

(b)(2) through (b)(3) [Reserved]. For further guidance, *see* § 1.6038B-1(b)(2) through (b)(3).

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PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 24.** The authority citation for part 301 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 25.** Section 301.7701-3 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 301.7701-3 Classification of certain business entities.

* * * * *

(c) * * * (1) * * *

(i) [Reserved]. For further guidance, *see* § 301.7701-3T(c)(1)(ii).

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■ **Par. 26.** Section 301.7701-3T is added to read as follows:

§ 301.7701-3T Classification of certain business entities (temporary).

(a) through (c)(1)(i) [Reserved]. For further guidance, *see* § 301.7701-3(a) through (c)(1)(i).

(ii) *Further notification of elections.* An eligible entity required to file a federal tax or information return for the taxable year for which an election is made under § 301.7701-3(c)(1)(i) must attach a copy of its Form 8832 to its federal tax or information return for that year. If the entity is not required to file a return for that year, a copy of its Form 8832 ("Entity Classification Election") must be attached to the federal income tax or information return of any direct or indirect owner of the entity for the taxable year of the owner that includes the date on which the election was effective. An indirect owner of the entity does not have to attach a copy of the Form 8832 to its return if an entity in which it has an interest is already filing a copy of the Form 8832 with its return. If an entity, or one of its direct or indirect owners, fails to attach a copy of a Form 8832 to its return as directed in this section, an otherwise valid election under § 301.7701-3(c)(1)(i) will not be invalidated, but the non-filing party may be subject to penalties, including any applicable penalties if the federal tax or information returns are inconsistent with the entity's election under § 301.7701-3(c)(1)(i). In the case of returns for taxable years beginning after December 31, 2002, the copy of Form 8832 attached to a return pursuant to this paragraph (c)(1)(ii) is not required to be a signed copy.

(c)(1)(iii) through (h) [Reserved]. For further guidance, *see* § 301.7701-3(c)(1)(iii) through (h).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 27.** The authority citation for part 602 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 28.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
1.170A-11T	1545-1868
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Robert E. Wenzel,

Deputy Commission for Services and Enforcement.

Approved: December 2, 2003.

Gregory Jenner,

Deputy Assistant Secretary of the Treasury (Tax Policy).

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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: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule is designed to provide a fair and expeditious means of handling the case of an accused parole violator who is found to be mentally incompetent to proceed with a scheduled parole revocation hearing. Under the Commission's present rule, such a parolee is sent to the Bureau of Prisons for a mental health examination, with a report every six months, until the parolee regains sufficient competence to

participate in a revocation hearing. This rule can result in the indefinite detention of the mentally incompetent parolee, without any provision for bringing the revocation matter to resolution. The interim rule authorizes the Commission to conduct a revocation hearing notwithstanding the parolee's lack of mental competency, so long as the Commission obtains a current mental health report, ensures that the parolee has counsel to present a defense, and takes the parolee's mental condition into account in its determination.

DATES: *Effective date:* January 20, 2004. Comments must be received by February 17, 2004.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

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: A recent case in the District of Columbia has illustrated the problems that can arise when the Commission finds that a parolee who is charged with parole violations is not mentally competent to participate a revocation hearing, and successive efforts to hold a revocation hearing are frustrated by the parolee's inability to regain competency. Other pending revocation cases potentially raise similar difficulties. Under the Commission's present regulation, 28 CFR 2.8, such a parolee must be kept in prison with a report as to his mental competency submitted every six months. A revocation hearing is attempted only when the mental health report indicates that the parolee may be competent to proceed. The regulation can result in indefinite delays in holding the revocation hearing, because the rule lacks any provision for resolving the parolee's situation.

The rule at § 2.8 is grounded, in part, on the policy judgment that the Commission cannot responsibly return accused parole violators to parole supervision solely by reason of their mental incompetency. This result would be incompatible with a primary purpose of parole, *i.e.*, to promote the reintegration of criminal offenders into society as law-abiding citizens through closely supervising their activities in the community and facilitating their rehabilitation. Effective supervision can only be carried out when parolees