

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 545****[BOP-1050-F]****RIN 1120-AA49****Inmate Financial Responsibility Program: Spending Limitations****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) is amending its regulations on the inmate financial responsibility program (IFRP) to impose a spending limitation of at least \$25 per month upon the commissary purchases of IFRP refusees, excluding the purchase of stamps, telephone credits, and, if purchased by a common fare participant, Kosher/Halal certified shelf-stable entrees. Additional changes to the regulations are also being made for the sake of clarity, editorial consistency, and for administrative efficiency. These actions are intended to encourage inmates to participate in the IFRP.

EFFECTIVE DATE: January 27, 2000.**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, telephone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons (Bureau) is amending its regulations on the inmate financial responsibility program (IFRP) (28 CFR part 545, subpart B). A proposed rule on this subject was published in the *Federal Register* on January 2, 1996 (61 FR 92).

In accordance with provisions of the Settlement Agreement in *Washington v. Reno*, section III A, the Bureau proposed a rule requiring 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 would not take effect until installation of the Bureau's new nation-wide inmate telephone system, per terms of the settlement in *Washington v. Reno*. Because that telephone system has not been installed, the Bureau cannot finalize that rule at this time.

The Bureau also proposed to amend 28 CFR 545.11(d)(6) with respect to the monthly commissary spending limitation imposed upon inmates who refuse to participate in the IFRP. This

provision previously prohibited inmates who refuse to participate in IFRP from purchasing any items in excess of the monthly spending limitation for all inmates, including special purchase items like sports equipment, hobby crafts, etc. The Bureau had proposed 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 specified that the monthly spending limitation upon IFRP refusees shall be at least \$25 per month and excludes purchases of stamps and telephone credits. No comment was received on this aspect of the proposed rule. The Bureau is adopting this same proposed provision as final, except that the Bureau has expanded the list of items excluded from the more stringent spending limitation to include purchases by a common fare participant of Kosher/Halal certified shelf-stable entrees. As a further clarification, the final rule states that purchases of stamps, phone credits, and shelf-stable Kosher/Halal items remain subject to the limitations set forth in Bureau regulations and policies for these items.

The Bureau is making additional changes to § 545.11 for the sake of clarity, editorial consistency, and for administrative efficiency. In the introductory text of paragraph (b), the provisions describing the financial plan calculation have been revised for the sake of clarity. In paragraph (b)(2), the designated official for approving allotments less the 50% minimum is now the Unit Manager rather than the Warden. This delegation is being made for reasons of administrative efficiency. In (b)(9) the concluding punctuation has been revised for editorial consistency. Finally, in paragraph (d)(2) the Bureau is clarifying that IFRP refusees may be eligible for medical furloughs.

Interested persons may submit further comments concerning this rule by writing to the Rules Unit, Bureau of Prisons, 320 First Street, NW, HOLC Room 754, Washington, DC 20534. These comments will be considered but will receive no response in the *Federal Register*.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: 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 its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

List of Subjects in 28 CFR Part 545

Prisoners.

Kathleen Hawk Sawyer,

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

**SUBCHAPTER C—INSTITUTIONAL
MANAGEMENT**

**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, the introductory text of paragraph (b) is amended by removing the third sentence and adding two new sentences in its place, paragraph (b)(2) is amended by revising the second sentence, paragraphs (d)(2) and (d)(6) are revised, and paragraph (d)(9) is amended by removing the period and adding in its place a semi-colon:

§ 545.11 Procedures.

* * * * *

(b) *Payment.* * * * In developing an inmate's financial plan, the unit team shall first subtract from the trust fund account the inmate's minimum payment schedule for UNICOR or non-UNICOR work assignments, set forth in paragraphs (b)(1) and (b)(2) of this section. The unit team shall then exclude from its assessment \$75.00 a month deposited into the inmate's trust fund account. * * *

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(2) * * * Any allotment which is less than the 50% minimum must be approved by the Unit Manager. * * *

* * * * *

(d) * * *

(2) The inmate will not receive any furlough (other than possibly an emergency or medical furlough);

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(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, telephone credits, and, if the inmate is a common fare participant, Kosher/Halal certified shelf-stable entrees to the extent that such purchases are allowable under pertinent Bureau regulations;

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