

rely on a test report showing passing test results for one or more component parts used on the product, based on testing by a third party conformity assessment body. Component part test reports must identify each component part tested, by part number or other specification, and the manufacturer and the supplier of the component part (if different).

(c) *Component part certificates.* As part of its basis for certifying that a children's product complies with the applicable lead content limit, a finished product certifier may rely on a certificate from another person certifying that a component part complies with the lead limit. The component part certificate must be based on testing by a third party conformity assessment body of a sample that is identical in all material respects to the component parts used in the finished product. The certificate pertaining to the component part must identify all test reports underlying the certification consistent with section 14 of the CPSA.

(d) *Certificates for the finished product.* The certificate accompanying the children's product must list each component part that was tested, by part number or other specification, and, for each such component part, identify the corresponding test report, paint certificate, or component part certificate on which a certification for the finished children's product is based.

§ 1109.13 Component part testing for phthalates in children's toys and child care articles.

(a) *Generally.* A finished product certifier may rely on component part testing of appropriate component parts of a children's toy or child care article for phthalate content if the finished product certifier is provided with a copy of the original test results obtained from the third party conformity assessment body or a component part certificate.

(b) *Component part test reports.* As part of its basis for certification of a children's product to the phthalate content limit, a finished product certifier may rely on a test report showing passing test results for one or more component parts used on the product, based on testing by a third party conformity assessment body. Component part test reports must identify each component part tested, by part number or other specification, and the component part's supplier and, if different, the component part's manufacturer.

(c) *Component part certificates.* As part of its basis for certification of a children's product to the phthalate

content limit, a finished product certifier may rely on a certificate from another person certifying that a component part complies with the limit. The component part certificate must be based on testing by a third party conformity assessment body of a sample that is identical in all material respects to the component part used in the finished product. The component part certificate must identify all test reports underlying the certification consistent with section 14 of the CPSA. Any person who certifies a children's product as complying with the phthalate content limits must be able to trace each component part of the product to the component part's supplier and, if different, the component part's manufacturer.

(d) *Certificates for the finished product.* The certificate accompanying the children's product must list each component part required to be tested by part number or other specification and, for each such part, must identify the corresponding test report from a third party conformity assessment body on which the product's certification is based.

§ 1109.14 Composite part testing.

(a) *Paint and other surface coatings.* In testing paint for compliance with chemical content limits, testing parties may test a combination of different paint samples so long as they follow procedures ensuring that no failure to comply with the lead limits will go undetected (see paragraph (c) of this section). Testing and certification of composite paints must comply with § 1109.11.

(b) *Component parts.* Third party conformity assessment bodies may test a combination of component parts so long as they follow procedures ensuring that no failure to comply with the content limits will go undetected (see paragraph (c) of this section). Testing and certification of composite component parts for lead content must comply with § 1109.12. Testing and certification of composite component parts for phthalate content must comply with § 1109.13.

(c) *How to evaluate composite part testing.* When using composite part testing, only the total amount or percentage of the target chemical is determined, not how much was in each individual paint or component part. Therefore, to determine that each paint or component part is within the applicable limit, the entire amount of the target chemical in the composite is attributed to each paint or component part. If this method yields an amount of the target chemical that exceeds the

limit applicable to any paint or component part in the composite sample, additional testing would be required to determine which of the paints or component parts, if any, fail to meet the applicable limit.

Dated: May 7, 2010.

Todd A. Stevenson,
Secretary, Consumer Product Safety
Commission.

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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: Proposed rule.

SUMMARY: The U.S. Parole Commission proposes to amend a rule that implements its authority under the District of Columbia Youth Rehabilitation Act to set aside a conviction for a youth offender. The proposed rule specifies the Commission's authority to set aside a youth offender's misdemeanor conviction and describes the information the Commission examines in making such a determination, given that the misdemeanant only served a jail term for the offense without subsequent community supervision on parole or supervised release. In addition, the rule clarifies the Commission's policy for issuing a set-aside certificate for a youth offender who was formerly on supervised release and who was not reviewed for the set-aside certificate before the offender's sentence expired. The proposed rule adopts the Commission's established criteria for conducting set-aside reviews when a youth offender's parole term ends before such a review has been held.

DATES: Comments must be received by June 30, 2010.

ADDRESSES: Submit your comments, identified by docket identification number USPC-2010-02 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

2. *Mail:* Office of the General Counsel, U.S. Parole Commission, 5550

Friendship Blvd., Chevy Chase, Maryland 20815.

3. Fax: (301) 492-5563.

FOR FURTHER INFORMATION CONTACT: Rockne Chickinell, 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: The District of Columbia Youth Rehabilitation Act authorizes the Parole Commission to set aside a conviction for a deserving youth offender who has been committed under the Act. DC Code 24-906. The sentencing judge exercises similar authority for a youth offender if the judge sentenced the offender to probation. DC Code 24-906(e).

Normally, the Commission reviews a youth offender's case for issuance of a set-aside certificate after the offender has served a period of community supervision on parole or supervised release following discharge from the commitment portion of the sentence. DC Code 24-906(a), (c), and (d) require the issuance of a set-aside certificate if the Commission terminates parole supervision or supervised release before the expiration of the committed youth offender's sentence. Under 24-906(b), the Commission also has the authority to exercise its discretion to set aside a committed youth offender's conviction if the youth offender's sentence expires before the unconditional discharge of the offender. This situation will normally arise when: (1) A youth offender's jail term for a misdemeanor conviction expires and the offender is discharged from the custody of the DC Department of Corrections without further supervision in the community; or (2) a youth offender is unconditionally discharged from parole supervision or supervised release and the Commission somehow did not review the case for early termination from supervision.

The Commission's rules presently do not address the agency's authority to grant a set-aside certificate to a youth offender who was sentenced only to a jail term for a misdemeanor offense, or a youth offender formerly on supervised release who was not reviewed for early termination from supervision before the supervised release term expired. See 28 CFR 2.106 and 2.208. The Commission has been carrying out its statutory authority to consider these offenders for set-aside certificates even in the absence of a regulation on this function. Given the gap in its rules on issuing set-aside

certificates for youth misdemeanants who have not been on parole or supervised release, the Commission is proposing a revision of paragraph (a) in 28 CFR 2.208 to include a brief statement of the Commission's authority to issue a set-aside certificate after the youth offender's sentence expires and the information the Commission would consider in granting or denying the set-aside certificate. For former supervised releasees, the new rule proposes a cross-reference to § 2.106(f)(3), which describes the Commission's criteria for issuing a set-aside certificate *nunc pro tunc* for a youth offender who was on parole supervision and who was not reviewed for early termination from supervision (and the possible issuance of the set-aside certificate) before the expiration of the sentence.

Executive Order 12866

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

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 the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

The proposed 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).

Unfunded Mandates Reform Act of 1995

The rule will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—Congressional Review Act)

This rule is not a "major rule" as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E—Congressional Review Act), now codified at 5 U.S.C. 804(2). The rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or

significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term "rule" as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

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 is proposing the following amendment 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. Revise § 2.208(a)(2) to read as follows:

§ 2.208 Termination of a term of supervised release.

(a) * * *

(2) Upon terminating supervision of a committed youth offender before the sentence expires, the Commission shall set aside the offender's conviction and issue a certificate setting aside the conviction instead of a certificate of discharge. The Commission may issue a set-aside certificate *nunc pro tunc* for a youth offender previously under supervised release on the sentence and who was not considered for early termination from supervision, using the criteria stated at § 2.106(f)(3). If the youth offender was sentenced only to a term of incarceration without any supervision to follow release, the Commission may issue a set-aside certificate after the expiration of the sentence. In such cases, the Commission shall determine whether to grant the set-aside certificate after considering factors such as the offender's crime, criminal history, social and employment history, record of institutional conduct, efforts at rehabilitation, and any other relevant and available information.

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Dated: May 11, 2010.

Isaac Fulwood,
Chairman, U.S. Parole Commission.

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