

(OMB) for review under other provisions of Executive Order 12866 as a significant regulatory action.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of this final regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the regulation, as herein adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

#### *Executive Order 13132, Federalism*

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. The Enterprises are federally chartered corporations supervised by OFHEO. This regulation sets forth minimum disclosure standards with which the Enterprises must comply for Federal supervisory purposes and address the safety and soundness authorities of the agency. This regulation does not affect in any manner the powers and authorities of any State with respect to the Enterprises or alter the distribution of power and responsibilities between State and Federal levels of government. Therefore, OFHEO has determined that this final regulation has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

#### **List of Subjects in 12 CFR Part 1730**

Government-sponsored enterprises, Financial disclosure, Reporting and recordkeeping requirements, Records.

■ Accordingly, for the reasons stated in the preamble, OFHEO adds part 1730 to subchapter C of 12 CFR Chapter XVII to read as follows:

#### **Subchapter C—Safety and Soundness**

#### **PART 1730—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION**

Sec.

1730.1 Purpose.

1730.2 Definitions.

1730.3 Periodic disclosures.

1730.4 Submission of disclosures.

**Authority:** 12 U.S.C. 4513; 12 U.S.C. 4514; 12 U.S.C. 4631; and, 12 U.S.C. 4632.

##### **§ 1730.1 Purpose.**

(a) The purpose of this part is to require the Enterprises to prepare and submit financial and other disclosures as specified by OFHEO.

(b) This part does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules and regulations.

##### **§ 1730.2 Definitions.**

For purposes of this part, the term:

(a) *Commission* means the Securities and Exchange Commission (or SEC).

(b) *Disclosure or disclosures* means any report[s], form[s], or other information submitted by the Enterprises pursuant to this part and may be used interchangeably with the terms “report[s]” or “form[s].”

(c) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term “Enterprises” means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(d) *Exchange Act* means the Securities Exchange Act of 1934.

(e) *OFHEO* means the Office of Federal Housing Enterprise Oversight (or the office).

##### **§ 1730.3 Periodic disclosures.**

(a) Each Enterprise shall prepare disclosures relating to its financial condition, results of operation, business developments, and management's expectations that include supporting financial information and certifications.

(b) The requirement of paragraph (a) of this section for disclosures will be satisfied if:

(1) In the case of an Enterprise having a class of securities registered pursuant to Section 12 of the Exchange Act, the Enterprise prepares and makes public

an annual report, quarterly report and current reports and such other materials that may be required under the rules and regulations of the Commission, including interpretations of the Commission and its staff and rules governing audited financial statements;

(2) The Enterprise files with the Commission all reports, statements, and forms required pursuant to Sections 14(a) and (c) of the Exchange Act and by rules and regulations adopted by the Commission under those sections that would be required to be filed by the Enterprises if the Enterprises has a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act; and,

(3) The officers and directors of the Enterprise file with the Commission all reports and forms relating to the common stock of the Enterprise that would be required to be filed by the officers and directors pursuant to Section 16 of the Exchange Act and by rules and regulations adopted by the Commission under that section if the Enterprises had a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act.

##### **§ 1730.4 Submission of disclosures.**

Unless otherwise required by OFHEO, the Enterprises shall provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC pursuant to § 1730.3.

Dated: April 1, 2003.

**Armando Falcon, Jr.,**

*Director, Office of Federal Housing Enterprise Oversight.*

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**BILLING CODE 4220–01–P**

## **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 its procedures governing the mandatory release of military prisoners confined in Federal civilian prisons. Such mandatory release is earned through good time credits. The

amendment implements a Department of Defense Instruction that permits the U.S. Parole Commission to place a military prisoner who is released from a Federal civilian prison under "mandatory supervision as if on parole" until the expiration of the sentence imposed, if the Commission determines that such supervision is necessary for the orderly transition of the offender back into community.

