

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Parts 540 and 545****[BOP-1050-P]****RIN 1120-AA49****Telephone Regulations and Inmate Financial Responsibility****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed Rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) is proposing to limit telephone privileges to 60 minutes of debit calls per month for inmates who refuse to participate in the inmate financial responsibility program (IFRP). Additionally, the Bureau proposes to impose a \$25 per month spending limitation upon the commissary purchases of IFRP refusees, excluding the purchase of stamps and telephone credits. These actions are made pursuant to the terms of a settlement approved by the District Court in a nation-wide federal prisoner class action, *Washington v. Reno*, Nos. 93-217, 93-290 (E.D. KY), and are intended to continue encouraging inmates to participate in the IFRP.

DATES: Comments are due on March 4, 1996.

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, telephone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons (Bureau) is proposing to amend its rules on telephone regulations (28 CFR part 540, subpart I) and on the inmate financial responsibility program (IFRP) (28 CFR part 545, subpart B) which were published in the Federal Register on April 4, 1994 (59 FR 15812).

In the April 4, 1994, revision of its rules on telephone regulations and on the IFRP, the Bureau delayed the effective date for provisions in §§ 540.105(c) and 545.11(d)(10) which imposed limitations on the telephone privileges of inmates refusing to participate in the IFRP. These provisions were to become effective January 3, 1995. Due to ongoing litigation in *Washington v. Reno*, the effective date for these provisions was further delayed until January 4, 1996. See 60 FR 240. In accordance with the court-approved settlement in *Washington v. Reno*, Nos. 93-217, 93-

290 (E.D. KY), the Bureau has withdrawn those provisions in a document published elsewhere in today's Federal Register.

Also in accordance with provisions of the settlement in *Washington v. Reno*, this proposed rule specifies providing only debit telephone calling privileges for inmates who refuse to participate in the IFRP and to limit such debit calling privileges to 60 minutes of debit calls per month. This proposed limitation will not take effect until installation of the new nation-wide telephone system, per terms of the settlement in *Washington v. Reno*.

Local institution guidelines continue to govern the duration of each individual call. As with all inmate telephone privileges, the Warden retains the discretion to further limit the debit calling privileges of inmates who refuse to participate in the IFRP to ensure the security or good order, including discipline of the institution or to protect the public, 28 CFR § 540.100. Telephone privileges of inmates who refuse to participate in the IFRP may also be further limited as a disciplinary sanction, 28 CFR part 541.

Additionally, the Bureau is proposing to amend the provision in 28 CFR 545.11(d) which relates to the monthly commissary spending limitation imposed upon inmates who refuse to participate in the IFRP. Specifically, under 28 CFR 545.11(d)(6), IFRP refusees currently are not permitted to purchase any items in excess of the monthly spending limitation for all inmates, including special purchase items like sports equipment, hobby crafts, etc. The Bureau proposes to revise this provision to impose upon IFRP refusees a more stringent monthly spending limitation than that imposed upon all inmates. Pursuant to the terms of the settlement in *Washington v. Reno*, the proposed rule specifies that the monthly spending limitation upon IFRP refusees shall be at least \$25 per month and excludes purchases of stamps and telephone credits.

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 during the comment period will be considered before final action is taken. 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 has not been reviewed by the Office of Management and Budget pursuant to

E.O. 12866. 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 540 and 545

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 540 and 545 in subchapter C of 28 CFR, chapter V are 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, 3013, 3571, 3572, 3621, 3622, 3624, 3663, 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 § 540.105, paragraph (c) is added to read as follows:

§ 540.105 Expenses of inmate telephone use.

* * * * *

(c) The Warden shall limit the telephone privileges (collect and debit calls) of an inmate who has refused to participate in the Inmate Financial Responsibility Program (IFRP) as specified in 28 CFR part 545.

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PART 545—WORK AND COMPENSATION

1. 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.

2. In § 545.11, paragraph (d)(6) is revised, and paragraph (d)(10) is added, to read as follows:

§ 545.11 Procedures.

* * * * *

(d) * * *

(6) The inmate shall be subject to a monthly commissary spending limitation more stringent than the monthly commissary spending limitation set for all inmates. This more stringent commissary spending limitation for IFRP refusees shall be at least \$25 per month, excluding

purchases of stamps and telephone credits.

* * * * *

(10) The inmate is restricted to the use of debit telephone calls and will be allowed to make 60 minutes of debit telephone calls per month, unless the Warden further limits the inmate's telephone privileges to ensure the security or good order, including discipline of the institution, or to

protect the public, pursuant to 28 CFR § 540.100, or the inmate's telephone privileges are restricted as a disciplinary sanction under 28 CFR, part 541. Any exception to this provision requires approval of the Warden and is to be based on compelling circumstances.

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