

alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this action is consistent with the regulatory philosophy and principles identified in the Executive order. This action will ease the burden on industry of compliance with § 201.323 by giving manufacturers more time to relabel affected products. Thus, this action is not a significant action as defined by the Executive order.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 358, 360, 360b, 360gg–360ss, 371, 374, 379e; 42 U.S.C. 216, 241, 262, 264.

2. Section 201.323(c)(3) is amended by removing the date “2001” and adding in its place the date “2004”.

Dated: November 15, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–29924 Filed 11–25–02; 8:45 am]

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences under the United States and District of Columbia Codes

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is amending procedures governing parole proceedings for federal and District of Columbia offenders, and transfer treaty prisoners. Almost all the amendments are corrections and clarifications of the instructions for calculating the salient factor score, a component of the Commission’s paroling policy guidelines. The Commission is also correcting a

reference to the U.S. Sentencing Guidelines in a regulation regarding the imposition of release conditions for a transfer treaty prisoner released to a term of supervised release.

EFFECTIVE DATE: These rule amendments are effective December 30, 2002.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION:

The salient factor score is an actuarial device used by the Commission to evaluate the risk of parole violation by a prisoner if released to supervision. The score is a component of the Commission’s paroling policy guidelines for making parole release decisions for U.S. Code offenders (28 CFR 2.20), and is also employed in the guidelines for DC Code offenders (28 CFR 2.80). The score comprises six criminal history items, including items such as number of prior convictions and commitments, and age at the time of current offense. The total score ranges from 0–10, with the higher score indicating that the prisoner is a better parole risk.

The Commission is now updating the instructions in the salient factor scoring manual to give better guidance in the scoring of the individual items. Some of the changes are corrections of text that should have been amended in earlier revisions of the score, or editorial improvements to make the instructions easier to read. Other changes reflect the application of the score in determining terms of imprisonment for DC Code supervised release violators. Finally, several new instructions implement advice the Commission’s Office of General Counsel has provided to Commissioners and staff in the use of DC juvenile consent decrees and juvenile commitments to the DC Department of Human Services for salient factor scoring.

Aside from the amendments to the salient factor scoring manual, the Commission is also correcting a reference to the U.S. Sentencing Guidelines in its regulation at 28 CFR 2.68(l) on the imposition of conditions of supervised release for a transfer treaty prisoner who is released to a term of supervised release.

Implementation

These amendments will be applied in any hearing or record review conducted

after the effective date of the amendments.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this final rule does not constitute a significant rule within the meaning of Executive Order 12866. The final rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(c) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Final Rule

Accordingly, the U.S. Parole Commission is adopting the following amendments 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).

Subpart A—United States Code Prisoners and Parolees

2. Section 2.20 is amended as follows:

- a. In the table entitled “Guidelines For Decisionmaking” remove “salient factor score 1981” and substitute “salient factor score 1998”;
- b. Revise the Salient Factor Scoring Manual, Item A, paragraphs A.1, A.5, and add paragraph A.14;
- c. Revise the Salient Factor Scoring Manual, Item B, paragraphs B.3(b)–(c), and add paragraph B.3(d);
- d. Revise the Salient Factor Scoring Manual, Item C, paragraphs C.1–C.4, redesignate paragraph C.5 as C.10, and add paragraphs C.6–C.9;
- e. Revise the Salient Factor Scoring Manual, Item E, paragraphs E.3(b)–(c);
- f. Revise the Salient Factor Scoring Manual, Item F;
- g. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Probation Violators, by revising the title and the paragraphs for scoring Items A and E, remove the paragraph for scoring Item F, and redesignate the paragraph for scoring Item G as Item F;
- h. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Parole Violators, by revising the title and the paragraphs for scoring Items A–

D, and F, and remove the paragraph for scoring Item G;

i. Revise the Salient Factor Scoring Manual, Special Instructions—Federal Confinement/Escape Status Violators With New Criminal Behavior In The Community, by revising the title, remove the paragraph for scoring Item F, and redesignate the paragraph for scoring Item G as Item F and revise Item F.

The revised and added text reads as follows:

§ 2.20 Paroling policy guidelines: Statement of general policy.

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Salient Factor Scoring Manual

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*Item A. * * **

A.1 In General.

