irreversibly physically incapacitated, and you do not constitute a danger to yourself or society; or

(2) *Geriatric parole*, which means that you are age 65 or older, you suffer from a chronic infirmity, illness, or disease related to aging, and you pose a low risk to the community.

(b) *Exclusions.* You are *not* eligible for medical or geriatric parole if:

(1) The physical or medical condition existed at the time of sentencing, or

(2) The conviction was for first degree murder (D.C. Official Code §§ 22-2101, 2106), an armed crime of violence or dangerous crimes (D.C. Official Code § 22-4502), possession of a firearm during the commission of a crime of violence or dangerous crime (D.C. Official Code § 22-4504(b)), or armed or unarmed carjacking (D.C. Official Code § 22-2803).

**§ 571.69 Eligibility of D.C. Code offenders with determinate (non-parolable) sentences for reduction in sentence.**

(a) If you are a D.C. Code offender who committed a felony on or after August 5, 2000, and you were sentenced to a determinate (non-parolable) term of

imprisonment, you may be eligible for a reduction in sentence if:

(1) You meet the medical conditions described in § 571.62; or

(2) You are 65 years of age or older, have a chronic infirmity, illness, or disease related to aging, and releasing you under supervision would not endanger public safety.

(b) *Exclusions.* You are *not* eligible for medical or geriatric parole if:

(1) The physical or medical condition was known to the court at the time of sentencing, or

(2) You are serving a term of imprisonment imposed pursuant to the District of Columbia Official Code §§ 22–2803(c) (carjacking), or 22–2104(b) (first degree murder).

#### § 571.70 How to request a reduction in sentence under the D.C. Code.

(a) *D.C. Code offenders with indeterminate (parolable) sentences* may request a reduction in sentence either by following the procedures in §§ 571.63 and 571.64, or by sending the request directly to the United States Parole Commission (USPC).

(b) *D.C. Code offenders with determinate (non-parolable) sentences* may request a reduction in sentence only by following the procedures in §§ 571.62 and 571.63.

#### § 571.71. Evaluating a request for RIS by a D.C. Code Offender.

Other than applying different eligibility requirements (described in § 571.69), in evaluating a RIS request by a D.C. Code offender who committed a felony before August 5, 2000, the Bureau will follow the same criteria and procedures set forth for federal prisoners in §§ 571.62 through 571.67.

#### § 571.72 Ineligibility for reduction in sentence.

You are NOT eligible for a reduction in sentence if you are:

(a) A state prisoner housed in a Bureau facility; or

(b) A federal offender who committed an offense before November 1, 1987, and serving a non-parolable sentence; or

(c) A military prisoner housed in a Bureau facility.

#### Subpart H—Designation of Offenses for Purposes of 18 U.S.C. 4042(C)

##### §§ 571.71 and 571.72 [Redesignated]

3. Redesignate §§ 571.71 and 571.72 as §§ 571.81 and 571.82, respectively.

#### PART 572—PAROLE

4. Revise the authority citation for 28 CFR part 572 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082 (Repealed in part as to

offenses committed on or after November 1, 1987), 4205, 5015 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 1.1–1.10.

5. Revise § 572.40 in Subpart E to read as follows:

#### § 572.40 Reduction in Sentence under 18 U.S.C. 4205(g).

18 U.S.C. 4205(g), repealed effective November 1, 1987, remains the controlling law for inmates who committed offenses before that date. 18 U.S.C. 3582(c)(1)(A) is the controlling law for inmates who committed offenses on or after November 1, 1987. Procedures for a RIS under either statute are in 28 CFR part 571, subpart G.

[FR Doc. E6–21772 Filed 12–20–06; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Parts 1910, 1915, 1917, 1918, 1919 and 1926

[Docket No. S–778B]

RIN 1218–AC19

#### Standards Improvement Project, Phase III

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM).

**SUMMARY:** OSHA routinely conducts reviews of its existing safety and health standards to improve and update them. As part of this ongoing process, OSHA is issuing this ANPRM to initiate Phase III of the Standards Improvement Project (SIPs III). SIPs III is the third in a series of rulemaking actions intended to improve and streamline OSHA standards by removing or revising individual requirements within rules that are confusing, outdated, duplicative, or inconsistent. These revisions maintain or enhance employees' safety and health, while reducing regulatory burdens where possible.

OSHA has already identified a number of provisions that are potential candidates for inclusion in SIPs III. These candidates include recommendations received from the public in other rulemakings. The purpose of this notice is to invite comment on these recommendations, as well as provide an opportunity for commenters to suggest other candidates

that might be appropriate for inclusion in this rulemaking. OSHA will use the information received in response to this notice to help determine the scope of SIPs III.

**DATES:** Comments must be submitted by the following dates:

*Hardcopy:* Your comments must be submitted (postmarked or sent) by February 20, 2007.

*Facsimile and electronic transmission:* Your comments must be sent by February 20, 2007.

**ADDRESSES:** You may submit comments and additional material, identified by OSHA Docket No. S–778B, by any of the following methods:

*Electronically:* You may submit comments, and attachments electronically via the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions online for making electronic submissions.

*Facsimile (FAX):* If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648.

*Mail, hand delivery, express mail, and messenger or courier service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. S–778B, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours of operations are 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions received must include the Agency name and OSHA docket number (S–778B) for this rulemaking. Submissions, including any personal information you provide, are placed in the public docket without change and may be made available online at <http://www.regulations.gov>. For further information on submitting comments plus additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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