instruction #49 is revised to correctly read as folllows:

§ 615.5190 [Correction]

49. Section 615.5190 is amended by removing the reference "§ 614.4080(d) of these regulations" and adding in its place, "section 3.7(b) of the Act" in paragraph (b); and by revising paragraph (a) to read as follows:

Dated: October 11, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration.

[FR Doc. 90-24584 Filed 10-17-90; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners; Modification of Procedures for Forfeiture of Time Under Parole Supervision

AGENCY: United States Parole Commission, Justice.

ACTION: Interim general statement of policy with request for public comment.

SUMMARY: The Parole Commission is adopting a statement of policy to bring its parole revocation decisions into compliance with *Rizzo* v. *Armstrong*, F.2d (9th Cir. August 30, 1990), a decision holding that the forfeiture of the time that a parole violator has spent under parole supervision ("street time") is discretionary, and not a mandatory penalty under 18 U.S.C. 4210(b)(2) (1976). The statement of policy sets forth the Ninth Circuit's requirement for a discretionary decision, and explains how the Commission intends to exercise the discretion which the Ninth Circuit reads into the law. The Commission's policy will be to make forfeiture the general rule, and to limit the discretionary granting of credit for "street time" to those cases in which neither the seriousness of the parole violation behavior, nor the future risk potential of the parole violator, warrants an extension of the sentence. This policy will be limited to revocation hearings conducted within the Ninth Circuit after October 15, 1990.

DATES: Effective October 22, 1990. Public comment must be received by December 22, 1990.

ADDRESSES: Comments should be sent to: General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Attn: Public Comment File.

FOR FURTHER INFORMATION CONTACT: Pamela Posch, Paralegal Specialist, Office of the General Counsel, U.S. Parole Commission. Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Although three U.S. Courts of Appeals have previously upheld the Parole Commission's view that 18 U.S.C. 4210(b)(2) makes the forfeiture of a parole violator's street time automatic, the Ninth Circuit has chosen to rule that the Commission must exercise discretion before ordering forfeiture pursuant to the regulation governing forfeiture of street time, 28 CFR 2.52(c)(2). Compliance with this reading of the law will oblige the Commission to take a procedural step not required by 28 CFR 2.52(c)(2).

The Commission has decided to adopt a general statement of policy (with limited applicability to revocation hearings conducted in the Ninth Circuit) to establish this additional procedural requirement. This statement will give notice to individuals affected by *Rizzo* v. *Armstrong* as to the manner in which the agency intends to exercise the discretion required of it by the court.

The purpose of forfeiture

Fofeiture of street time is a penalty that follows the revocation of parole or mandatory release. It results in an extension of the violator's sentence that returns him to prison to serve the balance of the sentence that stood before him on the day he was released to parole. Otherwise, a parolee nearing the end of his term would have no incentive to avoid serious violations of his parole, because the remaining sentence would afford little or no scope for the Commission to return him to prison.

Forfeiture of street time does not, however, necessarily keep the parole violator in prison for the maximum period possible. The reparole guidelines, at 28 CFR 2.21, ensure that reimprisonment is not longer than required by the seriousness of the parole violation behavior, and reparoles under these guidelines are frequently ordered by the Commission. Hence forfeiture also serves the important remedial purpose of providing a second period of parole supervision for reparoled prisoners. Moreover, the early termination-of-sentence provisions of 18 U.S.C. 4211 ensure that a successful parolee is not kept under supervision longer than necessary just because his sentence had been previously extended by forfeiture of street time under 18 U.S.C. 4210(b)(2).

Hence, these provisions provide built-in restrictions on the potential impact of street time forfeiture, and prevent any forfeiture order from unduly prolonging either reimprisonment or supervision. On the other hand, if the violation is a serious new crime, or if the parolee persistently disregards the conditions of parole, forfeiture permits the Commission to require such an individual to remain in prison for the maximum sentence originally imposed by the sentence court, without credit for time on parole.

Explanation of the policy

In view of these factors, the Commission considers that the best policy is generally to order forfeiture of all street time except in those cases in which forfeiture would clearly not serve a useful purpose. Cases in which forfeiture may not be needed are usually those involving misdemeanor, rather than felony, offenses. If the parolee is also in the "very good" risk category (on the salient factor score at 28 CFR 2.20), it may be possible to determine that the remainder of the sentence will permit a sanction that is adequate to deter future violations, without need for an extended period of renewed supervision to monitor the parolee's progress. In these cases, all or any part of the parole violator's street time may be credited without jeopardizing the public safety. This conclusion draws strength from the research upon which the Commission's early termination guidelines at 28 CFR 2.43 are based.