(a) Count all convictions/adjudications (adult or juvenile) for criminal offenses (other than the current offense) that were committed prior to the present period of confinement, except as specifically noted.

(b) Convictions for prior offenses that are not separated from each other by an intervening arrest (e.g., two burglaries followed by an arrest for both offenses) are counted as a single prior conviction. Prior offenses that are separated by an intervening arrest are counted separately (e.g., three convictions for larceny and a conviction for an additional larceny committed after the arrest for the first three larcenies would be counted as two prior convictions, even if all the four offenses were adjudicated together).

(c) Do not count the current federal offense or state/local convictions resulting from the current federal offense (i.e., offenses that are considered in assessing the severity of the current offense). Exception: Where the first and last overt acts of the current offense behavior are separated by an intervening federal conviction (e.g., after conviction for the current federal offense, the offender commits another federal offense while on appeal bond), both offenses are counted in assessing offense severity; the earlier offense is also counted as a prior conviction in the salient factor score.

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A.5 Diversion.

Conduct resulting in diversion from the judicial process without a finding of guilt (e.g., deferred prosecution, probation without plea, or a District of Columbia juvenile consent decree) is not to be counted in scoring this item. However, an instance of criminal behavior resulting in a judicial determination of guilt before a judicial

body shall be counted as a conviction even if a conviction is not formally entered.

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A.14 Juvenile Consent Decree (District of Columbia). A juvenile consent decree in the District of Columbia is a diversionary disposition not requiring an admission or finding of guilt. Therefore, it is not to be used in scoring this item.

*Item B. * * **

B.3 Definitions.

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(b) This item includes confinement in adult or juvenile institutions, community corrections centers, and other residential treatment centers (e.g., halfway houses and community treatment centers). It does not include foster home placement. Count confinement in a community corrections center (CCC) or other residential treatment center only when it is part of a committed sentence. Do not count confinement in a community corrections center or other residential treatment center when imposed as a condition of probation or parole. Do not count self-commitment for drug or alcohol treatment.

(c) If a committed sentence of more than 30 days is imposed prior to the current offense but the offender avoids or delays service of the sentence (e.g., by absconding, escaping, bail pending appeal), count as a prior commitment.

Note: Where the subject unlawfully avoids service of a prior commitment by escaping or failing to appear for service of sentence, this commitment is also to be considered in Items D and E.

Example: An offender is sentenced to a three-year prison term, released on appeal bond, and commits the current offense. Count as a previous commitment under Item B, but not under Items D and E. To be considered under Items D and E, the avoidance of sentence must have been unlawful (e.g., escape or failure to report for service of sentence). Example: An offender is sentenced to a three-year prison term, escapes, and commits the current offense. Count as a previous commitment under Items B, D, and E.

(d) District of Columbia Juvenile Commitment to Department of Human Services. In the District of Columbia, juvenile offenders may be committed to the Department of Human Services for placement ranging from a foster home to a secure juvenile facility. Such a commitment is counted only if it can be established that the juvenile was actually committed for more than 30 days to a secure juvenile institution or residential treatment center rather than a foster home.

*Item C. * * **

C.1 Score 3 if the subject was 26 years of age or more at the commencement of the current offense and has three or fewer prior commitments.

C.2 Score 2 if the subject was 26 years of age or more at the commencement of the current offense and has four prior commitments.

C.3 Score 1 if the subject was 26 years of age or more at the commencement of the current offense and has five or more prior commitments.

C.4 Score 2 if the subject was 22–25 years of age at the commencement of the current offense and has three or fewer prior commitments.

C.5 Score 1 if the subject was 22–25 years of age at the commencement of the current offense and has four prior commitments.

C.6 Score 0 if the subject was 22–25 years of age at the commencement of the current offense and has five or more prior commitments.

C.7 Score 1 if the subject was 20–21 years of age at the commencement of the current offense and has three or fewer prior commitments.

C.8 Score 0 if the subject was 20–21 years of age at the commencement of the current offense and has four prior commitments.

C.9 Score 0 if the subject was 19 years of age or less at the commencement of the current offense with any number of prior commitments.

*Item E. * * **

E.3 Definitions. * * *

(b) The term “parole” includes parole, mandatory parole, supervised release, conditional release, or mandatory release supervision (i.e., any form of supervised release).

