

**DEPARTMENT OF JUSTICE****Bureau of Prisons****28 CFR Part 540**

[BOP-1042-F]

RIN 1120-AA38

**Correspondence: Correspondence Between Confined Inmates**

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

**SUMMARY:** In this document, the Bureau of Prisons is amending its regulations on correspondence to provide unit managers with the authority to approve correspondence in certain circumstances between inmates in different federal institutions. These amendments are intended to provide for the continued efficient and secure operation of the institution.

EFFECTIVE DATE: December 18, 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 correspondence (28 CFR part 540, subpart B). A final rule on this subject was published in the Federal Register October 1, 1985 (50 FR 40109) and was amended on February 1, 1991 (56 FR 4159).

Current provisions in § 540.17 specify that in instances where correspondence is permissible between inmates confined in separate institutions, the Wardens of both institutions must approve of the correspondence. In order to make better use of staff resources, the Bureau is revising the introductory text and paragraph (b) of this section to designate the unit managers in both institutions as the approving officials in instances where both inmates are housed in federal institutions and both inmates are either members of the same immediate family or are parties or

witnesses in a legal action in which both inmates are involved. As revised, paragraph (b) designates the Wardens of both institutions as the approving officials where one of the inmates is housed in a non-federal institution or if approval is being granted on the basis of exceptional circumstances. As a conforming change, reference in the introductory text to the Warden as the approving official in exceptional circumstances has been removed.

Because the circumstances permitting the approval by the unit manager of correspondence between inmates are ordinarily fact specific (i.e. the other inmate is either a member of the immediate family, or is a party or witness in a legal action in which both inmates are involved), no adverse impact on inmates is anticipated. Approval based upon other exceptional circumstances remains with the Warden.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly 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.

The Bureau is publishing this regulation as an interim rule in order to implement streamlining measures through more efficient use of staff while still soliciting public comment. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered before the rule is finalized.

**List of Subjects in 28 CFR Part 540**

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 540 in

subchapter C of 28 CFR, chapter V is amended as set forth below.

**SUBCHAPTER C—INSTITUTIONAL MANAGEMENT****PART 540—CONTACT WITH PERSONS IN THE COMMUNITY**

1. The authority citation for 28 CFR part 540 is revised to read as follows:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part 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 § 540.17, the introductory text and paragraph (b) are revised to read as follows:

**§ 540.17 Correspondence between confined inmates.**

An inmate may be permitted to correspond with an inmate confined in any other penal or correctional institution if the other inmate is either a member of the immediate family, or is a party or witness in a legal action in which both inmates are involved. Such correspondence may be approved in other exceptional circumstances, with particular regard to the security level of the institution, the nature of the relationship between the two inmates, and whether the inmate has other regular correspondence. The following additional limitations apply:

\* \* \* \* \*

(b)(1) The appropriate unit manager at each institution must approve of the correspondence if both inmates are housed in Federal institutions and both inmates are members of the same immediate family or are a party or witness in a legal action in which both inmates are involved.

(2) The Wardens of both institutions must approve of the correspondence if one of the inmates is housed at a non-Federal institution or if approval is being granted on the basis of exceptional circumstances.

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