

functions for D.C. supervised releasees and requested comments on the rules. 65 FR 70466–78 (Nov. 24, 2000). Given the expected similarity between the parolee population and those D.C. offenders to be placed on supervised release, for the most part the interim rules simply carried over rules developed for parolees based on the Commission's long experience with this offender population. Of course, the Commission was required to promulgate rules that implemented any laws that were unique to supervised releasees, in particular the restrictions on the sanctions that may be imposed on offenders whose supervised release terms were revoked. See 28 CFR 2.218–2.219.

The Commission did make several policy choices in its interim rules for supervised release revocation decisions and is continuing these policies in the amended interim rules. The Commission will continue to use the reparole guidelines at § 2.21 as the appropriate standard for determining the length of a prison term for a supervised release violator when the Commission has revoked supervised release. The Commission has employed these guidelines to make reparole decisions for D.C. parole violators because the regulations of the former D.C. Board of Parole provided no policy guidance on reparole decisions. 63 FR 39175 (July 21, 1998). The guidelines at § 2.21 represent the Commission's policy judgments as to the appropriate balancing of factors such as accountability for the violation behavior, incapacitation, and deterrence in determining prison term sanctions for criminal violations and other misconduct on supervision.

In comparing the guideline ranges of § 2.21 against the maximum prison terms allowed as a part of a supervised release revocation decision under D.C. Code 24–403.01(b)(7) (incorporated in § 2.219 of the rules), it is apparent that the minimum of the § 2.21 range will frequently exceed the maximum permissible term of imprisonment for a violator who commits a serious crime while under supervision. The amended interim rule addresses this issue by providing that, when the maximum authorized term of imprisonment under § 2.219 is less than the minimum of the § 2.21 guideline range, the “guideline range” is the maximum authorized term of imprisonment, not the range found in § 2.21. This instruction is analogous to the directions found in the U.S. Sentencing Guidelines, § 5G.1.1(a) and § 7B1.4(b)(1). For the large number of release violators who commit

crimes, the § 2.21 guidelines will ensure decision-making consistency in prison term determinations. The Commission's statistics regarding decision-making under the § 2.21 guidelines for D.C. parole violators since August, 2000 to the present show that 80% of the cases received offense severity ratings of Category Three or less, with 60% receiving a rating of Category One. In 63% of the cases, the violator received a prison term of 24 months or less for the violation. Since the Commission anticipates that D.C. supervised releasees, as a group, will be substantially similar to D.C. offenders on parole, there is no reason to believe that these statistics will be markedly different for D.C. supervised releasees.

The Commission is also maintaining the general policy to impose, whenever possible, the maximum permissible term of supervised release for an offender as a consequence of the revocation of an earlier supervised release term. 28 CFR 2.218(e). This policy is based on the Commission's judgment that, for most cases, a supervised release violator has, by virtue of committing violations serious enough to justify revocation, thereby evidenced the need for further supervision to the limits provided by law.

The amended interim rules also clarify the Commission's interpretation of a law governing the running of a supervised release term, how the Commission will handle actions regarding multiple terms of supervised release, and the sequence of revocation proceedings for an offender serving concurrent terms of parole and supervised release. The statutory interpretation concerns D.C. Code 24–403.01(b)(5), which provides that a term of supervised release does not run during any period of 30 days or more in which the offender is imprisoned in connection with a conviction for a federal, state, or local crime. The rule at § 2.201 interprets this law to preclude the running of a supervised release term while the offender is serving a term of imprisonment resulting from a probation, parole, or supervised release revocation on another sentence. The offender's imprisonment as a release violator is clearly “in connection with a conviction” because the conviction on which the offender was granted probation, parole, or supervised release is the ultimate source of authority for revoking the release and imprisoning the offender. The rule at § 2.201 also incorporates the provision at D.C. Code 24–403.01(b)(5) that a term of supervised release runs concurrently with other terms of supervision in the

community, including a supervised release term imposed for another offense.

With regard to the Commission's policies concerning an offender serving multiple terms of supervised release, the amended interim rule retains the provision that the longest term imposed determines the duration of the Commission's jurisdiction over such an offender, and the policy that the multiple terms will be considered as aggregated. A decision to terminate the offender from supervision or to revoke supervised release shall have the effect of terminating or revoking all terms of supervised release being served by the offender at the time of the Commission's order. In imposing the sanctions that result from revocation, the Commission shall treat the offender as if the Commission had revoked a single term of supervised release. The reason for using this aggregation approach for imposing revocation sanctions is largely one of administrative efficiency. Making separate calculations of terms of imprisonment and subsequent supervised release for the revocation of multiple supervised release terms, and then reducing these multiple calculations to an understandable revocation decision would be an extremely difficult task. The amended interim rule also clarifies that in calculating the original maximum authorized term of supervised release and the maximum authorized term of imprisonment at the first revocation, the Commission shall use as its guide the sentence for the offense that is punishable by the longest prison term authorized by the D.C. Code. The Commission believes this interpretation of the statutory scheme best accords with legislative intent because the sanctions authorized by statutory law for supervised release revocation are dictated by the maximum statutory penalty for the crime that led to the original sentence. See D.C. Code 24–403.01(b)(7). Finally, with regard to the offender who is subject to revocation of parole and supervised release terms, the rule at § 2.211(g) clarifies that the Commission has the discretion to revoke both parole and supervised release at a combined hearing or at separate hearings, and may postpone the sanction for revocation of one term until the offender satisfies the prison term imposed as a revocation sanction regarding the other term. If the Commission chooses to conduct separate hearings, the first revocation hearing will resolve any contested violations so that the subsequent hearing may be conducted on the same