In cases involving violent behavior or a repetition of the parolee's original crime, however, the Commission could not responsibly forgo the additional jurisdiction granted to it by forfeiture of street time. Moreover, the Commission finds no evidence of Congressional intent that forfeiture should be, in any sense, an extraordinary penalty, as opposed to the normal consequence of a violation that falls within 18 U.S.C. 4210(b)(2).

Implementation of the policy

This policy will not apply to special parole terms, or to forfeitures under 18 U.S.C. 4210(c) (*e.g.*, absconders from supervision). It will not require suspension of any provision of 28 CFR 2.52, but requires only an additional procedural step before the forfeiture order mandated by 2.52(c)(2) can be entered in the Ninth Circuit. That regulation remains in effect, and the policy statement will be added to 2.52 as an appendix with exclusive and special applicability to the Ninth Circuit, in

conformity with the law as set forth in *Rizzo* v. *Armstrong*.

Although *Rizzo* v. *Armstrong* is subject to continued appellate review, and the Commission intends to withdraw the policy if *Rizzo* v. *Armstrong* is overturned, the immediate need to comply with the law of the Ninth Circuit constitutes good cause for the Commission not to delay the effective date of this policy by 30 days, pursuant to 5 U.S.C. 553(d)(3). Notice and public comment is, however, required by 18 U.S.C. 4218(a) (1976). Following the closing of the public comment period, the Commission will adopt and publish a final statement of policy.

This policy statement will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, prisoners, probabtion and parole.

PART 2—[AMENDED]

1. The authority citation for part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2 is amended by adding the following General Statement of Policy as an Appendix to 28 CFR 2.52:

Appendix

General Statement of Policy

In the case of any revocation hearing conducted within the Ninth Circuit, the Commission will exercise discretion in determining whether or not to order forfeiture of all or part of the time spent on parole pursuant to 18 U.S.C. 4210(b)(2). The Commission's policy shall be to consider granting credit for time on parole in the case of a parole violator originally classified in the very good risk category (pursuant to 28 CFR 2.20) if the following conditions are met. The conviction must not be for a felony offense. The parole violation behavior (the offense of conviction plus any other violations) must be non-violent, and not involve a repeat of the parole violator's original offense behavior. Further, an adequate period of reimprisonment pursuant to the reparole guidelines at 28 CFR 2.21, and an adequate period of renewed supervision following release from reimprisonment or reinstatement to supervision, must be available without forfeiting street time. In the case of a parole violator originally classified in other than the "very good" risk category, it shall be the Commission's policy to order the forfeiture of all time spent on parole absent extraordinary circumstances. In no instance will the Commission grant credit in the case of a repeat violator on the current sentence.

Dated: September 28, 1990.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 90-24546 Filed 10-17-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1-90-173]

Drawbridge Operation Regulations; Piscataqua River, Maine/New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of New Hampshire Department of Transportation and the Maine-New Hampshire Interstate Bridge Authority (M-NHIBA), the Coast Guard is temporarily amending the regulations governing the Sarah M. Long (Route 1 Bypass) drawbridge over Piscataqua River, at mile 4.0, between Kittery, Maine and Portsmouth, New Hampshire. The regulation amendment temporarily suspends through 31 October 1990, the requirements to maintain the secondary recreational channel in the fully open position except for the passage of trains and to limit the number of openings for commercial vessels less than 100 gross tons and recreational vessels between 7 a.m. and 7 p.m. This change is being made because the lifting mechanism for the secondary recreational draw experienced a mechanical failure and problems have been experienced in obtaining replacement parts. This action will permit rail traffic to maintain access across the bridge until May 1991, will relieve the bridge owner of the burden of having to open the secondary draw through 15 May 1991 or until parts are received, and still provide for the reasonable needs of navigation by suspending limited opening requirements for the main draw until 31 October 1990.

EFFECTIVE DATE: These regulations become effective on October 5, 1990 and terminate on October 31, 1990.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION: This temporary deviation from the regulations is issued under 33 CFR 117.35(d). A Notice of Final Temporary Rulemaking Docket Number CGD1-90-111 was published in the **Federal Register** (55 FR 29575; 20 July 1990). This temporary rule permitted the bridge owner to maintain the secondary draw in the closed position until the end of August when repairs were expected to be completed or rail service not required for several months.

Drafting Information

The drafters of these regulations are Waverly W. Gregory, Jr., project officer, and Lieutenant John Gately, project attorney.

