

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP 1071-P]

RIN 1120-AA67

Visiting: Notification to Visitors

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to hold the inmate responsible for having a release authorization form mailed to the proposed visitor in instances where a background investigation is necessary before the visitor can be approved. This amendment is intended to increase consistency in Bureau operations and to reduce the cost to the government in processing additions to an inmate's visitor's list.

DATES: Comments due by November 10, 1997.

ADDRESSES: Rules Unit, 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 proposing to amend its regulations on visiting (28 CFR part 540, subpart D). A final rule on this subject was published in the **Federal Register** June 30, 1980 (45 FR 44232) and was amended July 18, 1986 (51 FR 26127), February 1, 1991 (56 FR 4159), and July 21, 1993 (58 FR 39095).

Current provisions in § 540.51(b)(3) state that the inmate may be held responsible for having a release authorization form forwarded to a proposed visitor in instances when a background investigation is necessary before approving a visitor (for example, when the proposed visitor is not a member of the inmate's immediate family). Under the discretionary

authority in paragraph (b)(3), some institutions already require the inmate to forward the form. In the interest of reducing processing costs to the government and for the sake of consistency, the Bureau is proposing to require that the inmate shall be held responsible for having the authorization form forwarded to a proposed visitor when a background investigation is necessary.

When deemed appropriate by staff, staff may assist an inmate in filling out the authorization form (for example, when the inmate is illiterate, or when the inmate is unable to complete the form because of a medical condition). The inmate, however, remains responsible for postage costs. Separately stated regulations on inmate correspondence ensure that an inmate who has neither funds nor sufficient postage shall be provided postage stamps for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties (see 28 CFR 540.21(e)). An inmate without funds, therefore, is still capable of obtaining postage for an authorization form to a proposed visitor.

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 (5 U.S.C. 601 *et seq.*), does not have a significant impact on a substantial number of small entities, within the meaning of the Act. This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and the conditions of confinement preclude such offenders from conducting a business.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First

Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

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 proposed to be 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 continues 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 § 540.51, paragraph (b)(3) is amended by revising the first sentence to read as follows:

§ 540.51 Procedures.

* * * * *

(b) * * *

(3) If a background investigation is necessary before approving a visitor, the inmate shall be held responsible for mailing a release authorization form to the proposed visitor. * * *

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