

## Department of Justice

## § 2.42

committed at any time prior to execution of the warrant, whether before or after the original expiration date, may be charged as a basis for revocation, and a warrant may be supplemented at any time.

(k) A parolee or mandatory releasee who is released after December 31, 1988, and who is found by the Commission, after a revocation hearing conducted pursuant to these rules, to have been in possession of a controlled substance while on parole, shall have his or her parole revoked. When considering what action to take with regard to a parolee who fails a drug test, the Commission shall consider appropriate alternatives to revocation pursuant to 18 U.S.C. 4209(a). In no case shall parole be revoked upon the basis of a single, unconfirmed positive drug test that is challenged by the parolee, without other violations having been found to justify such revocation.

(1)(1) The Commission may require a parolee, when there is evidence of prior or current alcohol dependence or abuse, to participate in an alcohol aftercare treatment program. In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(2) The Commission may require a parolee, where there is evidence of prior or current drug dependence or abuse, to participate in a drug treatment program, which shall include at least two periodic tests to determine whether the parolee has reverted to the use of drugs (including alcohol). In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment. A decision by the Commission not to impose this special condition shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 4209(a). In the event such condition is imposed prior to an eligible prisoner's release from prison, any grant of parole or reparole shall be contingent upon the prisoner passing

all pre-release drug tests administered by the U.S. Bureau of Prisons.

[42 FR 39809, Aug. 5, 1977, as amended at 45 FR 84054, Dec. 22, 1980; 46 FR 52354, Oct. 27, 1981; 48 FR 22917, May 23, 1983; 48 FR 23184, May 24, 1983; 49 FR 6717, Feb. 23, 1984; 49 FR 44098, Nov. 2, 1984; 50 FR 28101, July 10, 1985; 50 FR 36422, Sept. 6, 1985; 54 FR 11687, Mar. 21, 1989; 55 FR 862, Jan. 10, 1990; 56 FR 30871, 30873, July 8, 1991; 59 FR 66735, Dec. 28, 1994; 60 FR 5461, Jan. 27, 1995; 60 FR 51349, Oct. 2, 1995]

### § 2.41 Travel approval.

(a) The probation officer may approve travel outside the district without approval of the Commission in the following situations:

(1) Vacation trips not to exceed thirty days.

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities.

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Commission is required for all foreign travel, employment requiring recurring travel more than fifty miles outside the district (except employment at offshore locations), and vacation travel outside the district exceeding thirty days. A request for such permission shall be in writing and must demonstrate a substantial need for such travel.

(c) A special condition imposed by the Regional Commissioner prohibiting certain travel shall supersede any general rules relating to travel as set forth above.

[42 FR 39809, Aug. 5, 1977, as amended at 44 FR 3408, Jan. 16, 1979; 48 FR 9247, Mar. 4, 1983; 57 FR 59916, Dec. 17, 1992]

### § 2.42 Probation officer's reports to Commission.

A supervision report shall be submitted by the responsible probation officer to the Commission for each parolee after the completion of 24 months of continuous supervision and annually thereafter. The probation officer shall

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submit such additional reports as the Commission may direct.

[51 FR 11017, Apr. 1, 1986]

### § 2.43 Early termination.

(a)(1) Upon its own motion or upon request of the parolee, the Commission may terminate supervision, and thus jurisdiction, over a parolee prior to the expiration of his maximum sentence.

(2) A committed youth offender sentenced to a term of more than one year may not be granted an early termination of jurisdiction earlier than after one year of continuous supervision on parole. When termination of jurisdiction prior to the expiration of sentence is granted in the case of a youth offender, his conviction shall be automatically set aside. A certificate setting aside his conviction shall be issued in lieu of a certificate of termination.

(b) Two years after release on supervision, and at least annually thereafter, the Commission shall review the status of each parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent release, nor any period served in confinement on any other sentence. A review will also be conducted whenever early termination is recommended by the supervising probation officer.

(c)(1) Five years after release on supervision, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in 18 U.S.C. 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law. Such hearing may be conducted by a hearing examiner or other official designated by the Regional Commissioner. In calculating such five-year period, there shall not be included any period of release on parole prior to the most recent release or any period served in confinement on any other sentence.

(2) If supervision is not terminated under paragraph (c)(1) of this section the parolee may request a hearing annually thereafter, and a hearing shall be conducted with respect to termi-

nation of supervision not less frequently than biennially.

(3) A parolee may appeal an adverse decision under paragraphs (c)(1) or (c)(2) of this section pursuant to § 2.26 or § 2.27 as applicable.

(d) The Regional Commissioner in the region of supervision shall have authority to make decisions under this section pursuant to the guidelines set forth below; except that in the case of a parolee classified under the provisions of § 2.17, an affirmative decision to terminate supervision under paragraph (b) of this section, or a decision to terminate or continue supervision under paragraph (c) of this section shall be made pursuant to the provisions of § 2.17.

(e) *Early termination guidelines.* In determining whether to grant early termination from supervision, the Commission shall apply the following guidelines:

(1) Absent case-specific factors to the contrary, termination of supervision shall be considered indicated when:

(i) A parolee originally classified in the very good risk category (pursuant to § 2.20) has completed two continuous years of supervision free from any indication of new criminal behavior or serious parole violation; and

(ii) A parolee originally classified in other than the very good risk category (pursuant to § 2.20) has completed three continuous years of supervision free from any indication of new criminal behavior or serious parole violation.

NOTE: As used in this section, an indication of new criminal behavior includes a new arrest if supported by substantial evidence of guilt, even if no conviction or parole revocation results.

(2) Decisions to continue the parolee under supervision past the period indicated above may be made where case-specific factors justify a conclusion that continued supervision is needed to protect the public welfare. Such case-specific factors may relate to the current behavior of the parolee (for example, a parolee whose behavior begins to deteriorate as the normally expected time for termination approaches) or to the parolee's background (for example, a parolee with a history of repetitive assaultive conduct or substantial involvement in large scale or organized