

entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases.

(ix) Reports submitted to the Commission in accordance with paragraph (a)(2)(viii) of this section also meet the effluent release reporting requirements of § 20.405(a)(5) of this chapter, or, for licensees implementing the provisions of §§ 20.1001–20.2401, § 20.1203(a)(3) of this chapter.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

60. The authority citation for part 61 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

§ 61.52 [Amended]

61. In § 61.52(a)(6), the reference to “§ 20.105” is revised to read “§ 20.105, or, for licensees implementing the provisions of §§ 20.1001–20.2401, §§ 20.301 and 20.302.”

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

62. The authority citation for part 70 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

Section 70.31 is also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 106, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.21(c), 70.22 (a), (b), (d)–(k), 70.24 (a) and (b), 70.32(a) (3), (5), and (6), (d), and (i), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c), and (d), 70.58 (a)–(g)(3), and (h)–(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a (a) and (d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (a)(6), (c), (d), (e), and (g), 70.36, 70.51 (c)–(g), 70.56, 70.57 (b) and (d), 70.58 (a)–(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.9, 70.20b (d) and (e), 70.38, 70.51 (b) and (f), 70.52, 70.53, 70.54, 70.55, 70.58 (g)(4), (k) and (l), 70.59, and 70.60 (b) and (c) are

issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

63. In § 70.25, paragraph (a) is amended by revising the references to “appendix C to 10 CFR part 20” and “appendix C” to read “appendix C to §§ 20.1–20.601 of 10 CFR part 20”; paragraph (d) is amended by revising the two references to “appendix C of part 20” to read “appendix C to §§ 20.1–20.601 of 10 CFR part 20”; and by adding a note to the end of the section to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

[Note: Appendix C of §§ 20.1–20.601 of 10 CFR part 20 applies for the purpose of estimating decommissioning costs regardless of whether the licensee adopts 10 CFR 20.1001–20.2401 or continues to use 10 CFR 20.1–20.601.]

Dated at Rockville, Maryland, this 2d day of April 1991.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 91–8162 Filed 5–20–91; 8:45 am]

BILLING CODE 7590–01–M

Federal Register

**Tuesday
May 21 1991**

Part VII

Department of Justice

Bureau of Prisons

28 CFR Parts 545 and 571

**Control, Custody, Care, Treatment and
Instruction of Inmates; Financial
Responsibility, Work and Performance
Pay Programs; Release Gratuities, and
List of Bureau of Prisons Institutions;
Final Rules and Notice**

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 545

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Financial Responsibility Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on the Inmate Financial Responsibility Program, which permits and encourages inmates to meet their legitimate financial obligations. This amendment clarifies the effects of non-participation by the inmate and is intended to encourage participation in the program.

EFFECTIVE DATE: June 20, 1991.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on the Inmate Financial Responsibility Program. A proposed rule on this subject was published in the *Federal Register* October 22, 1990 (55 FR 42680 *et seq.*). The proposed rule revised provisions contained in 28 CFR 545.11(c) to clarify the effects of non-participation. A summary of public comment and agency response follows.

One commenter stated that the existing policy and proposed revisions fail to take into account indigent inmates and the lack of earning potential in federal penitentiaries, particularly with respect to inmates who receive maintenance pay or are unassigned due to conditions beyond their control. As stated in the *Federal Register* on April 1, 1987 (52 FR 10528) and on December 1, 1989 (54 FR 49944), the Bureau does not believe the use of a legal standard of indigency is necessary. Financial plans ordinarily can be developed for most inmates because they are eligible for, and receive, compensation for work performed within the institution. Existing regulations (28 CFR 545.10) provide that staff will assist the inmate in developing a financial plan. Implementing instructions to staff specify that an inmate who is unable to secure employment in UNICOR or advance beyond maintenance pay due to conditions beyond the inmate's control is to be considered temporarily exempt from participation and, consequently,

not subject to the effects of non-participation.

