

under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This rule may eventually affect about 5 million migratory game bird hunters when it is fully implemented. It will require migratory game bird hunters to supply their names, addresses, and other necessary information to the State licensing authority in the State hunted in order that they can be sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters (individuals) would be required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. The information is required from hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, MS-224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0015, Washington, DC 20503.

Executive Order (EO) 12612—Federalism

This regulation does not have significant federalism effects as provided in EO 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act of 1918. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: Some States do not now conduct annual

harvest surveys or maintain accessible lists of hunter names and addresses. Comparable information is not available from all States because States have different licensing laws regulating who must buy a hunting license and different survey procedures. The harvest of those hunters who can legally hunt without an annual State license is excluded from State estimates. Hunters might buy more than one type of license in a single State and might buy licenses from more than one State, introducing duplication problems. Currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season. Budget constraints often prevent States from conducting harvest surveys during certain years or could cause some States to eliminate them completely.

This rule does not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, this regulation does not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing surveys to meet special management needs, and increased cooperation between Federal and State Agencies would reduce duplication of survey efforts.

Executive Order 12630—Taking of Individual Property Rights

Executive Order 12630 discussed guidelines for the taking of individual property rights. This rule, authorized by the Migratory Bird Treaty Act, does not affect any constitutionally-protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this proposed rule is Robert L. Jessen, working under the direction of Paul R. Schmidt, Chief, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for part 20 continues to read as follows:

Authority: The Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703-711); the Fish and Wildlife Improvement Act (November 8, 1978), as amended, (16 U.S.C. 712); and the Fish and Wildlife Act of 1956 (August 8, 1956), as amended, (16 U.S.C. 742 a-d and e-j).

2. Section 20.20 is amended by revising paragraphs (b) and (c) and adding paragraphs (d) and (e) to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

* * * * *

(b) Each person hunting migratory game birds in California, Maryland, Missouri, and South Dakota shall have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) *Tribal exemptions.* Nothing in paragraph (b) of this section shall apply to tribal members on Federal Indian Reservations or to tribal members hunting on ceded lands.

(d) *State exemptions.* Nothing in paragraph (b) of this section shall apply to those hunters who are exempt from State-licensing requirements in the State in which they are hunting.

(e) *Implementation schedule.* The Service is implementing this Program over a 5-year period, 1994-1998, which will incorporate approximately one-half million additional migratory bird hunters each year. States must participate on or before the following schedule:

- 1995—Louisiana, Minnesota, Oklahoma, Oregon, Pennsylvania, and Texas
- 1996—Alabama, Georgia, Illinois, Maine, Michigan, Mississippi, North Carolina, Tennessee, and Vermont
- 1997—Arizona, Arkansas, Colorado, Florida, Kentucky, South Carolina, Virginia, and Wisconsin
- 1998—Alaska, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Rhode Island, Utah, Washington, West Virginia, and Wyoming.

Dated: September 27, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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Federal Register

Friday
October 21, 1994

Part VII

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32

**Addition of Bayou Cocodrie National
Wildlife Refuge to the List of Open Areas
for Hunting in Louisiana; Proposed Rule**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018-AD00

Addition of Bayou Cocodrie National Wildlife Refuge to the List of Open Areas for Hunting in Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Bayou Cocodrie National Wildlife Refuge to the list of areas open for upland game and big game hunting in Louisiana along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before November 21, 1994.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, Esq., at the address above; Telephone: 703-358-1744.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open Bayou Cocodrie National Wildlife Refuge to upland game (squirrel, rabbit, raccoon, opossum and coyote) and big game (white-tailed deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the

public a meaningful opportunity to participate in the rulemaking process. A 30-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this Act, the Secretary is required to determine that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: a hunting/fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, the Secretary has determined that the opening of the Bayou Cocodrie National Wildlife Refuge to upland game and big game hunting is compatible with the principles of sound wildlife

management and will otherwise be in the public interest.