Discussion of Final Temporary Regulations

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making them effect in less than 30 days after **Federal Register** Publication. Publishing a Notice of Proposed Rulemaking and delaying its effective date would be contrary to the public interest since the implementation of these regulations are merely an extension of the previously published situation. Additionally, these regulations are less restrictive to marine traffic because the main draw will open on signal. NHDOT has indicated that repair parts have been difficult to procure with cost exceeding $16,000. Additionally, the railroad and the facility it services have indicated a need to continue to maintain the secondary draw closed, from September through November 1990, to permit rail service to continue. Discussions with NHDOT revealed that approximately four commercial vessels under 100 gross tons, ten sportfishing and various recreational were affected by the secondary draw closure. NHDOT proposed suspending the requirement of limiting the openings of the main draw to twice an hour through 31 October 1990 to minimize the impact on marine traffic and because of the reduced highway traffic and the fact that the main draw was required to open on signal from 1 November through 15 May.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This is based upon the fact that the closure of the secondary draw will not prevent the passage of any vessels because the main draw will be opened on signal. Since the economic impact of these regulations is expected to be

minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

Federalism Implication Assessment

This action has been analyzed under the principles and criteria in Executive Order 12612, and it has been determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.531(c) (1) and (2) and section 117.700(c) (1) and (2) are suspended through October 31, 1990 and section 117.531(c)(3) and section 117.700(c)(3) are added to read as follows through October 31, 1990. Because this is a temporary rule, these paragraphs will not be codified in the CFR.

Maine

§ 117.531 Piscataqua River.

* * * * *

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) * * *

(2) * * *

(3) Repair of secondary recreational draw. The main ship channel draw shall open on signal at all times. The secondary recreational draw need not be opened for the passage of any vessel and paragraphs (c)(1) and (c)(2) above are suspended through October 31, 1990.

New Hampshire

§ 117.700 Piscataqua River.

* * * * *

(c) The draw of the Sarah M. Long (Route 1 Bypass) bridge, mile 4.0, shall open as follows:

(1) * * *

(2) * * *

(3) Repair of secondary recreational draw. The main ship channel draw shall open on signal at all times. The secondary recreational draw need not be opened for the passage of any vessel and paragraphs (c)(1) and (c)(2) above are suspended through October 31, 1990.

Dated: October 5, 1990.

P.L. Collom,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 90–24594 Filed 10–17–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AD80

Use of For-Profit Agencies in Programs of Employment Services and Independent Living

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The amendments conform Department of Veterans Affairs (VA) regulations to changes made by recent legislation. Those changes allow VA to use for-profit agencies and organizations to provide employment services and programs of independent living services for veterans receiving assistance under the vocational rehabilitation program. Previously the agency could only use its own staff and resources or the resources of other public or private nonprofit entities to provide these services. The effect of these changes is to broaden the types of agencies and organizations which may be used to provide the services needed to carry out the veteran's rehabilitation program.

EFFECTIVE DATE: These amendments are effective November 18, 1988, the date on which the law was enacted.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Policy and Program Development, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, (202) 233–6496.

SUPPLEMENTARY INFORMATION: Public Law 100–689, Veterans' Benefits and Programs Improvement Act of 1988 authorizes VA to use for-profit agencies under certain conditions to provide services needed to carry out programs of independent living services or furnish employment services. Interested persons were given 30 days in which to furnish comments, suggestions or objections to the proposed amendments. Since no comments were received, these amendments are adopted as final rules.

These regulatory amendments are retroactively effective. They are liberalizing, interpretive rules which implement statutory provisions. Moreover, the VA finds that good cause exists for making these rules, like the section of the law which they implement, retroactively effective to the date of enactment. A delayed effective date would be contrary to statutory design; would complicate implementation of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to that benefit.

These amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulations. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary certifies that these amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the amendments simply conform VA regulations to changes made by law. No new regulatory burdens are imposed on small entities by these amendments.

(The Catalog of Federal Domestic Assistance Number is 64.116.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 17, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21, Vocational Rehabilitation and Education is amended as follows:

PART 21—[AMENDED]

The authority citation for part 21, subpart A, continues to read as follows:

Authority: 38 U.S.C. 210(c)

§ 21.160 [Amended]

2. In § 21.160, paragraph (e) is revised to read as follows:

* * * * *

(e) Coordination with other VA elements and other Federal, State, and local programs. Implementation of programs of independent living services

and assistance will generally require extensive coordination with other VA and non-VA programs. If appropriate arrangements cannot be made to provide these services through VA, other governmental, private nonprofit and for-profit agencies and facilities may be used to secure necessary services if the requirements contained in § 21.294 are met.