Several commenters submitted identical letters raising objections, stating that Congress did not mandate the Bureau of Prisons to be a collection agency for the federal government, that the proposed provisions are violative of the Constitution (specifically citing, but not exclusive to, section 10 of Article I and the Thirteenth and Fourteenth Amendments), that some of the provisions are violative of unspecified Federal and state laws, that the proposed changes will be a dangerous tool in the hands of irresponsible or vindictive Bureau staff, that the proposed changes will have arbitrary and capricious effects on inmates who do not have fines to pay but want to work in UNICOR, and that the proposed changes will also be discriminatory. The Bureau disagrees. The Victim and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Criminal Fine Enforcement Act of 1984, and the Comprehensive Crime Control Act of 1987 require a diligent effort on the part of all law enforcement agencies to collect court-ordered financial obligations. The Bureau believes that the proposed rule is not violative of the cited portions of the Constitution (nor of any other section). Neither is the Bureau aware of any controlling Federal or state law to the contrary, nor is one specified by the commenters. Inasmuch as Bureau staff are expected and trained to enforce Bureau policy in an objective manner, the Bureau sees no reason to believe that the proposed provisions will be used in an irresponsible or vindictive manner. Nor will the proposed changes have arbitrary or capricious effects on inmates who want to work in UNICOR but do not have fines. This rule has no effect on inmates without fines. The Bureau does not believe that the proposed changes are discriminatory. The rule is intended to encourage an inmate to meet his financial obligations, and uses the UNICOR work program as one means to achieve this.

Another commenter objected to provisions in existing regulations (28 CFR 545.11(b)) which require inmates assigned grades 1 through 4 in UNICOR to allot ordinarily not less than 50% of their monthly pay to the payment process. The commenter recommended an allotment of 25%. This provision was not contained in the proposed rule published in the *Federal Register* on October 22, 1990, but had instead been previously published for public comment in the *Federal Register* on March 17, 1989 (54 FR 11332) and adopted in the *Federal Register* on December 1, 1989 (54 FR 49944). As adopted, the provision

was amended in response to public comment to clarify that the allotment, which is ordinarily 50% of the inmate's earnings, could be modified as appropriate. While this provision was not published for public comment in the current rulemaking proceeding, the Bureau is clarifying this provision further in this final rule by adding a sentence to a revised paragraph (B)(2), allowing an allotment to be less than 50% only when approved by the Warden of the facility.

Another commenter recommended that the regulation be limited to the compulsory payment of restitution fees of up to approximately fifty dollars, and that other fines would be subject to payment only after consideration of the nature of the offense and humanitarian concerns. The imposition of a fine is a matter for the sentencing court. The Bureau believes that the clarifying amendment to § 545.11(b)(2), as noted above, allows for modification, as warranted.

In adopting the proposed rule as final the Bureau is publishing the entire regulation in order to incorporate various editorial amendments or changes which are not more restrictive on inmates. Specifically, § 545.10 is reworded for the sake of clarity, and a sentence is added at the end which specifies that the provisions of this rule do not apply to study and observation cases, pretrial detainees, and inmates in holdover status pending designation. In § 545.11, the introductory text and paragraphs (a) and (b) are reworded and/or reorganized for the sake of clarity. The intent remains unchanged. Because these new changes are not more restrictive on inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and the opportunity for public comment. Members of the public may submit comments concerning these additional changes by writing to the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 95-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 545

Prisoners.

Dated: May 15, 1991.

J. Michael Quinlan,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter C of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 545—WORK AND COMPENSATION

1. The authority citation for 28 CFR part 545 is revised to read as follows, and all other authority citations in the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed as to conduct occurring on or after November 1, 1987), 4126, 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In 28 CFR part 545, subpart B, consisting of §§ 545.10 and 545.11, is revised to read as follows:

Subpart B—Inmate Financial Responsibility Program

Sec.

545.10 Purpose and scope.

545.11 Procedures.

Subpart B—Inmate Financial Responsibility Program

§ 545.10 Purpose and scope.