**DATES:** *Effective Date:* April 7, 2003.

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

**SUPPLEMENTARY INFORMATION:** Former Department of Defense regulations did not permit any military prisoner who was released by operation of law due to good time credits to be subject to supervision in the community for the remainder of the imposed sentence. This was in contrast to the requirement that applies to Federal civilian prisoners who are eligible for but denied parole. Prisoners sentenced by military courts martial and then transferred to a Federal institution come under the exclusive jurisdiction of the U.S. Parole Commission for parole purposes pursuant to 10 U.S.C. 858. Thus, in the absence of any rule authorizing post-release supervision for military mandatory releasees, there was a gap in the Commission's authority to require post-release supervision for military prisoners mandatorily released on good time from institutions operated by the Federal Bureau of Prisons. (The Bureau of Prisons considered former 18 U.S.C. 4164—which authorizes mandatory release supervision for federal civilian prisoners eligible for parole—to be inapplicable to military prisoners who committed their crimes on or after November 1, 1987.) Thus, if the Commission denied parole and continued a military prisoner to the expiration of his sentence, the Commission was not able to supervise the offender. However, if the Commission paroled the military prisoner prior to the mandatory release date, the Commission could supervise the military offender just as any other parolee to the expiration of the prisoner's sentence.

At the request of the Attorney General of the United States, the Department of Defense has amended its regulations regarding the mandatory release of military prisoners, including prisoners in the custody of the Bureau of Prisons.

See DoD Instruction 1325.7, "Administration of Military Correctional Facilities and Clemency and Parole Authority," July 17, 2001. These regulations generally allow for the supervision of military prisoners mandatorily released with good time deductions.<sup>1</sup> In the regulations, the Department of Defense adopted a policy to use mandatory supervision in all cases except where the Service Clemency and Parole Boards find it inappropriate. The regulations also permit the Parole Commission to place military prisoners who are in Federal civilian custody on "mandatory supervision" after they are mandatorily released, if the Commission finds that such supervision is appropriate "to provide an orderly transition to civilian life for released prisoners and to protect the communities into which the prisoners are released." See DoD Instruction 1325.7 (6.20.8). However, the DoD Instruction is silent as to whether the Commission should, as the Department of Defense has done, adopt a general presumption that mandatory supervision is appropriate. Additionally, the new DoD instruction may be applied only to offenders who committed their crimes 30 days or more after the rule change. Therefore, under the terms of the DoD instruction, the Commission can only require supervision if the prisoner committed his crime on or after August 16, 2001.

The Commission is adopting a paragraph at the end of 28 CFR 2.35 so that the Commission's rules will conform to the Department of Defense regulations and policy regarding the mandatory release of military prisoners. Pursuant to the DoD Instruction, the amended rule states that when the Commission orders a military offender continued to expiration, the military prisoner will be placed on "mandatory supervision" until the expiration of his sentence if the Commission finds that the DoD criteria are met. The Commission is adopting this rule in order to give military offenders incarcerated in federal civilian prisons notice that, if the Commission denies the prisoner parole and continues the prisoner to the expiration of the prisoner's sentence, the prisoner may be required to serve a period of mandatory supervision after the prisoner's release. Although the Commission already has the authority under Department of Defense regulations to order mandatory

supervision for military prisoners who committed their offenses on or after August 16, 2001, this rule further clarifies the Commission's authority and explains the Commission's general statement of policy regarding mandatory supervision.

The amended rule also includes the presumption that supervision is appropriate for all military mandatory releasees unless case-specific factors indicate that supervision is not appropriate. See DoD Instruction 1325.7 (6.20.1). The Commission is adopting this presumption for several reasons. First, the presumption in favor of supervision conforms with the presumption in the DoD Instruction. The inclusion of the presumption in favor of supervision after mandatory release will thus result in a uniform application of the Instruction among military offenders released from military and civilian institutions. Most importantly, the Commission agrees with the Department of Defense's general assessment that supervision in the community is, for the majority of cases, a highly effective technique to provide for a transition into the community and to protect the communities into which the prisoners are released. Therefore, the rule states that mandatory supervision shall be presumed unless the Commission finds case-specific factors illustrating that such supervision is inappropriate.

Finally, the final rule makes one change from the interim rule regarding early termination of mandatory supervision. The Commission has refrained from making early termination from supervision decisions for military offenders because it has considered this authority to be vested in the appropriate military clemency board. See Parole Commission Rules and Procedures Manual 2.43-04. Accordingly, the Commission is clarifying the final sentence of the rule, noting that the authority to terminate a military prisoners mandatory supervision rests with the appropriate military clemency board. The rule now makes it clear that a prisoner on "mandatory supervision" will be subject to the conditions of parole at 28 CFR 2.40 unless the appropriate military clemency board takes action terminating the prisoner's supervision or sentence.

