

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 541

[BOP-1025-F]

Control Unit Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations on Control Unit Programs to reflect changes in staffing assignments or the mission of specific institutions, to conform to revisions for Federal Prison Industries work assignments, and to make an editorial amendment.

EFFECTIVE DATE: September 6, 1995.

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 Control Unit Programs. A final rule on this subject was published in the Federal Register August 17, 1984 (49 FR 32991) and was amended June 20, 1985 (50 FR 25662).

This document makes the following changes to the Bureau's regulations on control unit programs to reflect changes in staffing assignments or the mission of specific institutions, and changes in the Bureau's regulations on Federal Prison Industries work assignments.

In § 541.46, paragraph (c), obsolete references to Federal Prison Industries industrial good time have been removed. Regulations on Federal Prison Industries work programs (28 CFR part 345) were revised on March 27, 1995 (60 FR 15826). Paragraph (g) is revised for the sake of clarity by dividing the existing text into two sentences. There is no change in the intent of this paragraph.

In § 541.48, paragraph (b) is revised to remove specific reference to the Marion Control Unit, which is currently being deactivated. The procedures in revised paragraph (a) for the inmate's request that an X-ray be taken in lieu of digital search are therefore applicable for any control unit. Revised paragraph (b) now specifies the institution's Clinical Director or Acting Clinical Director (rather than the Chief or Acting Chief of Health Programs) as the official responsible for making a medical determination regarding cumulative X-

ray exposure for the requesting inmate. This change is intended to make more efficient use of Bureau staff.

In § 541.49, paragraph (a) is revised to specify additional staff (namely, the officer-in-charge or lieutenant) on the control unit team.

In § 541.50, paragraph (b)(2) is revised for editorial purposes. There is no change in the intent of this section.

Because these changes are administrative in nature and 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, 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 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 Part 541

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), part 541 in subchapter C of 28 CFR, chapter V is amended as set forth below.

Subchapter C—Institutional Management

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

1. The authority citation for 28 CFR part 541 continues to read as follows:

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, 1987), 4161-4166 (Repealed as to offenses committed on or after November 1, 1987), 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.

2. In § 541.46, paragraph (c) is amended by revising the first sentence

(the paragraph heading is republished) and paragraph (g) is revised to read as follows:

§ 541.46 Programs and services.

* * * * *

(c) Industries (UNICOR). If an industry program exists in a control unit each inmate participating in this program may earn industrial pay, subject to the regulations of Federal Prison Industries, Inc. (UNICOR). * * *

(g) Counselor services. The unit counselor ordinarily handles phone call requests, special concerns and requests of inmates, and requests for administrative remedy forms. The unit counselor is also available for consultation and for counseling as recommended in the mental health evaluation (see paragraph (i) of this section—Mental Health Services).

* * * * *

3. In § 541.48, paragraph (b) is revised to read as follows:

§ 541.48 Search of control unit inmates.

* * * * *

(b) An inmate in a control unit may request in writing that an X-ray be taken in lieu of the digital search discussed in paragraph (a) of this section. The Warden shall approve this request, provided it is determined and stated in writing by the institution's Clinical Director or Acting Clinical Director (may not be further delegated) that the amount of X-ray exposure previously received by the inmate, or anticipated to be given the inmate in the immediate future, does not make the proposed X-ray medically unwise. Staff are to place documentation of the X-ray, and the inmate's signed request for it, in the inmate's central and medical files. The Warden's authority may not be delegated below the level of Acting Warden.

* * * * *

4. In § 541.49, paragraph (a) is amended by revising the second sentence to read as follows:

§ 541.49 Review of control unit placement.

(a) * * * Once every 30 days, the control unit team, comprised of the control unit manager and other members designated by the Warden (ordinarily to include the officer-in-charge or lieutenant, case manager, and education staff member assigned to the unit), shall meet with an inmate in the control unit. * * *

* * * * *

5. In § 541.50, paragraph (b)(2) is revised to read as follows:

§ 541.50 Release from a control unit.

* * * * *

(b) * * *

(2) To another federal or non-federal institution; or

* * * * *

[FR Doc. 95-21933 Filed 9-5-95; 8:45 am]
BILLING CODE 4410-05-P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 548

[BOP 1011-I]

RIN 1120-AA17

Religious Beliefs and Practices

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: In this interim rule, the Bureau of Prisons is amending its regulations on Religious Beliefs and Practices in order to provide for the uniform implementation of a common fare religious diet menu and to simplify and update procedures relating to religious beliefs and practices.

DATES: Effective September 6, 1995; comments due by November 6, 1995.