The Bureau of Prisons encourages each sentenced inmate to meet his or her legitimate financial obligations. As part of the initial classification process, staff will assist the inmate in developing a financial plan for meeting those obligations, and at subsequent program reviews, staff shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated level of responsibility. The provisions of this rule apply to all inmates in federal facilities, except: Study and observation cases, pretrial detainees, and inmates in holdover status pending designation.

§ 545.11 Procedures.

When an inmate has a financial obligation, unit staff shall help that inmate develop a financial plan and shall monitor the inmate's progress in meeting that obligation.

(a) *Developing a Financial Plan.* At initial classification, the unit team shall review an inmate's financial obligations, using all available documentation, including, but not limited to, the Presentence Investigation and the

Judgment and Commitment Order(s). The financial plan developed shall be documented and will include the following obligations, ordinarily to be paid in the priority order as listed:

- (1) Special Assessments imposed under 18 U.S.C. 3013;
- (2) Court-Ordered restriction;
- (3) Fines and court costs;
- (4) State or local court obligations; and
- (5) Other federal government obligations.

(b) *Payment.* The inmate is responsible for making satisfactory progress in meeting his/her financial responsibility plan and for providing documentation of these payments to unit staff. Payments may be made from institution resources or non-institution (community) resources.

(1) Ordinarily, the minimum payment for non-UNICOR and UNICOR grade 5 inmates will be \$25.00 per quarter. This minimum payment may exceed \$25.00, taking into consideration the inmate's specific obligations, institution resources, and community resources.

(2) Inmates assigned grades 1 through 4 in UNICOR ordinarily will be expected to allot not less than 50% of their monthly pay to the payment process. Any allotment which is less than the 50% minimum must be approved by the Warden of the facility. Allotments may also exceed the 50% minimum after considering the individual's specific obligations and resources.

(c) *Monitoring.* Participation and/or progress in the Inmate Financial Responsibility Program will be reviewed each time staff assess an inmate's demonstrated level of responsible behavior.

(d) *Effects of non-participation.* Refusal by an inmate to participate in the financial responsibility program or to comply with the provisions of his financial plan ordinarily shall result in the following:

- (1) Where applicable, the Parole Commission will be notified of the inmate's failure to participate;
- (2) The inmate will not receive any furlough (other than possibly an emergency furlough);
- (3) The inmate will not receive performance pay above the maintenance pay level, or bonus pay, or vacation pay;
- (4) The inmate will not be assigned to any work detail outside the secure perimeter of the facility;
- (5) The inmate will not be placed in UNICOR. Any inmate assigned to UNICOR who fails to make adequate progress on his/her financial plan will be removed from UNICOR, and once removed, may not be placed on a UNICOR waiting list for six months.

Any exceptions to this require approval of the Warden;

(6) The inmate will not be permitted to purchase any items in excess of the monthly spending limitation, including special purchase items like sports equipment, hobby crafts, etc.;

(7) The inmate will be quartered in the lowest housing status (dormitory, double bunking, etc.);

(8) The inmate will not be placed in a community-based program;

(9) The inmate will not receive a release gratuity unless approved by the Warden.

[FR Doc. 91-11986 Filed 5-20-91; 8:45 am]

BILLING CODE 4410-05-M

28 CFR Part 545

Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Work and Performance Pay Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on the Inmate Work and Performance Pay Program to make changes necessary to conform with the revised provisions of the Inmate Financial Responsibility Program. These changes specify the effects on inmates of non-participation in that program. In addition, this amendment updates references to the Literacy Program, removes from the regulatory text accounting provisions and makes other minor changes, primarily of an editorial nature. The intended effect of this amendment is to update Bureau regulations.