In accordance with the NWRSA and the RRA, the Secretary has also determined that this opening for upland game and big game hunting is compatible and consistent with the primary purposes for which the refuge was established, and that funds are available to administer the programs. A brief description of the hunting program is as follows:

Bayou Cocodrie National Wildlife Refuge

Public Law 101-593, enacted by Congress on November 16, 1990, authorized the establishment of Bayou Cocodrie National Wildlife Refuge (NWR). The refuge is located in Concordia Parish in east central Louisiana. It was established to protect some of the last remaining, least disturbed bottomland hardwoods in the Mississippi River Delta. These forested wetlands represent one of the most valuable and productive wildlife habitats in the southeastern United States. The stated purposes found at 104 Stat. 2957 provide that the refuge purposes are (1) the conservation and enhancement of wetlands; (2) the general wildlife management as a unit of the National Wildlife Refuge System, including management for migratory birds; and (3) for fish and wildlife-oriented recreational activities.

Total refuge acreage is proposed at 17,269 acres, including an 11,230-acre core tract formerly owned by The Nature Conservancy. The remaining 6,039 acres are adjacent, privately-owned tracts. Acquisition to date totals 9,805 acres of the core tract. The area offers attractive shallow-water feeding habitat for pintails and other dabbling ducks such as mallards and blue-winged teal, and provides excellent habitat for resident game, including white-tailed deer, turkeys, woodcock, and grey and fox squirrels. The bottomland hardwoods also serve as both permanent homes and migration habitat for many species of passerine birds, including songbirds and neotropical migrants.

The area has historically been noted for its excellent hunting opportunities for white-tailed deer and small game such as rabbits and squirrels. Nearly all of the refuge area was leased by hunting clubs or commercial hunting enterprises prior to the government obtaining the property. Based on preliminary assessment of the refuge and the experience of the local Louisiana Department of Wildlife and Fisheries biologist and enforcement personnel, all indications support the fact that relevant wildlife populations are

sufficient for hunting and for other refuge objectives.

Because of the unpredictable refuge development timeframe, the location of future land purchases, and the limited amount of developed waterfowl habitat, the initial hunting program will involve only resident game including white-tailed deer, squirrels, and rabbits. A waterfowl hunting program is totally dependent on the capability of being able to have dependable water sources to maintain optimum water levels for waterfowl hunting. Seasons and bag limits for resident game seasons hunting will be within the guidelines established by the Louisiana Department of Wildlife and Fisheries, but will likely be more conservative. The hunting program will be reviewed on an annual basis and revisions will be made accordingly.

The sport hunting program will be monitored by refuge personnel. Currently, the refuge is operating at the "custodial level" with only one staff member—the refuge manager. Resources from other refuges (Tensas River, Catahoula, and Lake Ophelia) will be utilized to help administer the hunt programs.

To facilitate the distribution of news releases, the refuge will maintain a mailing list for newspapers, local radio and television stations. News releases will be developed announcing the hunting season dates, where regulations can be obtained, and other pertinent information.

Opening the refuge to upland game and big game hunting has been found to be compatible in a separate compatibility determination. This determination noted that time and zone restrictions would be implemented as land acquisition progressed to ensure continued compatibility. A Section 7 evaluation pursuant to the Endangered Species Act was conducted and it was determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. Numerous contacts were made throughout the area of the refuge soliciting comments on the proposed hunting plan. The Louisiana Department of Wildlife and Fisheries concurs and fully supports the regulated recreational hunting program proposed at the refuge.

The Service has determined that there would be sufficient funds to administer the proposed hunt pursuant to the

requirements of the Refuge Recreation Act. The cost of the proposed hunt program is estimated to be approximately \$25,000 for the initial year and \$10,000 per year thereafter. Sufficient funds would be available within the refuge unit budget to operate such a hunt as proposed. It is estimated, further, that 10,000 hunter visits per year would take place.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018-0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. This proposed rule would have minimal effect on such entities.

Federalism

This proposed 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. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species.

Primary Author

Duncan L. Brown, Esq., Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical listing of "Bayou Cocodrie National Wildlife Refuge" under the state of Louisiana.

