

§ 540.72

sender of the material unless the inmate indicates an intent to file an appeal under the Administrative Remedy Program, in which case the Warden shall retain the rejected material at the institution for review. In case of appeal, if the rejection is sustained, the rejected publication shall be returned when appeal or legal use is completed.

(f) The Warden may set limits locally (for fire, sanitation or housekeeping reasons) on the number or volume of publications an inmate may receive or retain in his quarters. The Warden may authorize an inmate additional storage space for storage of legal materials in accordance with the Bureau of Prisons procedures on personal property of inmates.

[44 FR 38260, June 29, 1979, as amended at 47 FR 55130, Dec. 7, 1982; 50 FR 411, Jan. 3, 1985; 61 FR 57568, Nov. 6, 1996; 67 FR 77164, Dec. 17, 2002]

§ 540.72 Statutory restrictions requiring return of commercially published information or material which is sexually explicit or features nudity.

(a) When commercially published information or material may not be distributed by staff or made available to inmates due to statutory restrictions (for example, a prohibition on the use of appropriated funds to distribute or make available to inmates information or material which is sexually explicit or features nudity), the Warden or designee shall return the information or material to the publisher or sender. The Warden or designee shall advise the publisher or sender that an independent review of the decision may be obtained by writing to the Regional Director within 20 days of receipt of the notification letter. Staff shall provide the inmate with written notice of the action.

(b) *Definitions.* For the purpose of this section:

(1) *Commercially published information or material* means any book, booklet, pamphlet, magazine, periodical, newsletter, photograph or other pictorial depiction, or similar document, including stationery and greeting cards, published by any individual, organization, company, or corporation which is distributed or made available through any

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means or media for a commercial purpose. This definition includes any portion extracted, photocopied, or clipped from such items.

(2) *Nudity* means a pictorial depiction where genitalia or female breasts are exposed.

(3) *Features* means the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.

(4) *Sexually explicit* means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation.

[61 FR 57569, Nov. 6, 1996, as amended at 67 FR 77427, Dec. 18, 2002]

Subparts G–H [Reserved]

Subpart I—Telephone Regulations for Inmates

SOURCE: 44 FR 38249, June 29, 1979, unless otherwise noted.

§ 540.100 Purpose and scope.

(a) The Bureau of Prisons extends telephone privileges to inmates as part of its overall correctional management. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate's personal development. An inmate may request to call a person of his or her choice outside the institution on a telephone provided for that purpose. However, limitations and conditions may be imposed upon an inmate's telephone privileges to ensure that these are consistent with other aspects of the Bureau's correctional management responsibilities. In addition to the procedures set forth in this subpart, inmate telephone use is subject to those limitations which the Warden determines are necessary to ensure the security or good order, including discipline, of the institution or to protect the public. Restrictions on