EFFECTIVE DATE: June 20, 1991.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on the Inmate Work and Performance Pay Program. A final rule on this subject was published in the *Federal Register* October 1, 1984 (49 FR 38915 *et seq.*). A proposed rule on the Inmate Financial Responsibility Program (28 CFR part 545, subpart B) was published in the *Federal Register* October 22, 1990 (55 FR 42680 *et seq.*); a final rule on that subject is published elsewhere in today's *Federal Register*. A proposed rule on the Literacy Program (28 CFR part 544,

subpart H) was published in the *Federal Register* on January 17, 1991 (56 FR 1898 *et seq.*); a final rule on that subject was published in the *Federal Register* May 1, 1991 (56 FR 20088 *et seq.*). A summary of the specific changes to the Bureau's rule on Inmate Work and Performance Pay follows.

In § 545.21, the definition of "inmate" in paragraph (a) is amended in recognition of the statutory change in 18 U.S.C. 3621 applicable to offenses committed on or after November 1, 1987.

References to the Adult Basic Education (ABE) program and to General Educational Development (GED) have been replaced where appropriate with references to the Literacy program in § 545.23(a) and in redesignated §§ 545.25(a) and 545.28.

Section 545.25, which described funding for and allocation of performance pay, is removed in its entirety. These administrative provisions are controlled through the Bureau's accounting management system and are more properly addressed in the Bureau's manual on that subject. All subsequent sections of the rule are redesignated as a result of this deletion.

Redesignated § 545.25 (previously § 545.26) is modified through the addition of paragraph (c) to reflect the impact of an inmate's refusal to participate in the Inmate Financial Responsibility Program.

A number of minor editorial changes are being made to the rule. The last sentence of redesignated § 545.23(a) is reworded for clarity and to correct a misspelling; the intent is unchanged. In redesignated § 545.23(b), the word "pre-trial" and the misspelled word "pre-trail" are revised to read "pretrial" wherever they appear; there is no change in the intent of the paragraph. In redesignated § 545.24, paragraphs (a) and (e) are reworded for clarity with no change in meaning. The first sentence of redesignated § 545.26(d) is amended to reflect that an inmate will be eligible for performance pay from a work assignment for only those hours during which satisfactory work is performed. This amendment is made to be consistent with the provisions of paragraph (e) of this section and represents no change in the application of Bureau policy. Redesignated § 545.26(e)(1) is amended to delete the unnecessary words "or better" from the phrase "satisfactorily or better." For editorial consistency, the semicolon at the end of redesignated § 545.29(a)(1) is replaced by a period. In redesignated § 545.30, the word "State" is revised as "state".

Because those provision of this rule which implement the Inmate Financial

Responsibility Program (28 CFR part 545, subpart B) or the Literacy Program (28 CFR part 544) have already been published as a proposed rule and adopted in a final rule, and all other amendments to this rule are either administrative or editorial in nature, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 122291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 545

Prisoners.

Dated: May 15, 1991.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter C of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTION MANAGEMENT

PART 545—WORK AND COMPENSATION

1. The authority citation for 28 CFR part 545 is revised to read as follows, and all other authority citations in the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3621, 3622, 3624, 3663, 4001, 4042, 4061, 4082 (Repealed in part as to conducted occurring on or after November 1, 1987), 4126, 5006-5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. In § 545.21, paragraph (a) is revised to read as follows:

§ 545.21 Definitions.

(a) *Inmate*. For purposes of this rule, the term "inmate" refers to any person who is committed to the custody of the Bureau of Prisons or who is committed to, or in the custody of, the U.S. Attorney General.

* * * * *

3. In § 545.23, paragraph (a) is amended by revising the last two sentences and paragraph (b) is revised to read as follows:

§ 545.23 Inmate work/program assignment.

(a) * * * An inmate shall be assigned to an educational or vocational program, or either a full or part-time basis, where this involvement is mandated by Bureau policy (for example, Literacy program) or statute (for example, Youth Corrections Act). An inmate, for whom educational or vocational participation is not required by either policy or statute, may request and, upon approval of the Warden or designee, participate in an educational or vocational training program rather than work full-time.