(c) The term “confinement/escape status” includes institutional custody, work or study release, pass or furlough, community corrections center or other residential treatment center confinement (when such confinement is counted as a commitment under Item B), or escape from any of the above.

Item F. Older Offenders.

F.1 Score 1 if the offender was 41 years of age or more at the commencement of the current offense and the total score from Items A–E is 9 or less.

F.2 Score 0 if the offender was less than 41 years of age at the commencement of the current offense or if the total score from Items A–E is 10.

Special Instructions—Probation Violator This Time

Item A Count the original conviction that led to the sentence of probation as a prior conviction. Do not count the probation revocation as a prior conviction.

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Item E By definition, no point is credited for this item. Exception: A person placed on unsupervised probation (other than for deportation) would not lose credit for this item.

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Special Instructions—Parole or Supervised Release Violator This Time

Item A The conviction from which paroled or placed on supervised release counts as a prior conviction.

Item B The commitment from which paroled or released to supervised release (including a prison term ordered for a prior supervised release revocation), counts as a prior commitment.

Item C Use the age at commencement of the violation behavior (including new criminal behavior).

Item D Count backwards three years from the commencement of the violation behavior (including new criminal behavior).

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Item F Use the age at commencement of the violation behavior (including new criminal behavior).

Special Instructions—Confinement/Escape Status Violator With New Criminal Behavior in the Community This Time

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Item F Use the age at commencement of the confinement/escape status violation.

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Subpart B—Transfer Treaty Prisoners and Parolees

§ 2.68 [Amended]

3. Section 2.68 is amended at paragraph (l) by removing “5B1.4(a)” and adding “5D1.3(a) and (c)” in its place.

Dated: November 18, 2002.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 02-29952 Filed 11-25-02; 8:45 am]

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NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Revisions of Regulations Governing Filing of Documents With the National Labor Relations Board; Provision for Filing Utilizing Forms on the Agency's Web Site

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board is amending its regulations governing filing documents with the Board to permit certain documents to be filed utilizing forms that are now, or are expected to be made available in the future, on the Board's Web site (<http://www.nlr.gov>).

DATES: Effective: November 26, 2002.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Acting Executive Secretary, (202) 273-1067.

SUPPLEMENTARY INFORMATION: Pursuant to OMB Memorandum M-00-10, “OMB Procedures and Guidance on Implementing the Government Paperwork Elimination Act,” the National Labor Relations Board has been developing forms to be placed on the Board's Web site (<http://www.nlr.gov>) to permit electronic filings with the Board. In fiscal year 2000, the Board placed on its Web site a form which individuals can use to file electronic requests under the Freedom of Information Act with the Board's Headquarters offices. In the near future, and over the course of the next several years, the Board will be expanding this program to permit electronic filings of other documents, including requests for extensions of time to be filed with the General Counsel's Office of Appeals or with the Executive Secretary's Office.

The Board's present filing and service rules do not address such electronic filings. Indeed, the current rules could, in some respects, be read to prohibit some of the very filings that we are planning to permit. Consequently, we have decided to promulgate an omnibus provision giving blanket authority to members of the public to utilize new electronic forms as soon as they are placed on the Web site. As new forms are developed and implemented, they will be accompanied on the Web site by instructions describing how they are to be used. Documents filed in accordance with these instructions will be accepted even if there is some provision elsewhere in the Board's rules that prohibits, or seems to prohibit, such filings.

In the case of documents that are required to be served on other parties to a Board proceeding, some provision for expedited service must be made, consistent with Section 102.114(a). That paragraph provides that “service on all parties shall be made in the same manner as that utilized in filing the paper with the Board, or in a more expeditious manner.” In the case of filings made using forms on the Board's Web site, service by the “same” manner

is not possible. Instead, we are substituting a requirement, drawn from our experience with our rules for filing by facsimile (Section 102.114(h)), that other parties be notified by phone and then either served personally, by overnight delivery service, or by facsimile transmission.

Regulatory Flexibility Act

Because no notice of proposed rule-making is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely permit persons, in certain circumstances, to file documents with the Board electronically.

Executive Order 12866

The regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, the proposed changes in the Board's rules would not be classified as “significant rules” under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Unfunded Mandates Reform Act of 1995

This rule 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 rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not