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 Religious Beliefs and Practices. A final rule on this subject was published in the **Federal Register** December 14, 1984 (49 FR 48902).

The Bureau of Prisons is updating its regulations on Religious Beliefs and Practices to include provisions for the implementation of a common fare religious diet. In addition, the regulations have been revised and reorganized for the sake of clarity. A discussion of the specific changes follows.

In § 548.10, paragraph (a) has been revised for the sake of clarity. Paragraph (b) has been revised for the sake of clarity and to provide examples of religious activity or practice. Paragraph (c) has been revised to clarify that an inmate may request at any time to change religious preference by notifying the chaplain in writing. This revision is necessary to provide for adequate documentation (i.e., requiring the

notification in writing) of the inmate's request. The change will then be effected in a timely fashion.

The material in §§ 548.12 through 548.15 has been revised and reorganized as §§ 548.12 through 548.20.

New § 548.12 restates material formerly in old § 548.12(a). As revised, this section on chaplains now also specifies that pastoral care and counseling from representatives in the community are available in accordance with the provisions of new §§ 548.14 and 548.19.

New § 548.13 restates material formerly in old §§ 548.12 (b) and 548.15 (b). As revised, new § 548.13 emphasizes that chaplains are responsible for directing the institution's religious activities and that each institution shall have space designated for the conduct of religious activities.

New § 548.14 restates material formerly in old § 548.12 (c) regarding pastoral care and counseling available from representatives in the community. As revised these provisions may require verification of a volunteer's or contractor's religious credentials from a recognized member of the faith group.

New § 548.15 consolidates material from old § 548.12 (d) and (e). As revised, this section now specifies that attendance at religious activities is voluntary and, unless otherwise specifically determined by the Warden, is open to all.

New § 548.16 consolidates material from old § 548.12 (f) and (g). As revised, paragraph (a) of new § 548.16 clarifies that religious items are considered to be part of the inmate's personal property and are subject to normal considerations of safety and security. This paragraph also provides that the chaplain is to verify the religious significance for the Warden's approval. Paragraph (b) restates the provisions of former § 548.12(f) regarding the wearing of religious items during religious services, ceremonies, and meetings in the chapel or within the institution. Paragraph (c) of new § 548.16 restates the provisions of former § 548.12(g). Revised paragraph (c) also requires that the distribution to inmates of religious literature purchased by or donated to the Bureau is contingent upon the approval of the institution's chaplain. This change is intended to ensure that inmates are not coerced or harassed to change religious affiliation.

New § 548.17 restates provisions from former § 548.14 covering work assignments. As revised, this section broadens applicability by covering instances where a religious tenet is jeopardized by a particular work

assignment and designates the chaplain as being responsible for verifying the specific religious tenets. The revised section clarifies procedures by specifying that the inmate makes the request in writing.

New § 548.18 restates provisions from former § 548.15(a) regarding religious observances. As revised, this section clarifies procedures for the submission of an inmate's request for time off from work to observe a religious holy day and requires that the chaplain work with requesting inmates to accommodate a proper observance of the holy day celebration.

New § 548.19 derives from an expansion of provisions from former § 548.12(c) regarding pastoral visits. As added, this section requires that the chaplain facilitate arrangements for pastoral visits by a clergyperson or representative of the inmate's faith if requested by an inmate and gives the chaplain the discretion to request an NCIC check and documentation of such person's religious credentials when necessary. The revised section specifies that such visits are not considered social visits, in accordance with existing Bureau policy on visiting regulations (see 28 CFR 540.48), and provides for administrative details on the location of such visits.

New § 548.20 restates provisions contained in former § 548.13 (a) and (b) on dietary practices, including religious diets. In the past, religious diets offered by the Bureau were limited to kosher diets and a pilot program offering a common fare menu (i.e., a diet designed to meet nutritional standards and the basic requirements of religious dietary norms).

As revised, paragraph (a) of new § 548.20 specifies procedures for consideration of requests for a religious diet under a common fare menu. References to nutritional standards have been removed because the Bureau believes it is unnecessary in this regulation to restate its basic policy of providing nutritionally adequate meals. The Bureau initially piloted operation of a common fare menu at institutions in its South Central Region and gradually expanded operation of the program nationwide. Review of the small number of inmate complaints on this subject filed under the Administrative Remedy Program has demonstrated the benefits and practicability of the common fare menu. Documentation requirements for processing a request include a written statement from the inmate articulating the religious motivation for participating in the common fare program. Paragraph (b) specifies procedures for withdrawal or removal