(b) A pretrial inmate may not be required to work in any assignment or area other than housekeeping tasks in the inmate's own cell and in the community living area. Unless the pretrial inmate signs a waiver, the Warden may not permit the pretrial inmate to work with convicted inmates or in any assignment or area other than housekeeping tasks (see 28 CFR part 551, subpart J).

* * * * *

4. In § 545.24, paragraphs (a) and (e) are revised to read as follows:

§ 545.24 Inmate work conditions.

(a) The scheduled work day for an inmate in a federal institution ordinarily consists of a minimum of seven hours.

* * * * *

(e) An inmate is expected to perform the work assignment in a safe manner, using safety equipment as instructed by the work supervisor. In the event to any work related injury, the inmate shall notify the work supervisor so that appropriate action (for example, medical attention, and submission of necessary reports) may be taken.

§ 545.25 [Removed]

§§ 545.26-545.32 [Redesignated as §§ 545.25-545.31]

5. Section 545.25 is removed and §§ 545.26 through 545.32 are redesignated as §§ 545.25 through 545.31.

6. Redesignated § 545.25 is amended by revising paragraph (a)(2), by removing paragraph (a)(3), by redesignating paragraphs (a) (4) and (5) as paragraphs (a) (3) and (4), and by adding paragraph (c) to read as follows:

§ 545.25 Eligibility for performance pay.

(a) * * *

* * * * *

(2) Literacy program participation;

(c) An inmate who refuses to participate in the financial responsibility program shall not ordinarily receive performance pay above the maintenance pay level, or bonus pay, or vacation pay in accordance with 28 CFR part 545, subpart B.

7. In redesignated § 545.26, paragraph (b) is amended by removing the word "and" from the end of the listing for Grade 3, and paragraphs (d) and (e)(1) are revised to read as follows:

§ 545.26 Performance pay provisions.

(d) An inmate is eligible to receive performance pay only for those hours during which the inmate is actually performing satisfactory work or actively participating in an educational or vocational training program. Absences from the inmate's scheduled assignment for such reasons as call-outs, visits, sick call, interviews, or making telephone calls shall be deducted from the monthly number of hours worked and will accordingly reduce the amount of pay received by the inmate.

(e) * * *

(1) An inmate shall receive performance pay only for those hours during which the inmate is satisfactorily performing work or is actively participating in an educational/vocational program.

§ 545.28 [Amended]

8. Redesignated § 545.28 is amended by revising the phrase "who completes Adult Basic Education, GED," to read "who completes Literacy program,".

9. In redesignated § 545.29, paragraph (a)(1) is revised to read as follows:

§ 545.29 Special awards.

(a) * * *

(1) An act of heroism.

§ 545.30 [Amended]

10. Redesignated § 545.30 is amended by revising the word "State" to read "state".

[FR Doc. 91-11987 Filed 5-20-91; 8:45 am]

BILLING CODE 4410-05-M

28 CFR Part 571

Control, Custody, Care, Treatment and Instruction of Inmates; Release Gratuities, Transportation, and Clothing

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Release Gratuities. The only significant change is an increase in the maximum release gratuity an inmate may receive. That change is the result of a change in the United States Code, specifically 18 U.S.C. 3624(d), which provides that the Bureau of Prisons may furnish an inmate with an amount of money up to \$500. The previous statutory maximum amount was \$100. The effect is only to bring the rule into agreement with the statute. Other editorial changes are made only for readability and clarity.

EFFECTIVE DATE: May 21, 1991.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Release Gratuities. A final rule on this subject was published in the *Federal Register* June 29, 1979 (44 FR 38236) and amended on December 4, 1981 (46 FR 59506). A summary of the specific changes follows.

The first sentence in § 571.20 is revised to more fully encompass Bureau policy and to remove gender-specific references and to substitute "he or she." The general intent is unchanged. The last sentence is changed to reflect an increase in the maximum gratuity that can be given an inmate who is being released, as specified in 18 U.S.C. 3624(d).

