

language "T.C.Memo. 2003-75, the Tax Court" is corrected to read "T.C. Memo. 2003-75, the Tax Court".

§ 1.167(e)-1T [Corrected]

■ 2. On page 8, column 1, § 1.167(e)-1T, paragraph (e), last line in the paragraph, the language "expires on or before January 2, 2007" is corrected to read "expires on or before December 29, 2006".

§ 1.446-1T [Corrected]

■ 3. On page 12, column 2, § 1.446-1T, paragraph (e)(4)(iii), line 3, the language "January 2, 2007." is corrected to read "December 29, 2006.".

§ 1.1016-3T [Corrected]

■ 4. On page 12, column 3, § 1.1016-3T, paragraph (j)(3), line 2, the language "expires on or before January 2, 2007." is corrected to read "expires on or before December 29, 2006.".

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

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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: During 2004 the Parole Commission will carry out a pilot project to study the feasibility of conducting parole release hearings through video conferences between an examiner at the Commission's office and prisoners at selected Bureau of Prisons' institutions. In order to provide notice of this project, the Commission is promulgating an interim rule that provides that a parole release hearing may be conducted through a video conference with the prisoner. The Commission is also promulgating several conforming rule changes, including an amendment to the rule at 28 CFR 2.72 that eliminates the provision that an initial hearing for a District of Columbia offender is

conducted "in person" before a Commission hearing examiner.

DATES: Effective date: March 5, 2004. Comments must be received by May 4, 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: The Parole Commission's hearing examiners travel to more than 60 locations of Federal correctional facilities to conduct parole release and revocation hearings. As the number of parole-eligible prisoners drops in the Federal prison system, the Commission is expending considerable resources in conducting hearings for a small number of prisoners at facilities that are difficult to reach. Therefore, the Commission is looking for ways to reduce travel costs and conserve the time of its hearing examiners.

Conducting some parole release hearings through video conferences may be one procedure that will enhance the Commission's ability to make the most efficient use of limited financial and staff resources without detracting from the prisoner's opportunity for a fair parole hearing. Video conference technology has improved considerably since the Commission last considered holding hearings by video conference, and the Commission expects that the prisoner's ability to effectively participate in the hearing will not be diminished by the use of this procedure.

The Commission is undertaking a pilot project with the Federal Bureau of Prisons to conduct some parole release hearings through a video conference between a hearing examiner at the Commission's office in Chevy Chase, Maryland and the prisoner incarcerated in a Bureau facility. During 2004 the Commission intends to use 12 institutions for the project and expects that the number of hearings conducted under the project will not exceed 180 hearings, less than 10% of the parole release hearing caseload. The pilot project will only extend to parole release hearings (including rescission hearings) conducted in Bureau facilities. Under the project, the Commission will not use video conferencing for revocation hearings.

The Commission is promulgating an interim rule on this subject to give

notice of the pilot project and the variance from the agency's traditional hearing practice, and is providing an extended opportunity for the public to comment on the use of video conferencing for parole hearings. The interim rule is added at 28 CFR 2.25. For most cases under the Commission's jurisdiction, the Commission could proceed with the project without raising any question concerning compliance with the agency's current rules. But the present rule at 28 CFR 2.72(a), which states that the prisoner appear "in person" before a Commission hearing examiner, could be interpreted to require the physical presence of the prisoner before the hearing examiner in order to conduct an initial hearing for a D.C. Code offender. Therefore, the Commission is amending this rule to eliminate the provision for an "in person" appearance. A corresponding change is made to the rule at 2.75(d). The Commission is also amending a list of rules for U.S. Code offenders that are implemented for D.C. Code offenders to include the interim rule at § 2.25.

Implementation

The amended rule will take effect March 5, 2004, and will apply to parole determination hearings for Federal and District of Columbia offenders.

Executive Order 12866

The U.S. Parole Commission has determined that this interim 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 interim 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), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to section 804 (3) (c) of the Congressional Review Act.

Unfunded Mandates Reform Act of 1995

This 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

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This 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.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and Parole.

The Interim Rule

Accordingly, the U.S. Parole Commission is adopting 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. Section 2.25 is added to read as follows:

§ 2.25 Hearings by video conference.

Parole determination hearings, including rescission hearings, may be conducted by a video conference between the hearing examiner and the prisoner.

§ 2.72 [Amended]

- 3. Amend § 2.72(a) as follows:
 - a. Remove the first sentence; and
 - b. Remove “The” from the beginning of the second sentence and add in its place “At the initial hearing the”.

§ 2.75 [Amended]

- 4. Amend § 2.75(d) by removing “in-person” from the second sentence.
- 5. Amend § 2.89 by adding the following entry in numerical order to read as follows:

§ 2.89 Miscellaneous provisions.

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2.25 (Hearings by video conference)

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Dated: January 28, 2004.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 04–2105 Filed 2–3–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD07–03–110]

RIN 1625–AA01

Special Anchorage Area; St. Lucie River, Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is extending the Special Anchorage Area that begins on the Okeechobee Intracoastal Waterway between mile markers 7 and 8 on the St. Lucie River in Stuart, Florida, to include 17 additional moorings. This rule will improve safety for vessels anchoring within and transiting through this high traffic area and also reduce negative impacts on the ecosystem by providing a safer designated area for vessels to anchor.

DATES: This regulation becomes effective on March 5, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–03–110] and are available for inspection or copying at the Seventh Coast Guard District, Room 406, 909 SE. First Avenue, Miami, FL, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Embres, Seventh Coast Guard District, Aids to Navigation Branch, at (305) 415–6750.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 1, 2003, we published a notice of proposed rulemaking (NPRM) entitled Special Anchorage Area; Okeechobee Waterway, St. Lucie River, Stuart, FL in the **Federal Register** (68 FR 45190). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The City of Stuart has asked the Coast Guard to extend the current Special Anchorage Area that begins on the

Okeechobee Intracoastal Waterway between mile markers 7 and 8 on the St. Lucie River. The City would like to extend the anchorage area by adding 9.73 acres and installing 17 additional moorings. This rule is intended to reduce the risk of vessel collisions by enlarging the current anchorage area and to provide notice to mariners of the additional 9.73 acres. This rule allows vessels not more than 65 feet in length to anchor without exhibiting anchor lights as required by the navigation rules at 33 CFR 109.10. The City of Stuart has coordinated with the Florida Department of Environmental Protection (DEP) regarding this proposal. The DEP determined that properly managed mooring and anchorage fields located in appropriate areas will encourage vessels to utilize them for safety purposes, and, as a side benefit, the ecosystem will incur less detrimental impact.

Discussion of Comments and Changes

The latitude and longitude positions defining the Special Anchorage Area were correct in the Notice of Proposed Rule Making (NPRM), but were not in the proper order and have since been corrected.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic effect upon a substantial number of small entities. The term “small entities” comprises small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.