3. Section 32.37 *Louisiana* is amended by adding the alphabetical listing of Bayou Cocodrie National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Bayou Cocodrie National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved.]

B. Upland Game Hunting. Hunting of squirrel, rabbit, raccoon, opossum and coyote is permitted on designated areas of the refuge subject to the following condition: Permits are required.

C. Big Game Hunting. Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

D. Sport Fishing. [Reserved.]

* * * * *

Dated: September 9, 1994.

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and
Parks.*

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Federal Register

Friday
October 21, 1994

Part VIII

Department of Justice

Bureau of Prisons

28 CFR Parts 545 and 550
Drug Abuse Treatment Programs; Final
and Interim Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 545, and 550

[BOP-1010-F]

RIN 1120-AA16

Drug Abuse Treatment Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Final and interim rules.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Chemical Abuse Programs by renaming it as Drug Abuse Treatment Programs, by expanding programming available to inmates, and by requiring participation from certain inmates. An inmate who has been recommended for drug programming during incarceration by the sentencing judge, or whose presentence investigation contains evidence that alcohol or other drug use contributed to the commission of the instant offense, or for whom alcohol or drug abuse was a reason for violation of either supervised release, parole or community corrections center placement will be required to participate in a drug abuse education course. Further program opportunities are presented through voluntary participation in residential and non-residential drug abuse treatment programs and through transitional services. This amendment also makes conforming changes with respect to inmate financial responsibility requirements. Provisions on eligibility criteria for residential and non-residential drug treatment programs are being adopted on an interim basis. This amendment is intended to fulfill statutory requirements to make available to inmates appropriate substance abuse treatment.

DATES: Effective November 21, 1994; comments on interim provisions in §§ 550.55(a) and 550.57(a) are due December 20, 1994.

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) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Chemical Abuse Programs. A proposed rule on this subject was published in the *Federal Register* on January 7, 1994 (59 FR 1240 et seq.). This proposed rule renamed such programming as Drug Abuse

Treatment Programs and distinguished between mandatory and voluntary requirements for inmate participation. The comment period closed on March 8, 1994. The Bureau received comment from only one respondent. A summary of comment and agency response follows.

The commenter stated that the statutory provision mandating the Bureau of Prisons to provide substance abuse treatment programs is directly opposed to mandating participation in treatment programs when imposing the original sentence. The commenter cited 18 U.S.C. 3582(a) and 28 U.S.C. 994(k) as being "inappropriately immiscible" to the provisions proposed in 28 CFR 550.52(a) (1) and (3). In response, the Bureau notes that there is no statutory conflict. The provisions in 18 U.S.C. 3582(a) and 28 U.S.C. 994(k) relate to imposition of sentence by the court under the guidelines of the United States Sentencing Commission. These are intended to ensure that the various aspects relating to the offense are considered in determining the relevance of imprisonment, and if relevant, the length of such imprisonment. It is only after a term of imprisonment is imposed that 18 U.S.C. 3621 becomes applicable. The Bureau's authority under 18 U.S.C. 3621(b) to make available appropriate substance abuse treatment for each inmate committed to its custody has been implemented separately through this very rulemaking. Use by the Bureau of the sentencing court's recommendation or of information in the Presentence Investigation has no direct impact on the prior decision taken by the sentencing court.

The commenter also questioned the operation of the program at a specific Bureau institution, stating that the proposals were being implemented with severe sanctions for an inmate who does not participate voluntarily. The administrative remedy procedure is the appropriate means for inmates to voice their concerns on such aspects of their imprisonment. A review of inmate remedy requests for calendar year 1993 at the cited institution indicates only one request filed under the subject matter of substance abuse programs. The "severe sanctions" apparently refer to pay and community status restrictions (i.e., being held to the lowest pay grade and loss of eligibility for furlough consideration or community corrections center placement) imposed on an inmate who had declined to complete drug abuse education requirements. That complaint ultimately was mooted upon the inmate's completion of the forty hour course.