The second sentence in § 571.21(a), which stated that "the Warden may give greater consideration to an inmate without funds or community resources," was changed to say that "greater consideration may be given to an inmate without funds or community resources." In practice, such decisions are ordinarily made by staff designated by the Warden, rather than by the Warden personally. That intent is unchanged. For similar reasons, the first sentence in § 571.21(e) which stated that "The Warden shall insure that each alien released to immigration authorities has \$10 cash" was changed to say that, "Staff shall ensure that each alien released to immigration authorities has \$10 cash."

In § 571.21(b), as well as several other places in this rule, "community programs officer" is replaced with "community corrections manager," to reflect a change in title. Also, rather than specifying that a "release gratuity up to \$100" can be paid to a federal inmate being released from a nonfederal

facility, the revised rule states that the amount of release gratuity is to be determined "in accordance with the purpose and scope of this regulation." Again, the intent is unchanged.

The title of § 571.22 is changed from "Release Clothing" to "Release Clothing and Transportation", and a new § 571.22(c) is added to indicate that transportation will be provided to an inmate's place of conviction, his legal residence within the United States, or to other such place as authorized and approved. Such transportation is also required by 18 U.S.C. 3624(d)(3), and this is not a new practice for the Bureau of Prisons. It is included only to make this rule more inclusive of policy regarding the release of inmates.

Section 571.22 (a) and (b) are reworded for clarity, but their intent is unchanged.

Because the only significant change in this rule is one mandated by a change in statute, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 122291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 571

Prisoners.

Dated: May 15, 1991.

J. Michael Quinlan,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), part 571 in subchapter D of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

1. The authority citation for 28 CFR part 571 is revised to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3589 (Repealed as to conduct occurring on or after November 1, 1987); 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987); 4161-4166 and 4201-4218 (Repealed as to conduct occurring on or after November 1, 1987); 5006-5024 (Repealed October 12, 1984 as to conduct occurring after that date); 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 0.95-0.99.

2. In 28 CFR part 571, subpart C, consisting of §§ 571.20 through 571.22, is revised to read as follows:

Subpart C—Release Gratuities, Transportation, and Clothing

Sec.

571.20 Purpose and scope.

571.21 Procedures.

571.22 Release clothing and transportation.

Subpart C—Release Gratuities, Transportation, and Clothing

§ 571.20 Purpose and scope.

It is the policy of the Bureau of Prisons that an inmate being released to the community will have suitable clothing, transportation to the inmate's release destination, and some funds to use until he or she begins to receive income.

Based on the inmate's need and financial resources, a discretionary gratuity of up to \$500.00 may be granted. (18 U.S.C. 3624(d))

§ 571.21 Procedures.

(a) An inmate is eligible for a gratuity as determined by the availability of personal and community resources. Greater consideration may be given to an inmate without funds or community resources.

(b) A federal prisoner boarded in a non-federal facility is eligible for a release gratuity. The director of the non-federal facility housing federal inmates or the community corrections manager shall determine the amount of release gratuity in accordance with the purpose and scope of this regulation for federal inmates housed in non-federal facilities.

(c) An inmate who is without personal funds may receive a gratuity when transferred to a community corrections center. The amount shall enable the inmate to care for needs in transit and allow for the purchase of necessary personal items upon arrival.

(d) Staff shall provide the inmate released to a detainer with information on how to apply for a gratuity if released

prior to expiration of the federal sentence.

(e) Staff shall ensure that each alien released to immigration authorities has \$10 cash. This provision does not apply to aliens serving 60 days or less in contract facilities.

§ 571.22 Release clothing and transportation.

(a) Staff shall provide release clothing appropriate for the time of year and the inmate's geographical destination. Upon request, work clothing will be provided. Nonavailability of work clothing may limit this practice.

(b) Inmates transferring to a community corrections center will be provided adequate clothing to complete a job search and perform work. Additionally, an outer garment, seasonably suited for the geographical destination will be provided.

(c) Transportation will be provided to an inmate's place of conviction, his legal residence within the United States, or to other such place as authorized and approved.

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