

APPENDLX 3: FSA'S RNAS IMPLEMENTATION PROVISIONS IN DETAIL

A. Assessments and Provision of Programming. As previously described, the first all-prisoners risk and needs assessment is to be conducted not later than 180 days following initial release of the RNAS (or by late January 2020). FSA directs that BOP simultaneously "begin to expand the effective evidence-based recidivism reduction programs and productive activities it offers" and add any new such programs and activities necessary to implement the system. On or before a date two years after initial implementation of the system (or by late January 2022), BOP shall "provide such evidence-based recidivism reduction programs and productive activities for all prisoners," with prioritized placement in EBRPs for medium- and high-risk prisoners, and guaranteed access to "productive activities" for minimum- and low-risk prisoners. During the interim, two-year "phase-in period," priority for placement in EBRPs and "productive activities" is to be determined by the proximity of a prisoner's scheduled release date.

B. Prisoner Application of Earned Time Credits. A prisoner who is not otherwise ineligible to do so (as described in Appendix 2, section D, above); has maintained a minimum or low recidivism risk classification throughout his incarceration, reduced his classification during periodic reassessments, or, for purposes of prerelease custody (see below) has petitioned and been approved by his warden; and has, by successful participation in or completion of EBRPs and/or productive activities, earned time credits equal to the time remaining on his original sentence, may apply those credits toward an equivalent term in prerelease custody or supervised release.

Two prerelease custody arrangements are available—"home confinement" and "residential reentry centers and halfway houses"—both of which require the prisoner to have been classified minimum or low risk during his final two RNAS assessments or to have filed a petition with his warden resulting in a determination by that warden that the prisoner will not be a danger to society and has made a good-faith effort to lower his risk of recidivism through participation in EBRPs and productive activities.

Supervised release is restricted to prisoners who received supervised release as an explicit element of their original sentences and is further restricted to a time-credit use of no more than 12 months. FSA's prerelease custody provisions involve extensively detailed directives governing penalties for violations of prerelease custody conditions, up to and including revocation of prerelease custody and return to a BOP facility for the remainder of a prisoner's original sentence. FSA makes no provision for BOP to place conditions on supervised release arrangements using RNAS time credits, nor does the law authorize BOP to revoke such supervised release arrangements for violations of any other conditions that might regularly apply.