In issuing the final rule, the Bureau has further reorganized the regulations for the sake of clarity. Additional provisions have been added which are either administrative in nature or are intended to allow for increased voluntary participation in drug abuse treatment programming. Specific provisions as to eligibility criteria codified in new §§ 550.55(a) and 550.57(a) are being adopted on an interim basis with the opportunity for further comment. A discussion of this further reorganization and additions follows.

The statement of purpose and scope § 550.50 is adopted as final without change. The provisions in proposed § 550.51 have been reorganized and revised as new §§ 550.51 through 550.53. As revised, new § 550.51 defines the role of the Drug Abuse Treatment Coordinator and the Drug Abuse Treatment Specialist. Provisions of proposed § 550.51 which covered requirements on the Admission and Orientation program and screening and referral are now separately stated in new §§ 550.52 and 550.53. New § 550.52 contains the provisions pertinent to the Admission and Orientation program. These provisions have been reworded, but there is no change in the intent. New § 550.53 contains the provisions pertinent to screening and referral. As revised, this section now also provides for a record review by the case manager.

The provisions in proposed § 550.52 on the drug abuse education course have been revised as new § 550.54. This section has been reorganized and revised for the sake of clarity. As revised, paragraph (a)(2) of this section now also specifies that, with respect to voluntary participants, the Bureau gives priority consideration to those inmates whose participation has been recommended by unit or treatment staff. This change is necessary to help ensure the efficient program allocation of Bureau resources. Paragraph (b) of the revised section now allows for inmates to receive work assignment promotions during their participation in or while on a "waiting list" for the drug abuse education course.

The provisions in proposed § 550.53 on institution residential and nonresidential programs have been revised and separately stated in new §§ 550.55 through 550.57. New § 550.55 covers the voluntary institution residential drug abuse treatment program. As revised, this section no longer restricts application to those inmates who have been recommended by unit and/or drug treatment staff. As a consequence of this expansion of programming opportunity, paragraph (a)

of new § 550.55 now contains eligibility criteria for program participation. The eligibility criteria is intended to allow the Bureau to allocate its resources in an efficient manner. The Bureau is adopting this provision on an interim basis, and will accept comments for the purpose of reissuance as a final regulation. New § 550.56 contains the provisions in proposed § 550.53(c) on the use of incentives. New § 550.57 covers the voluntary non-residential drug treatment program. As revised, programming opportunities appropriate for the drug abuse treatment needs of inmates who have more than thirty-six months left to serve have been expanded and consequent eligibility criteria in § 550.57(a) have been adopted on an interim basis.

The provisions for transitional services in proposed § 550.54 have been adopted as final without change in new § 550.58.

Conforming changes to the Bureau's provisions on inmate financial responsibility (28 CFR 545.11) have been adopted as final without change. Other proposed conforming changes to the provisions on institution work and performance pay (28 CFR 545.23) will be addressed in a separate final rule document.

Interested persons may participate in this rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received on the interim rule provisions during the comment period will be considered before final action is taken. Comments received on the final rule provisions will be considered but will receive no formal response in the *Federal Register*. All comments received remain on file for public inspection at the above address.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. 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 Parts 545 and 550

Prisoners.
Kathleen M. Hawk,
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(p), parts 545 and 550 in subchapter C of 28 CFR, chapter V are amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 550—DRUG PROGRAMS

1. The authority citation for 28 CFR part 550 is added to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1937), 4251-4255, 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. Subpart F, consisting of §§ 550.50 and 550.51, is revised to consist of §§ 550.50 through 550.58 as follows:

Subpart F—Drug Abuse Treatment Programs

Sec.

- 550.50 Purpose and scope.
- 550.51 Institution organization/staff roles and responsibilities.
- 550.52 Admission and Orientation program.
- 550.53 Screening and referral.
- 550.54 Requirements for drug abuse education course.
- 550.55 Institution residential drug abuse treatment program.
- 550.56 Incentives for residential drug abuse treatment program participation.
- 550.57 Non-residential drug abuse treatment program.
- 550.58 Transitional services.

Subpart F—Drug Abuse Treatment Programs

§ 550.50 Purpose and scope.

The Bureau of Prisons provides, to the extent practicable, appropriate drug abuse treatment programs to inmates.

