

release. Since the general conditions of release are virtually identical for all three groups of offenders, the rules are unnecessarily duplicative. The proposed rules reduce this duplication by using § 2.204 as the rule for the full statement of applicable conditions and then placing cross-references to § 2.204 in § 2.40 and § 2.85. Provisions that are unique to a particular group of offenders are maintained in the rules for the respective group, e.g., the rule on the effect of a prisoner's refusal to sign a release certificate is maintained in § 2.40 and § 2.85.

The rules were reorganized and edited to make the conditions easier to read and understand. The revision includes minor changes and clarifications in the directions given to releasees. For example, the revised rule at § 2.204(a)(3) changes the direction given to a releasee who has an emergency and cannot report to the designated supervision office within 72 hours of release. The revised rule instructs that a releasee in this situation shall contact the designated supervision office by telephone, rather than report to the U.S. Probation Office nearest to the releasee's location. The revised rule at § 2.204(a)(5)(ii) clarifies that a releasee is prohibited from possessing ammunition, in addition to firearms and other dangerous weapons. (Convicted felons are prohibited by 18 U.S.C. 922(g) from possessing a firearm or ammunition.) The revised rule at § 2.204(a)(4)(iii), with the cross-references in the other sections, removes any question whether the condition advising a releasee to permit visits of the supervision officer to the releasee's residence and workplace applies to federal parolees as well as DC parolees and supervised releasees.

The Commission proposes § 2.204 as the repository for the full statement of the release conditions because the Commission's workload will eventually shift from parole to DC supervised release cases, and the statute governing supervised release cases (18 U.S.C. 3583) outlines the greatest number of release conditions that Congress has mandated for persons on supervision. The proposed revision incorporates in the rules all release conditions and other provisions required by statutory law for persons in the three groups. The proposal includes a decision to generally extend a condition mandating treatment for a supervised releasee convicted of a crime of domestic violence those persons on parole supervision. The statute at 18 U.S.C. 4209 does not require the condition for federal parolees and there is no DC law that mandates this condition for DC

parolees. The Commission believes that this condition should be required for all persons on supervision who have been convicted of a crime of domestic violence.

The proposed revision retains rules on such matters as the consequence of an offender's failure to acknowledge his acceptance of release conditions by signing the release certificate and the procedures for modifying release conditions after an offender is released to the community.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this proposed rule does not constitute a significant rule within the meaning of Executive Order 12866. The proposed rule, if adopted, 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 Proposed Rule

Accordingly, the U.S. Parole Commission proposes 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).

2. Section 2.40 is revised to read as follows:

§ 2.40 Conditions of release.

(a) *General conditions of release.* (1) The conditions set forth in § 2.204(a)(3)–(6) apply for the reasons set forth in § 2.204(a)(1). These conditions are printed on the certificate of release issued to each releasee.

(2) The refusal of a prisoner who has been granted a parole date to sign the certificate of release (or any other document necessary to fulfill a condition of release) constitutes withdrawal of that prisoner's application for parole as of the date of refusal. To be considered for parole again, that prisoner must reapply for parole consideration. A prisoner who is released to supervision through good-

time deduction who refuses to sign the certificate of release is nevertheless bound by the conditions set forth in that certificate.

(b) *Special conditions of release.* (1) The Commission may impose a condition other than one of the general conditions of release if the Commission determines that such condition is necessary to protect the public welfare and provide adequate supervision of the releasee. Examples of special conditions of release that the Commission frequently imposes are found at § 2.204(b)(2).

(2) If the Commission requires the releasee's participation in a drug-treatment program, the releasee must submit to a drug test before release, if the special condition was imposed before release, and to at least two other drug tests, as determined by the supervision officer. A decision not to impose this special condition, because available information indicates a low risk of future substance abuse by the releasee, shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 4209(a). If the Commission imposes this special condition before release, a grant of parole or reparole is contingent upon the prisoner passing all pre-release drug tests administered by the Bureau of Prisons.

(c) *Changing conditions of release.* The provisions of § 2.204(c) apply.

(d) *Appeal.* A releasee may appeal under § 2.26 an order to impose or modify a release condition not later than 30 days after the date the condition is imposed or modified.

(e) *Application of release conditions to absconder.* The provisions of § 2.204(d) apply.

(f) *Revocation for possession of a controlled substance.* If the Commission finds after a revocation hearing that a releasee, released after December 31, 1988, has possessed a controlled substance, the Commission shall revoke parole or mandatory release. If such a releasee fails a drug test, the Commission shall consider appropriate alternatives to revocation. The Commission shall not revoke parole on the basis of a single, unconfirmed positive drug test, if the releasee challenges the test result and there is no other violation found by the Commission to justify revocation.

(g) *Supervision officer guidance.* The provisions of § 2.204(f) apply.

(h) *Definitions.* For purposes of this section—

(1) The terms *supervision officer*, *domestic violence crime*, *approved offender-rehabilitation program* and *firearm*, as used in § 2.204, have the