(Authority: 38 U.S.C. 220, 1509, 1520, Pub. L. 100-689)

§ 21.162 [Amended]

3. In § 21.162, paragraph (c)(3) is removed and the authority citation at the end of the section is revised to read as follows:

* * * * *

(Authority: 38 U.S.C. (a)(15), Pub. L. 99-576, Pub. L. 100-689)

4. In § 21.252, paragraph (a)(1)(v) is revised, paragraph (a)(1)(vi) is added, paragraph (d)(3) is revised and the authority lines following (a)(1)(vi) and (d)(3) are revised to read as follows:

§ 21.252 Job development and placement services.

(a) * * *

(1) * * *

(v) The services of any other public, or nonprofit organization having placement services available; and

(vi) Any for-profit agency in a case in which it has been determined that comparable services are not available through public and nonprofit agencies and comparable services cannot be provided cost-effectively by the public and nonprofit agencies listed in this paragraph.

(Authority: 38 U.S.C. 1517(a)(2), Pub. L. 100-689)

* * * * *

(d) Interagency coordination. * * *

* * * * *

(3) Other public, for-profit and nonprofit agencies providing employment and related services.

(Authority: 38 U.S.C. 1516, 1517, Pub. L. 100-689)

§ 21.294 [Amended]

5. In § 21.294, paragraphs (b)(2) and (b)(3) and (c) are revised, paragraph (b)(4) is added, the authority citation following (b)(4) is revised and the authority citation following paragraph (c) is added to read as follows:

* * * * *

(b) *Selecting a facility for provision of independent living services.*

* * * * *

(2) VA may use public and nonprofit agencies and facilities to furnish independent living services. Public and nonprofit facilities may be:

(i) VHS&RA facilities which provide independent living services;

(ii) Facilities which meet standards established by the State rehabilitation agency for rehabilitation facilities or for providers of independent living services;

(iii) Facilities which are neither approved nor disapproved by the State rehabilitation agency, but are determined by VA as able to provide the services necessary in an individual veteran's case.

(3) VA also may use for-profit agencies and organizations to furnish programs of independent living services only if services comparable in effectiveness to those provided by for-profit agencies and organizations:

(i) Are not available through public or nonprofit agencies or the Veterans Health Service and Research Administration (VHS&RA); or

(ii) Cannot be obtained cost-effectively from public or nonprofit agencies or the facilities of VHS&RA.

(4) In addition to the criteria described in paragraph (b)(3)(i) of this section for public and private nonprofit agencies; for-profit agencies and organizations must meet any additional standards established by local, state (including the State rehabilitation agency), and Federal agencies which are applicable to for-profit facilities and agencies offering independent living services.

(Authority: 38 U.S.C. 1515, 1520, Pub. L. 99-576, Pub. L. 100-689)

(c) *Use of facilities.* VA policy shall be to use VA facilities, if available, to provide rehabilitation services for veterans in a rehabilitation program under chapter 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily available at a VHS&RA facility. This policy shall be implemented in accordance with the provisions of paragraph (b) of this section in the case of the use of for-profit facilities to provide programs of independent living services, or in the case of employment services, provision of such services by non-VA sources is permitted under § 21.252.

(Authority: 38 U.S.C. 1515, Pub. L. 100-689)

* * * * *

[FR Doc. 90-24608 Filed 10-17-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3851-7]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Gas Sweetening and Sulfur Recovery Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves a revision to Oklahoma Air Pollution Control Regulation (OAPCR) 3.4(c)(1)(C) "Gas Sweetening and Sulfur Recovery Regulations" which was submitted by the Governor on March 31, 1986. EPA has reviewed the revision and proposed approval on May 15, 1989 at 54 FR 20865. No comments were received on the proposal. In summary, EPA's review found the regulation less stringent in some cases than the corresponding New Source Performance Standard (NSPS), subpart LLL, but is nevertheless granting approval because the State will apply the NSPS in those cases.

EFFECTIVE DATE: This rule will become effective on November 19, 1990.

ADDRESSES: Copies of the documents relevant to this notice are available for public inspection during normal business hours at the following offices.

Environmental Protection Agency Region 6, Air Programs Branch (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202

Oklahoma State Department of Health (OSDH), Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, phone (214) 655-7214, or (FTS) 255-7214.

SUPPLEMENTARY INFORMATION: Under its Federally approved State Implementation Plan (SIP), Oklahoma regulates sulfur dioxide emissions from new and modified sulfur recovery plants under OAPCR 3.4(c)(1)(C), which sets emission limits, monitoring/recordkeeping requirements, and performance testing requirements for such facilities. EPA initially approved these regulatory provisions, which were then part of OAPCR 16, at 41 FR 32890, and subsequently approved a clarifying revision at 49 FR 17756. EPA proposed approval of today's revision on May 15, 1989, at 54 FR 20865. No comments were