§ 550.51 Institutional organization/staff roles and responsibilities.

(a) *Drug Abuse Treatment Coordinator.* The Warden shall designate a drug abuse treatment coordinator for his/her institution.

(b) *Drug Abuse Treatment Specialist.* All institutions shall employ a drug abuse treatment specialist. The drug abuse treatment specialist is responsible for providing drug abuse education and non-residential drug abuse treatment services to the inmate population, under the supervision of the drug abuse treatment coordinator. In institutions with residential drug abuse treatment programs, additional drug abuse treatment specialist staff are employed to provide treatment services on the residential drug abuse treatment unit.

§ 550.52 Admission and Orientation program.

Drug abuse treatment coordinators at all institutions shall ensure that inmates are informed about local and Bureau-wide drug abuse programming and treatment opportunities during the Admission and Orientation program.

§ 550.53 Screening and referral.

A psychologist or drug abuse treatment specialist shall interview all new institution admissions for drug abuse problems. A record review will be performed by a case manager in the normal course of his/her duties. Based on these reviews and interviews, drug abuse treatment staff shall make an appropriate drug education/treatment referral.

§ 550.54 Requirements for drug abuse education course.

(a)(1) *Mandatory participation.* An inmate is required to participate in the drug abuse education course if he/she has been sentenced or returned to custody as a violator after September 30, 1991 and it is determined by unit and/or drug abuse treatment staff through a combination of interview and file review that:

(i) There is evidence in the Presentence Investigation that alcohol or other drug use contributed to the commission of the instant offense;

(ii) Alcohol or other drug use was a reason for violation either of supervised release, including parole, or BOP community status (CCC placement) for which the inmate is now incarcerated;

or

(iii) The inmate was recommended for drug programming during incarceration by the sentencing judge.

(2) *Voluntary participation.* Inmates who are not required by paragraph (a)(1) of this section to participate in the drug abuse education course may request to participate voluntarily in the drug abuse education course when participant space is available. Volunteers must have the approval of the drug abuse treatment coordinator. Priority consideration shall be given to those inmates whose participation has been recommended by unit or treatment staff.

(b) *Sanctions.* An inmate who is required by paragraph (a)(1) of this section to participate in the drug abuse education course and who refuses participation, withdraws, is expelled, or otherwise fails to meet the attendance and examination requirements shall be held at the lowest pay grade (Grade 4) within the institution and shall be ineligible for community programs. Inmates may be permitted to receive work promotions during their

participation or while on a "waiting list" for the drug abuse education course. The Warden may make exceptions to the provisions of this paragraph for good cause with reasons for such exceptions documented in writing.

(c) *Exemptions.* An inmate may be exempted from the required drug abuse education course due to cognitive impairment or other learning disabilities only after evaluation and recommendation by a psychologist. An inmate may also be exempted from the drug abuse education course if that inmate volunteers for, enters and completes a residential drug abuse treatment program or if he/she completes a structured drug abuse treatment program at one of the Bureau of Prisons' Intensive Confinement Centers (ICC).

(d) *Written consent.* All inmates who enter the drug abuse education course (whether as mandatory or as voluntary participants) are required to sign an agreement to participate prior to admission to the course.

(e) *Completion.* Completion of the drug abuse education course requires attendance and participation during course sessions and a passing grade on an examination given at the end of the course. Inmates required to participate in this course ordinarily are provided at least three chances to pass the final examination before privileges are lost or sanctions (see paragraph (b) of this section) are invoked. A certificate of achievement will be awarded to all who successfully complete the program. A copy of this certificate will be forwarded to the unit team for placement in the inmate's central file.

§ 550.55 Institution residential drug abuse treatment program.

Residential drug abuse treatment is available at selected Bureau of Prisons institutions. It is an intensive, unit-based treatment experience provided by a team of drug abuse treatment specialists and the drug abuse treatment coordinator.

(a) *Eligibility.* The following criteria must be met for an inmate to be recommended and/or approved for the residential drug abuse treatment program.

