



4410-31

**DEPARTMENT OF JUSTICE**

**28 CFR Part 2**

**[Docket No. USPC-2018-03]**

**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:** Final rule.

**SUMMARY:** The United States Parole Commission is revising a rule that authorizes the Chairman to delegate a Commissioner to conduct parole hearings. This procedural change will permit a Commissioner to conduct parole hearings and vote on the decision resulting from the proceeding, providing for a more efficient use of agency resources.

**DATES:** This regulation is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Helen H. Krapels, General Counsel, U.S. Parole Commission, 90 K Street, N.E., Third Floor, Washington, D.C. 20530, telephone (202) 346-7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

**SUPPLEMENTARY INFORMATION:** The U.S. Parole Commission is revising its rule at 28 CFR 2.59 that authorizes the Chairman to delegate a Commissioner to act as a Hearing

Examiner, but disqualifies the Commissioner from voting in the case as a Commissioner during the proceeding. The authority of U.S. Parole Commissioners to conduct hearings and make decisions for offenders under the Commission's jurisdiction is inherent in the Commission's authority under 18 U.S.C. 4203. Moreover, 18 U.S.C. 4203(c)(1) specifically authorizes the Commission to delegate to any Commissioner or commissioners the powers to grant or deny parole, impose conditions on an order granting parole, modify or revoke parole, etc. With the potential winding-up of the agency in two years, having Commissioners conduct parole hearings and also vote in the same proceeding is a more efficient use of resources to balance the agency's workload and promote continuity of the agency's business. This is a procedural change only, and will not implicate the merits of any prisoner's case for parole or affect the way in which hearings are conducted. Hence, notice and public comment is not required.

The revised rule will take effect on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

### **Executive Orders 12866 and 13563**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulation Planning and Review," section 1(b), Principles of Regulation, and in accordance with Executive Order 13565, "Improving Regulation and Regulatory Review," section 1(b), General Principles of Regulation. The Commission has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

### **Executive Order 13132**

This rule 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**

This 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**

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 (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 Final Rule**

Accordingly, the U. S. Parole Commission amends 28 CFR part 2 as follows:

### **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. Revise §2.59 to read as follows:

#### **§2.59 Delegation to Commissioners.**

There is hereby delegated to Commissioners the authority to conduct hearings, with the Commissioner's consent, and the powers enumerated in 18 U.S.C. 4203(b) to grant or deny parole or mandatory release, impose reasonable conditions of parole or mandatory release, modify or revoke parole or mandatory release.

Dated: December 18, 2018

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Patricia K. Cushwa

Chairman (Acting), U.S. Parole Commission

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