### Implementation

This final rule will be implemented for any military offender mandatorily released on good time deductions from a Federal civilian prison if the offender committed his offense after August 15, 2001.

<sup>1</sup> Mandatory supervision for military offenders differs from mandatory release for "old law" U.S. Code offenders under 18 U.S.C. 4164 since such supervision runs to the full term without the 180-day reduction that applies to civilian, "old law" mandatory releasees.

### Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this interim rule does not constitute a significant rule within the meaning of Executive Order 12866. The interim 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 Amended 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 2.35 is amended by revising the following paragraph (d):

#### § 2.35 Mandatory release in the absence of parole.

\* \* \* \* \*

(d) If the Commission orders a military prisoner who is under the Commission's jurisdiction for an offense committed after August 15, 2001 continued to the expiration of his sentence (or otherwise does not grant parole), the Commission shall place such prisoner on mandatory supervision after release if the Commission determines that such supervision is appropriate to provide an orderly transition to civilian life for the prisoner and to protect the community into which such prisoner is released. The Commission shall presume that mandatory supervision is appropriate for all such prisoners unless case-specific factors indicate that supervision is inappropriate. A prisoner who is placed on mandatory supervision shall be deemed to be released as if on parole, and shall be subject to the conditions of release at § 2.40 until the expiration of the maximum term for which he was sentenced, unless the prisoner's sentence is terminated early by the appropriate military clemency board.

Dated: March 21, 2003.

**Edward F. Reilly, Jr.,**

*Chairman, U.S. Parole Commission.*

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 800

### Office of International Investment; Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations that implement section 721 of Title VII of the Defense Production Act of 1950 (the "DPA"), as added by section 5021 of the Omnibus Trade and Competitiveness Act of 1988. This rule amends only those provisions relating to the filing of voluntary notice with the Committee on Foreign Investment in the United States (CFIUS).

**DATES:** This final rule is effective as of April 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gay Sills, Director, Office of International Investment, Department of the Treasury, 15th Street and Pennsylvania Ave., NW., Washington, DC 20220, (202) 622-1860.

**SUPPLEMENTARY INFORMATION:** Section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102-558) amended section 709 of the DPA by requiring that any regulation issued under the DPA be published in the **Federal Register** and that opportunity for public comment be provided for not less than thirty days. Accordingly, this regulation was published in proposed form in the **Federal Register** on November 21, 2002. The Treasury Department received no comments. The regulations are therefore now being published in final form, exactly as proposed.

This final regulation provides parties that file a notice with CFIUS under section 721 with the option of filing electronically, providing just a single paper copy to CFIUS, or the option of continuing the current practice of providing CFIUS 13 paper copies. By filing electronically, companies could substantially decrease the paperwork burden of providing CFIUS notice under section 721.

### Executive Order 12866

These regulations are not subject to the requirements of Executive Order 12866 because they relate to foreign and

military affairs functions of the United States.

### Paperwork Reduction Act

The collections of information provided for in this rule have been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 1505-0121. The proposed rule does not change the information collection other than to permit an alternative means of submitting notice to the Committee on Foreign Investment in the United States.

### Administrative Procedure Act

Because this final rule relates to foreign and military affairs functions of the United States, it is not subject to a delayed effective date pursuant to 5 U.S.C. 553(a)(1).

### Regulatory Flexibility Act

This regulation implements Section 721 of the Defense Production Act of 1950 ("Section 721") (50 U.S.C. App. 2170) ("DPA"). Section 709 of the DPA (50 U.S.C. App. 2159) provides that the regulations issued under it are not subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553). Notwithstanding this exemption, section 709 of the DPA was amended by section 136 of the Defense Production Act Amendments of 1992 (Pub. L. 102-558) to require any regulation issued under the DPA to be published in the **Federal Register** for at least thirty days to provide for public comment. This requirement subjected the proposed regulation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. When the proposed rule was published, the Treasury Department estimated that an average filing requires about 60 hours of preparation time. This final rule will permit parties to file notifications electronically, which is expected to reduce the preparation time somewhat because it will no longer be necessary to provide 13 paper copies of a filing. Instead, a filer can provide a single paper copy to the Treasury Department along with the electronic filing. Therefore, the impact of the final rule on small companies that file notifications with CFIUS is expected to be marginally beneficial.

### List of Subjects in 31 CFR Part 800

Foreign investments in United States, Investigations, National defense,