- (1) The inmate must have a documented drug abuse problem.
- (2) The inmate must have no serious mental impairment which would substantially interfere with or preclude full participation in the program.
- (3) The inmate must sign an agreement acknowledging his/her program responsibility.

(4) Ordinarily, the inmate must be within thirty-six months of release.

(5) The security level of the residential program institution must be appropriate for the inmate.

(b) *Application/Referral/Placement.* Participation in the residential drug abuse treatment program is voluntary. An inmate may be referred for treatment by unit and/or drug treatment staff or apply for the program by submitting a request to a staff member (ordinarily, a member of the inmate's unit team or the drug abuse treatment coordinator). The decision on placement is made by the drug abuse treatment coordinator.

(c) *Withdrawal/expulsion.* An inmate may withdraw voluntarily from the program. The drug abuse treatment coordinator may remove an inmate from the program based upon disruptive or negative behavior. Withdrawal or removal from the residential program may result in the inmate's being returned to his/her prior institution (when the inmate had been specifically transferred for the purpose of program participation) and/or return of tangible incentives previously achieved.

§ 550.56 Incentives for residential drug abuse treatment program participation.

(a) An inmate may receive incentives for his or her satisfactory involvement in the residential program. These incentives may include, but are not limited to, the following.

- (1) Limited financial awards, based upon the inmate's achievement/completion of program phases.
- (2) Consideration for the maximum period of time (currently 180 days) in a Community Corrections Center placement, provided the inmate is otherwise eligible for this designation.
- (3) Local institution incentives such as preferred living quarters or special recognition privileges.

(b) An inmate must meet his/her financial program responsibility obligations (see 28 CFR part 545) prior to being able to receive an incentive for his/her residential program participation.

§ 550.57 Non-residential drug abuse treatment program.

Non-residential drug abuse treatment is provided at all institutions and ordinarily consists of individual and/or group counseling and self-help programming provided through the institution's Psychology Services department.

(a) *Eligibility.* The following criteria must be met for an inmate to be recommended or approved for a non-residential drug abuse treatment program.

(1) The inmate must have a documented drug abuse problem.

(2) The inmate must have no serious mental impairment which would substantially interfere with or preclude full participation in the program.

(3) The inmate must sign an agreement acknowledging his/her program responsibility.

(b) *Application/Referral/Placement.* Participation in the non-residential drug abuse treatment program is voluntary. An inmate may be referred for treatment by unit and/or drug treatment staff or may apply for these programs by submitting a request to a staff member (ordinarily, a member of the inmate's unit team or the drug abuse treatment coordinator). The decision on placement is made by the drug abuse treatment coordinator.

(c) *Withdrawal/expulsion.* An inmate may withdraw voluntarily from the program. The drug abuse treatment coordinator may remove an inmate from the program based upon disruptive or negative behavior.

§ 550.58 Transitional services.

(a) Transitional treatment programming is required for all inmates completing an institution's residential treatment program. Transitional treatment includes treatment provided to inmates who, upon completing the residential program, return to the general population of that or another institution. An inmate's refusal to participate in this program is considered a program failure and disqualifies the inmate for any additional incentives consideration, and may result in the inmate's redesignation.

(b) An inmate who successfully completes a residential drug abuse program and who, based on eligibility, is transferred to a Community Corrections Center (CCC), is required to participate in a community-based treatment program each week, in addition to the required employment and other program activities of the CCC. The inmate's failure to meet the requirements of treatment may result in the inmate's being returned to the institution for refusing a program assignment.

(c) Staff may offer an inmate who has not been involved in the institution's drug abuse treatment program the opportunity to become involved in the transitional drug treatment program as part of the inmate's CCC placement. In addition, with the drug abuse treatment coordinator's approval, an inmate may volunteer and be accepted for transitional drug treatment programming.

3. The authority citation for 28 CFR part 545 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3572, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4126, 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

4. In § 545.11, a new paragraph (d)(11) is added to read as follows:

§ 545.11 Procedures.

* * * * *

(d) * * *

(11) The inmate will not receive an incentive for participation in residential drug treatment programs.

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