

currently comprise only GED attainment. This means that inmate aliens who have confirmed orders of deportation, exclusion, or removal, but do not have a high school diploma or GED, will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT. When considering GCT, we propose to allow 54 days GCT for each year served if the inmate is an alien with a confirmed order of deportation, exclusion, or removal from the Immigration and Naturalization Service (INS) (now referred to as the Bureau of Citizenship and Immigration Services (BCIS)).

In this document, we also propose to reorganize the rule for clarity and accuracy. Other than the substantive change regarding sentenced deportable aliens, we make no further substantive changes.

DATES: Comments are due by August 25, 2003.

ADDRESSES: Submit comments to Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

SUPPLEMENTARY INFORMATION:

What Is the Purpose of This Rule Change?

The purpose of this proposed rule is to more effectively reduce the lengthy General Educational Development (GED) waiting lists and to reevaluate the "satisfactory progress in a literacy program" provision of VCCLEA/PLRA for aliens with confirmed orders of deportation, exclusion, or removal. This proposed rule will increase the proportion of our literacy funds and resources that go to inmates who will remain in the U.S. after release.

VCCLEA/PLRA requires that inmates lacking a high school diploma or GED must participate satisfactorily in the literacy program to receive full benefits of GCT.

In November 1997, the Bureau's education staff implemented the literacy provision of VCCLEA and PLRA (see 28 CFR 544.70-544.75). Inmates sentenced under either of these two laws must enroll or re-enroll in a literacy program and make satisfactory progress towards earning a GED credential. If they do not do this, inmates may suffer negative consequences to their GCT credit. For PLRA inmates, this would mean not being eligible for the maximum, 54 days, of GCT (see 28 CFR 523.20(a)(1)).

For VCCLEA inmates, this would result in their GCT not vesting.

Although we made extensive efforts to enroll as many inmates in literacy programs as possible, the waiting lists for enrollment in these programs grew from no appreciable waitlist in August 1997 to 11,397 in April 2003. Aliens with confirmed deportation orders represent a small fraction of all VCCLEA/PLRA sentenced inmates without a verified GED. On April 14, 2003, 6% of all VCCLEA/PLRA sentenced inmates without a verified GED were aliens with confirmed deportation orders (2,390 out of 39,562).

18 U.S.C. 3624(b)(4) gives the Director authority to make exemptions to the GED requirements as he deems appropriate. Through our literacy program, we help inmates compete for available jobs and cope with post-release community, family, and other responsibilities. Because we must concentrate our resources on inmates who will be released into U.S. communities, we will not require inmates with confirmed orders of deportation, exclusion, or removal to participate in the literacy program.

In this proposed rule, we make an exemption to the GED requirements to provide relief to the growing demand for literacy programs by amending 28 CFR 523.20 to allow the full benefit of GCT provisions for aliens with confirmed orders of deportation, exclusion, or removal. These inmates may still participate in the literacy program, even though it will not affect their GCT.

What Is the Bureau Proposing to Change?

We propose to change 28 CFR 523.20(a)(1) on Good Conduct Time to allow 54 days GCT for each year served if the inmate is an alien with a confirmed order of deportation, exclusion, or removal from the INS (BCIS). We published this rule as an interim final rule on September 26, 1997 (62 FR 50786). We received no public comment on that interim rule. This rulemaking is a change to the same interim rules.

This proposed rule will have the practical effect of exempting aliens with confirmed orders of deportation, exclusion, or removal from participating in the literacy program, as set forth in 28 CFR 544.70-544.75. The Bureau's Literacy Program, described in 28 CFR part 544, subpart H, currently comprises only GED attainment.

Such inmate aliens can vest (VCCLEA) or will retain eligibility for the full benefits of GCT (PLRA) even if they choose not to participate in the literacy program. However, the

proposed rule does not prevent any of these inmates from participating in the literacy program.

In this document, we also propose to reorganize the rule for clarity and accuracy. Other than the substantive change regarding sentenced deportable aliens, we make no further substantive changes.

Who Will This Rule Affect?

This proposed rule will affect inmate aliens with confirmed orders of deportation, exclusion, or removal. These inmates will not need to participate in the literacy program to retain the maximum GCT credit of 54 days or to have their GCT vest.

Where Can I Send Comments, and How Will the Bureau Consider Them?

You can send written comments on this proposed rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments we receive during the comment period before we take final action. In light of comments we receive, we may change the proposed rule.

We do not plan to have oral hearings on this proposed rule. All the comments we receive will remain on file for public inspection at the above address.

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 of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule 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. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare 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. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial