DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 523

[BOP–1032–P]

RIN 1120–AA62

Good Conduct Time Credit Under the First Step Act

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons (Bureau) proposes to modify regulations on Good Conduct Time (GCT) credit to conform with recent legislative changes under the First Step Act (FSA), which would result in recalculation of the release date of most current inmates. However, as provided in the FSA, this change will not be effective until the Attorney General completes and releases the risk and needs assessment system.

DATES: Electronic comments must be submitted, and written comments must be postmarked, no later than 11:59 p.m. on March 2, 2020.

ADDRESSES: Please submit electronic comments through the regulations.gov website, or mail written comments to the 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) 353–8248.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at www.regulations.gov. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted. If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted *www.regulations.gov*.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

Introduction and Summary

In this document, the Bureau proposes to modify regulations on GCT credit to conform with recent legislative changes enacted in the First Step Act of 2018 (FSA), Public Law 115–391, December 21, 2018, 132 Stat 5194). Section 102(b) of the FSA amends 18 U.S.C. 3624(b) to indicate that inmates may receive up to 54 days of GCT credit for each year of *the sentence imposed by the court,* instead of for each year of *actual time served.* As a practical matter, the latter method had resulted in a cap of 47 days per year of credit, as explained and upheld in *Barber* v. *Thomas,* 560 U.S. 474 (2010). This proposed regulation amendment would support the recalculation under the FSA of the release date of most current inmates (other than those serving sentences for offenses committed before November 1, 1987, sentences of one year or less, and sentences to life imprisonment).

Under section 102(b)(2) of the FSA, the recalculation of GCT credit was not effective until the Attorney General completed and released the risk and needs assessment system on July 19, 2019.[1] Although this proposed regulation is not yet in effect, the Bureau re-calculated release dates beginning on July 19, 2019 under the statutory authority of the FSA. Based on these re-calculations, 3163 inmates were released from Bureau custody on July 19, 2019; the Bureau is in the process of completing recalculations for the remainder of the inmate population based on the FSA authority, prioritizing recalculations by proximity of projected release date, and releasing inmates as appropriate according to the recalculated GCT release dates.

The purposes of the proposed regulation amendment are to update the Bureau's current GCT regulations to be consistent with the FSA and to explain to the public and the inmate population how GCT will be calculated under the FSA.

Background

The regulation at 28 CFR 523.20 is the Bureau's interpretation of the former version of the GCT statute, 18 U.S.C. 3624(b)(1), enacted as part of the Prison Litigation Reform Act (PLRA), effective April 26, 1996. This, in turn, was based on the Bureau's historical interpretation of the first version of § 3624(b), enacted as part of the Sentencing Reform Act (SRA), effective November 1, 1987.

The SRA stated that inmates serving sentences of more than one year, other than those committed for life, would receive GCT credit toward the service of the inmate's sentence ''beyond the time served, of fifty-four days at the end of each year of his term of imprisonment, beginning at the end of the first year of the term,'' unless the Bureau determines that there have been disciplinary infractions warranting removal of credit. The SRA required the Bureau to make such a determination ''within fifteen days after the end of each year of the sentence,'' and required that GCT credit for the final year or portion of a year should be ''prorated and credited within the last six weeks of the sentence.'' 18 U.S.C. 3624(b) (1987).

Based on Section 3624(b)'s text, legislative and statutory history, and penological policies and interests involved in administration of the statute, the Bureau interpreted this statute to mean that GCT credit should be calculated based on the *amount of actual time served,* rather than *the length of the sentence imposed by the court.*

The Bureau reached this conclusion for the following reasons: First, section 3624(b) provided that an eligible inmate would receive GCT credit ''toward the service of his sentence, beyond the time served, of fifty-four days at the end of each year of his term of imprisonment, beginning at the end of the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such

[1] Section 102(b)(2) of the First Step Act indicates that the amendments made by that section can only take effect after the Attorney General completes and releases a risk and needs assessment system described in section 101(a) of the First Step Act.

Section 101(a) amends 18 U.S.C. 3632(a) to require the Attorney General to consult with an Independent Review Committee, also authorized by the First Step Act, to develop a risk and needs assessment system. This risk and needs assessment system was publicly released on the Department of Justice website on July 19, 2019.

institutional disciplinary regulations[.]'' As a prisoner approaches the end of his sentence, GCT credit for ''the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence.'' The text of the statute indicated that GCT credit should be calculated on the basis of *time served* because of its repeated yearly requirements of calculation, behavioral compliance, and proration.

Second, the legislative history indicated that GCT credit was to be calculated on the basis of *time served*. *See* S. Rep. No. 98–225 at 56 (1983), reprinted in 1984 U.S.C.C.A.N. 3182 (''A sentence that exceeds one year may be adjusted at the end of each year by 36 days for a prisoner's compliance with institutional regulations . . . .''); *id*. at 147 (''[S]ection 3624(b) provides a uniform maximum rate of 36 days a year for all time in prison beyond the first year'').

Third, the statute that preceded section 3624(b), 18 U.S.C. 4161 (repealed), specifically directed deduction of GCT credit from the total ''term of [the prisoner's] sentence.'' Before enactment of the SRA, under 18 U.S.C. 4161 (repealed), GCT credit was to be ''deducted from the term of [a prisoner's] sentence beginning with the day on which the sentence commences to run.'' SRA's section 3624(b), on the other hand, required the award of GCT credit ''at the end of each year.'' The change conveyed the intent of Congress that GCT credit should be earned by a prisoner at the end of *each year actually served,* rather than automatically awarded at the beginning of the sentence.

GCT Under the Current Regulation

Under the current regulation and prior law:

- Inmates earn the first full 54 days of GCT credit only after 365 days of incarceration.
- The Bureau prorates the last year (or portion of the year) of the inmate's sentence.

The Bureau's interpretation of § 3624(b) credit was addressed in *Barber* v. *Thomas,* 560 U.S. 474 (2010)). The Supreme Court determined that ''[t]he statute's language and its purpose, taken together, convince us that the BOP's calculation method is lawful . . . [it] tracks the language of § 3624(b).'' *Barber, id*.at 480.

The Bureau previously awarded GCT credit such that an inmate served approximately 85% of his/her sentence.[2] The Bureau's interpretation of the former statute, as codified in its current rule, as requiring GCT credit to be awarded based on time served was consistently upheld as being reasonable. *See e.g., Brown* v. *McFadden,* 416 F.3d 1271, 1273 (11th Cir. 2005); *Yi* v. *Federal Bureau of Prisons,* 412 F.3d 526, 534 (4th Cir. 2005); *O'Donald* v. *Johns,* 402 F.3d 172, 174 (3rd Cir. 2005); *Perez-Olivio* v. *Chavez,* 394 F.3d 45, 53 (1st Cir. 2005); *White* v. *Scibana,* 390 F.3d 997, 1002–1003 (7th Cir. 2004); *Pacheco-Camacho* v. *Hood,* 272 F.3d 1266, 1267–1268 (9th Cir. 2001).

GCT Under the FSA

Section 102(b)(1) of the First Step Act (FSA) amended 18 U.S.C. 3624(b)(1) to require:

- That inmates serving a sentence of more than a year, other than a life sentence, receive GCT credit *up to 54 days for each year of the prisoner's sentence imposed by the court beginning at the end of the first year of the term*; and
- That *credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment.*

No other changes were made. Based on revised § 3624(b)'s text, the language of the FSA, and the penological policies and interests involved in administration of the statute, the Bureau formulated the following possible interpretations of this statute:

Alternative 1

The language of revised § 3624(b)(1) directs the Bureau to award GCT credit ''of up to 54 days for each year of the prisoner's sentence imposed by the court[.]'' [Emphasis added.] Since the statute no longer instructs the Bureau to prorate GCT credit for ''the portion of the year,'' it could be argued that this deletion means that if an inmate has less than 12 months for any part of his/her sentence, he/she earns no GCT credit for that portion of the sentence. This interpretation, however, ignores the first part of the statute, which instructs the Bureau to award GCT credit for the *full term imposed,* and therefore contravenes the apparent intent of Congress. Therefore, the Bureau believes this would be an erroneous and unfair interpretation.

Alternative 2

The revised language of the FSA says that an inmate ''may receive credit toward the service of the prisoner's sentence, of up to 54 days for each year of the prisoner's sentence imposed by the court,'' and that ''credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment.'' A generous reading of this language is that an inmate earns 54 days of credit each year, *and,* on the first day of the last chronological year of the service of his/her sentence, earns *another* 54 days.

This interpretation assumes that the phrase ''last year of a term of imprisonment'' is meant as the chronological last year of service, so that the inmate would receive 54 days of credit on the first day of the *last chronological year left to serve*. It could be argued that the intention of Congress in deleting the pro-ration language was that the Bureau should not prorate GCT credit at all during the final year of service, but instead award a full 54 days of GCT credit for *any portion* of the last chronological year.

However, this interpretation ignores two problems. The first part of the revision to the statute indicates that an inmate can receive a maximum of ''up to 54 days for each year of the prisoner's sentence imposed by the court,'' so awarding a full 54 days of GCT credit for less than a year remaining on an imposed sentence appears inconsistent with the intent of Congress.

Second, awarding 54 days of credit for any partial chronological last year presents the potential possibility of an inmate's release after his/her sentence should have ended. For instance, if an inmate's last chronological year consists of 10 days left to serve beginning on January 1st, but 54 days of GCT credit is awarded to that inmate on that date, then that inmate should have been released 44 days earlier. However, the inmate could not have been released earlier, because he/she would not have earned that 54 days of GCT credit until the first day of the last chronological year. This would result in some inmates receiving benefits incongruous with those received by others.

Finally, Congress used the same phrasing throughout the sentence—''the last year of a term of imprisonment''—which implies that they intended the phrase to be interpreted consistently and in context with the full subsection, such that a ''year'' as it relates to the

[2] For example, under the Bureau's current system (pre-FSA), an inmate with a 10-year sentence may earn up to 470 days of GCT credit, because GCT credit is based on *time served,* so the inmate would end up being released before the date on which the imposed sentence is set to expire. By contrast, under the FSA, an inmate with a 10-year sentence may earn a maximum of 540 days because GCT credit is based on *length of the sentence imposed,* whether or not the inmate has begun to serve the sentence. So, under the FSA, an inmate with a 10-year imposed sentence is eligible for 540 days of GCT credit.

''term of imprisonment'' refers to the sentence imposed.

The Supreme Court came to the same conclusion in *Barber:* ''The words 'term of imprisonment' in this phrase almost certainly refer to the sentence imposed, not to the time actually served (otherwise prisoners sentenced to a year and a day would become ineligible for credit as soon as they earned it).'' *Barber,* 560 U.S. at 483. *See also Brown* v. *Gardner,* 513 U.S. 115, 118 (1994) (presumption that a given term is used to mean the same thing throughout a statute).

Alternative 3

The FSA has not altered language in the statute indicating that GCT credit will only be awarded ''subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance[.]'' The fact that this language has not changed from the prior version indicates that the Bureau must evaluate an inmate's conduct ''during the year,'' and that GCT credit should continue to be awarded *on the anniversary date after service of a year of sentence* consistent with *Barber* v. *Thomas,* 560 U.S. 474 (2010).

Based on this language, it is possible to argue that the Bureau should determine a projected release date based upon the length of an inmate's imposed sentence, with any portion of the sentence that is less than a full year calculated at a prorated amount. Under this interpretation, the inmate may receive up to 54 days GCT credit on the anniversary date of his/her imposed sentence until he reaches the projected release date, at which point his sentence will be satisfied.

However, if an inmate earns 54 days of GCT credit on the anniversary date of the last partial year remaining, but is determined by the Bureau to have failed to display ''exemplary compliance with institutional disciplinary regulations,'' then the statute is unclear regarding whether the Bureau may withhold GCT credit. The Bureau must determine whether inmates in this situation may be awarded GCT credit which is not subject to withholding since the inmate is no longer in custody. This issue highlights one of the conclusions drawn by the Supreme Court in *Barber,* that ''BOP's approach furthers the objective of § 3624'' in that it ''ties the award of good time credits directly to good behavior during the preceding year of imprisonment.'' [3] *Barber,* 560 U.S. at 482–83.

[3] *Barber,* 560 U.S. at 482–83.

Since we can only assume Congress was aware of this logical result and intended the revisions regardless, we believe it is reasonable and logical to interpret the statute as permitting the Bureau to require exemplary conduct even during the final period of an inmate's sentence, and therefore conclude that it is permissible for the Bureau to continue its practice of withholding GCT credit as a disciplinary sanction when necessary.

It is a longstanding principle that the Bureau has the authority to compute sentences and award credit.[4] *Barber,* 560 U.S. at 482–83. The Bureau believes that its method of calculating GCT ''comports with the language of the statute, effectuates the statutory design . . . enables inmates to calculate the time they must serve with reasonable certainty, and prevents certain inmates from earning GCT for time during which they were not incarcerated.'' *O'Donald* v. *Johns,* 402 F.3d 172, 174 (3d Cir. 2005).

BOP'S Interpretation Under The FSA

The Bureau believes that the interpretation described above in Alternative 3 is the most reasonable interpretation of the revised statute. The Bureau should determine a projected release date based upon the length of an inmate's imposed sentence, with any portion of the sentence that is less than a full year calculated at a prorated amount. The inmate may receive up to 54 days GCT credit on the anniversary date of his/her imposed sentence until he reaches the projected release date, at which point his/her sentence will be satisfied.[5]

Under this interpretation, more GCT credit is awarded than was awarded under the prior statute, resulting in inmates receiving a maximum of 54 days of credit for each year of the sentence imposed. It also remains consistent with the Supreme Court's analysis in *Barber* vs. *Thomas* by continuing to award GCT credit based on a requirement of ''earning'' credit after the service of the relevant period, thus recognizing that, as the statute indicates, 54 days is a *maximum* award and not a *required* award. While inmates ultimately might earn credit for days of the term that they did not serve, we assume Congress intended such a result.

It is also important to note that pursuant to Section 102(b)(3) of the FSA and 18 U.S.C. 3624(b)(1), this change will apply to all inmates except those serving life sentences, those serving sentences of one year or less, and those who committed the offenses for which they are currently imprisoned before November 1, 1987.[6] In some cases, due to judicial action, the Bureau will be required to recalculate a sentence or a portion of a sentence, including, in some cases, sentences or counts for which service has been completed.

The Bureau asserts that any new recalculation based on the revisions of the FSA does not constitute an untimely release and/or an unlawful restraint on liberty. Although the legislative history refers to this change as a ''fix'' to the Bureau's approach ''to accurately reflect congressional intent,'' 164 Cong. Rec. S7774 (daily ed. Dec. 18, 2018), there was nothing unlawful about the pre-First Step Act sentence credit system. Indeed, criminal defendants challenged the Bureau's methodology and urged the courts to adopt essentially the First Step Act's approach, but the Supreme Court rejected that challenge, holding instead that the Bureau's interpretation was ''the most natural reading'' of the statute. *Barber* v. *Thomas,* 560 U.S. 474, 476 (2010).

Literacy Requirement

The FSA did not change language indicating that, ''[i]n awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree.'' In the current regulation, the Bureau interpreted this part of the statute to require inmates to earn or make satisfactory progress toward earning a General Educational Development (GED) credential.

In this proposed rule, however, we make a minor change to better conform to the language of the FSA. In so doing, we propose to modify the regulation to indicate that the Bureau will consider whether inmates have earned or are making satisfactory progress toward earning a high school diploma, equivalent degree, or Bureau-authorized alternative program credit. We published similar language as a proposed rule on January 9, 2015 (80 FR

[4] *See United States* v. *Wilson,* 503 U.S. 329, 335 (1992); *United States* v. *Martinez,* 837 F.2d 861, 865–866 (9th Cir. 1988) (quoting *United States* v. *Clayton,* 588 F.2d 1288, 1292 (9th Cir. 1979)); *United States* v. *Evans,* 1 F.3d 654, 654 (7th Cir. 1993) (*citing Gonzalez* v. *United States,* 959 F.2d 211, 212 (11th Cir. 1992)).

[5] Mathematically, inmates will earn GCT credit in the amount of .148 times the number of days of their full term of imprisonment. (54 ÷ 365 = .148 GCT credit per day served).

[6] Section 102(b)(3) states: ''APPLICABILITY.—The amendments made by this subsection shall apply with respect to offenses committed before, on, or after the date of enactment of this Act, except that such amendments shall not apply with respect to offenses committed before November 1, 1987.''

1380) and received twenty-seven comments, most of which were in support of the change. We re-frame the proposed change now as part of this proposed rule and invite public comment once more.

This is an exercise of the Director's authority under 18 U.S.C. 3624(b)(4) to make exemptions to the GED requirements as she deems appropriate. Inmates who participate in or successfully complete an ''authorized alternative adult literacy program'' will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT. The purpose of this regulation is to exercise the Director's discretion to authorize alternative adult literacy programs which will more effectively meet the specialized needs of inmates (such as inmates who have limited English proficiency, in accordance with Executive Order 13166, or inmates facing learning obstacles), and will also enable those inmates to qualify for GCT even if they would not ordinarily qualify for the U.S.-based GED program.

It has also become apparent that the Bureau's Literacy Program does not meet the specific needs of certain groups of inmates, such as those who are not proficient in the English language or who will be released outside of the United States. For instance, according to officials from the Mexican Ministry of Education, GED certificates are not accepted by Mexican employers and government. Because of this, the Mexican Secundaria Program (the compulsory education for Mexican nationals) is a better alternative reentry program for inmates who will be released to Mexico than the U.S.-based GED program. Therefore, for individuals subject to a final order of removal, deportation, or exclusion whose primary language is Spanish and whose release country accepts the Mexican Secundaria certificates, the Mexican Secundaria Program is the better, more practical option.

The Bureau does not intend the Mexican Secundaria Program to be a literacy option for U.S. citizen inmates. U.S. citizen inmates without documented learning challenges are required to take the GED program to enhance their opportunities for successful post-release employment because GED certificates are the basic academic requirement for most entry-level jobs in the United States. However, inmates subject to a final order of removal, deportation, or exclusion remain eligible to participate in literacy programs under part 544, even though it is not required to qualify those inmates to earn GCT.

Another group of inmates whose needs may not be met by the GED program are those with learning challenges or obstacles, or those with unique intellectual and employment needs who may have already reached their optimum level of academic achievement. Under current regulations, inmates whose cognitive abilities have precluded them from being able to complete the GED tend to withdraw from the GED program or otherwise receive exemptions for not showing a gain in academic achievement scores. Under the proposed rule, these inmates also would be provided with the option of participating in ''authorized alternative adult literacy programs'' which would provide instruction in the development of life skills.

Regulatory Analyses

Executive Orders 12866, 13563, and 13771

This proposed rule falls within a category of actions that the Office of Management and Budget (OMB) has determined do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

The economic effects of this regulation are limited to the Bureau's appropriated funds. This rule is expected to result in greater awards of Good Conduct Time credit, which would reduce more terms of imprisonment. A greater reduction in terms of imprisonment would benefit both the inmates being released and the Bureau, which would then have marginal savings in resources, staff time, and bedspace. At this time, however, the Bureau cannot, with complete accuracy, estimate the monetary value of that cost/resource savings. However, given the current strain on the Bureau's resources, staff, and facilities, the Bureau would expect any anticipated savings generated by this rule to have minimal effect on the economy.

The average per capita cost for the Bureau to incarcerate an inmate is $90.10 per day. Earlier release dates will save the Bureau that amount; however, the specific number of days will vary widely depending on length of sentence and amount of GCT credited, and whether GCT is withheld for disciplinary sanctions or failing to meet literacy requirements. Therefore, specific savings cannot be calculated. Further, any savings resulting from the application of this regulation will only be realized upon an inmate's release, as his or her term of imprisonment is recalculated under this revised regulation. Therefore, the cost savings may not be fully realized until the revised projected release dates, which could be decades in the future.

For these reasons, it is not possible to forecast the actual cost savings which may be generated by the application of this regulation.

Executive Order 13132

This regulation will not have substantial direct effect 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. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient federalism implications to warrant the preparation of 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 and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This regulation is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. This regulation 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 competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 523

Prisoners.

Kathleen Hawk Sawyer,

Director, Federal Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we propose to amend 28 CFR part 523 as follows:

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 523—COMPUTATION OF SENTENCE

■ 1. The authority citation for 28 CFR part 523 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3568 (repealed November 1, 1987 as to offenses committed on or after that date), 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (repealed October 12, 1984 as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Revise § 523.20 to read as follows:

§ 523.20 Good Conduct Time.

(a) *Good conduct time (GCT) credit.* The Bureau of Prisons (Bureau) typically awards GCT credit to inmates under conditions described in this section. GCT credit may be reduced if an inmate: (1) Commits prohibited acts which result in certain disciplinary sanctions (see part 541); or

(2) Fails to comply with literacy requirements in this section and part 544 of this chapter.

(b) *For inmates serving a sentence for offenses committed on or after November 1, 1987:* (1) The Bureau will initially determine a projected release date based on the length of an inmate's imposed sentence. The projected release date is subject to change during the inmate's incarceration.

(2) Any portion of a sentence that is less than a full year will be calculated at a prorated amount.

(3) An inmate may receive up to 54 days GCT credit on the anniversary date of his/her imposed sentence, subject to the requirements in this section.

(4) When the inmate reaches the Bureau-projected release date, the sentence will be satisfied/completed and the inmate will be eligible for release.

(c) *For inmates serving a sentence for offenses committed on or after November 1, 1987, but before September 13, 1994,* GCT credit is vested once received and cannot be withdrawn.

(d) *Literacy requirement.* (1) *For inmates serving a sentence for offenses committed on or after September 13, 1994, but before April 26, 1996,* all GCT credit will vest annually only for inmates who have earned, or are making satisfactory progress toward earning, a high school diploma, equivalent degree, or Bureau-authorized alternative program credit (see part 544 of this chapter).

(2) *For inmates serving a sentence for an offense committed on or after April 26, 1996,* the Bureau will award:

(i) Up to 54 days of GCT credit per year served on the anniversary date of his/her imposed sentence, if the inmate has earned or is making satisfactory progress toward earning a high school diploma, equivalent degree, or Bureau-authorized alternative program credit; or

(ii) Up to 42 days of GCT credit per year served on the anniversary date of his/her imposed sentence, if the inmate does not meet conditions described above (in (d)(2)(i)).

(3) *Aliens.* Notwithstanding the requirements of paragraphs (1) and (2), an alien who is subject to a final order of removal, deportation, or exclusion, is not required to participate in a literacy program to earn yearly awards of GCT credit. However, such inmates remain eligible to participate in literacy programs under part 544.

[FR Doc. 2019–27976 Filed 12–30–19; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0792; FRL–10003–83–Region 4]

Air Plan Approval; Alabama; 2010 1-Hour SO_2 NAAQS Transport Infrastructure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve Alabama's August 20, 2018, State Implementation Plan (SIP) submission pertaining to the ''good neighbor'' provision of the Clean Air Act (CAA or Act) for the 2010 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each state's implementation plan to address the interstate transport of air pollution in amounts that contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other state. In this action, EPA is proposing to determine that Alabama will not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other state. Therefore, EPA is proposing to approve the August 20, 2018, SIP revision as meeting the requirements of the good neighbor provision for the 2010 1-hour SO_2 NAAQS.

DATES: Written comments must be received on or before January 30, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0792 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via phone number (404) 562–9031 or via electronic mail at *notarianni.michele@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Infrastructure SIPs

On June 2, 2010, EPA promulgated a revised primary SO_2 NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. *See* 75 FR 35520 (June 22, 2010). Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP