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Issued in Washington, DC, on February 23, 2010.

**Edith V. Parish,**

*Manager, Airspace and Rules Group.*

[FR Doc. 2010-4377 Filed 3-2-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 545

[BOP Docket No. BOP 1152-P]

RIN 1120-AB52

#### Inmate Work and Performance Pay Program

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to streamline regulations on inmate work and performance pay by removing redundant language and provisions that relate solely to staff guidance.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before May 3, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at <http://www.regulations.gov>. You may also comment on this regulation via the Internet at [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV) or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

#### SUPPLEMENTARY INFORMATION:

##### Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name,

address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Additional Information" paragraph.

The reason that the Bureau is requesting electronic comments before Midnight Eastern Time on the day the comment period closes is because the inter-agency Regulations.gov/Federal Docket Management System (FDMS) which receives electronic comments terminates the public's ability to submit comments at Midnight on the day the comment period closes. Commenters in time zones other than Eastern may want to take this fact into account so that their electronic comments can be received. The constraints imposed by the Regulations.gov/FDMS system do not apply to U.S. postal comments which will be considered as timely filed if they are postmarked before Midnight on the day the comment period closes.

##### Discussion

In this document, the Bureau proposes to streamline regulations on inmate work and performance pay by deleting redundant language and provisions that relate solely to staff guidance. Below is a section-by-section explanation of the proposed revisions.

**Section 545.20 Purpose and scope.** This section describes the purpose of the Inmate Work and Performance Pay (IPP) program of the Bureau of Prisons (Bureau). This section is derived from current § 545.20(a). The second sentence of current subparagraph (a), regarding the requirement for physically and mentally able sentenced inmates to participate in the work program, is deleted because the concept is repeated in the subsequent regulation. Current paragraph (b), regarding the Warden's ability to grant performance pay to qualified inmates, is deleted because the concept is later repeated in a regulation exclusively devoted to performance pay.

**Section 545.21 Definitions.** This section derives almost verbatim from the current § 545.21, and defines terms used in the rest of the subpart, including "physically and mentally able," "institution work assignment," "industry assignment," "commissary assignment," and other terms.

**Deleted § 545.22.** This section, regarding the institution work and performance pay committee, has been deleted because it is guidance to staff that need not be in regulation text. This current regulation explains that the Warden at each Bureau facility establishes an Institution Inmate Work and Performance Pay Committee to administer the institution's work and performance pay program, comprised of an Associate Warden, the Inmate Performance Pay Coordinator, and any other member(s) the Warden considers appropriate. The Committee is responsible for approving various aspects of the inmate work and performance pay program specific to that Committee's facility, including the number of inmates and pay grades for each work detail, job descriptions, performance standards, budgeting issues, and other such administrative concerns. We will retain this language in implementing text in the relevant Bureau policy.

**Section 545.22 Inmate work/program assignment.** This section derives from current § 545.23. It explains that each sentenced inmate who is physically and mentally able must participate in an institutional, industrial, or commissary work program unless an exception applies. An inmate may be authorized to not participate in IPP if the inmate instead participates in an education, vocational, or drug abuse treatment program, on either a full or part-time basis, if it is required by Bureau policy or statute (for example, the Literacy Program) or with the approval of the Warden or designee. An inmate may also be excepted from IPP participation if the inmate is a pretrial

inmate, is otherwise unsentenced or not serving a term of imprisonment, or is a medically unassigned inmate.

Paragraph (d) of the current § 545.23 has been deleted because it relates solely to guidance to staff. Paragraph (d) describes the factors that staff will consider when making work and/or program assignments. This language will be retained in the relevant Bureau policy, which is a more appropriate vehicle for guidance to staff.

*Section 545.23 Inmate work conditions.* This section derives, almost verbatim, from current § 545.24. This regulation describes inmate work conditions, such as the length of the work day, rules regarding reporting for work, work performance, health and safety standards, and work-related injuries.

*Section 545.24 Eligibility for performance pay.* This section derives from current § 545.25, and describes how an inmate may receive performance pay. Paragraph (a) explains that an inmate may receive performance pay for accomplishments in his/her institution work assignment, literacy program (GED) participation, apprenticeship training, and approved vocational training courses.

Paragraph (b) describes how the amount of performance pay to be awarded is calculated. Generally, an inmate is eligible for performance pay from the date of work or program assignment for each month that the inmate's performance justifies such payment. Specific provisions regarding portion of the month or hours worked and absences are derived from current § 545.26(d) and (d). Provisions regarding vesting and notification of performance pay status derive from current § 545.26(h) and (i).

Paragraph (c) delineates exceptions to eligibility for performance pay. Inmates will not be eligible to receive performance pay if they refuse to participate in the financial responsibility program; refuse participation, withdraw, are expelled, or otherwise fail attendance or examination requirements of the drug abuse education course; or if they commit a level 100 or 200 series drug- or alcohol-related prohibited act.

*Removed § 545.26 Performance pay provisions.* Current § 545.26 has been removed. Paragraph (a) of the current regulation contains guidance to staff that is more appropriately retained in Bureau policy. This subparagraph explains that the Warden or designee will ensure that all institution work assignments have standardized work descriptions, describes the four pay grade levels that inmates may be

assigned to, and lists factors to consider in assigning a grade level to a specific work position.

Paragraph (b) allots a percentage of inmates in each Bureau facility to each of the four pay grade levels. The vast differences among Bureau facilities in size, population, work needs, and security levels, make such a mandatory allotment impracticable. We will retain recommended allotment levels in Bureau implementing text, but have deleted this subparagraph from regulation text in recognition of the differing needs and resources of each facility.

Paragraphs (c) and (d), regarding calculation of performance pay based on portion of the month and hours worked, have been moved to proposed § 545.24(b). Paragraph (e), regarding work evaluation, has been revised as proposed § 545.25, described below.

*Section 545.25 Work evaluation.* This section derives from current § 545.26(e). Provisions regarding work evaluation have been moved from that regulation because inmates' work will be evaluated regardless of whether they are being considered for performance pay, and therefore is not appropriate in § 545.26, entitled "Performance pay provisions."

This section explains when, how, and what work will be evaluated. Every six months, the work detail/program supervisor will evaluate each inmate and will document in writing only those inmates who show skills below satisfactory level. This is a change from current regulations, which state that an evaluation will be conducted every month. This change is being made to emulate the community standard of biannual work performance evaluations and to more efficiently allocate staff time. Under the current regulations, each staff member conducting evaluations spends approximately two to three hours per month to assess and re-assess inmate performance when there have been few changes from month to month. The new regulation would save approximately 20 to 30 hours a year of each evaluator's time. Further, up-to-date information regarding an inmate's work performance may be input in the computer system at any time (more frequently than monthly, if warranted), and is regularly checked and taken into account by staff responsible for evaluating inmate work performance.

The evaluation will be based on only those hours during which the inmate actively participated in a work assignment or an education/vocational program. The work detail/program supervisor will rate the inmate's

performance in each of several categories, including, but not limited to quality and quantity of work, initiative, ability to learn, dependability, response to supervision and instruction, safety and care of equipment, ability to work with others, and overall job proficiency.

A provision at the end of current § 545.26(e) states that exceptions to the work performance evaluation procedures require approval of the Assistant Director, Correctional Programs Division, Central Office. This provision also provides guidance to the work detail/program supervisor regarding how to review the evaluation with the inmate. Because this section contains guidance to staff, we propose to delete it and retain it in implementing text in Bureau policy.

*Section 541.26 Bonus pay.* This section derives from § 545.26(f) and (g). This regulation explains that if the supervisor determines that an inmate has made exceptional accomplishments or appreciably contributed to the work assignment, the supervisor may recommend that the inmate receive bonus pay or special bonus pay (if the work assignment was previously identified by the Warden or designee, and approved by the Regional Director, as critical to the institution).

Language instructing work supervisors to forward bonus pay and special bonus pay recommendations to the facility's relevant department head has been deleted from the proposed rule because this language is guidance to staff that is more appropriately retained in Bureau policy.

*Section 545.27 Inmate vacations.* This section derives from current § 545.27. It explains that if an inmate has worked full-time for 12 consecutive months on an institution work assignment, and the work supervisor so recommends, the inmate may take a five-day paid vacation at the inmate's prevailing hourly rate.

Again, language instructing work supervisors to forward inmate vacation recommendations to the facility's relevant department head have been deleted from the proposed rule because this language is guidance to staff that is more appropriately retained in Bureau policy. Also deleted as staff guidance is an administrative provision instructing work supervisors to schedule inmate vacations compatible with the facility's work needs.

*Section 545.28 Achievement awards.* This section derives, almost verbatim, from current § 545.28. It explains that inmates may receive achievement awards for completion of various approved education programs or for

completion or satisfactory progress in an approved drug treatment program.

**Section 545.29 Special awards.** This section derives from current § 545.29. Paragraph (a) states that inmates who perform exceptional services not ordinarily a part of the inmate's regular assignment may be granted a special award regardless of the inmate's work or program status.

The proposed rule deletes language in paragraph (a) giving examples of "exceptional services" that may warrant a special award. This language has been deleted because these examples do not reflect the broad possibilities for services that may deserve special awards, but instead have the practical effect of limiting special awards to the given examples.

Paragraph (b) states that the special award may be in the form of a monetary payment in addition to any other award (e.g., extra good time) given.

Paragraph (c) of the current regulation states that the Warden or designee of each institution is empowered to approve special awards not exceeding \$150, and that awards in excess of this amount may not be made unless approved by the Regional Director. This subparagraph has been removed from the proposed rule because it is specific guidance to the Warden and is more appropriate to retain in Bureau policy.

**Section 545.30 Funds due deceased inmates.** This section derives from current § 545.30, explaining that the Bureau will make unpaid performance pay payments due a deceased inmate to a legal representative of the inmate's estate or in accordance with the laws of descent and distribution of the state of domicile (most recent legal residence). This does not change the substance of current § 545.30.

**Deleted § 545.31 Training.** Current regulation § 545.31 provides guidance to the Warden regarding training facility staff on the operation of the work and performance pay program and informing inmates of the program and pay rates. This section has been deleted because it is guidance to Bureau staff, but will be retained in Bureau policy.

#### **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.

The Bureau has assessed the costs and benefits of this rule as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this rule justify its

costs. There will be no new costs associated with this rulemaking.

#### **Executive Order 13132**

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, under Executive Order 13132, we determine 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, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it 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.

#### **List of Subjects in 28 CFR Part 545**

Prisoners.

**Kathleen M. Kenney,**

*Assistant Director/General Counsel, Bureau of Prisons.*

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the

Director, Bureau of Prisons in 28 CFR 0.96, we propose to amend 28 CFR part 545 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.

2. Revise part 545 to read as follows:

Sec.	
545.20	Purpose and scope.
545.21	Definitions.
545.22	Inmate work/program assignment.
545.23	Inmate work conditions.
545.24	Eligibility for performance pay.
545.25	Work evaluation.
541.26	Bonus pay.
545.27	Inmate vacations.
545.28	Achievement awards.
545.29	Special awards.
545.30	Funds due deceased inmates.

#### **§ 545.20 Purpose and scope.**

The purpose of this subpart is to explain the Inmate Work and Performance Pay (IPP) program of the Bureau of Prisons (Bureau). The purpose of this program is to:

(a) Reduce inmate idleness, while allowing the inmate to improve and/or develop useful job skills, work habits, and experiences that will assist in post-release employment; and

(b) Ensure completion of activities necessary for the day-to-day operation of the institution.

#### **§ 545.21 Definitions.**

(a) *Physically and mentally able.* For purposes of this rule, this term includes inmates with disabilities who, with reasonable accommodation, can perform the essential function of the work assignment.

(b) *Institution work assignment.* A work assignment which contributes to the day-to-day operation of the institution (e.g., carpentry, plumbing, food service).

(c) *Industry assignment.* A Federal Prison Industries (FPI) work assignment.

(d) *Commissary assignment.* A Trust Fund work assignment.

(e) *Full-time work assignment.* A work assignment to which an inmate is assigned for the entire scheduled work day.

(f) *Part-time work assignment.* A work assignment to which an inmate is assigned for only a part of the scheduled work day.

(g) *Medically unassigned.* An inmate who, because of medical restrictions, cannot be assigned to any work program.

(h) *Light duty work assignment.* A work assignment in which an inmate may, because of physical limitations, temporary or otherwise, only perform limited work functions, e.g., sedentary work, no prolonged standing, no lifting over 25 lbs.

#### **§ 545.22 Inmate work/program assignment.**

(a) Each sentenced inmate who is physically and mentally able must participate in an institutional, industrial, or commissary work program unless one of the exceptions in (b) applies.

(b) *Exceptions.* An inmate may be excused from participation in IPP if:

(1) The inmate instead participates in an education, vocational, or drug abuse treatment program, on either a full or part-time basis, if it is required by Bureau policy or statute (for example, the Literacy Program) or with approval by the Warden or designee.

(2) The inmate is a pretrial inmate, or is otherwise unsentenced or not serving a term of imprisonment, in which case the inmate may only be assigned housekeeping tasks in his/her cell and in the community living area. If such an inmate waives his/her right not to work, that inmate may be allowed to participate in the IPP.

(3) The inmate is a medically unassigned inmate, in which case the inmate may be required to perform housekeeping tasks in his/her cell and in the community living area, to the extent medically possible.

#### **§ 545.23 Inmate work conditions.**

(a) *Work day:* The scheduled work day is ordinarily at least seven hours.

(b) *Reporting for work:* Inmates must report to the place of assignment at the required time, and may not leave an assignment without permission.

(c) *Work performance:* Regardless of assignment, the inmate must perform all assigned tasks diligently and conscientiously. Inmates may be subject to disciplinary action for refusing to work, not showing up for work, working poorly, or encouraging others to do so.

(d) *Health and safety standards:* Inmates will only participate in work, vocational, and education programs that meet the appropriate minimum standards for health and safety. Inmates will be provided safety equipment as needed.

(e) *Work-related injuries.* Inmates must work safely, using safety equipment as instructed by the work

supervisor. If an inmate has a work-related injury, he/she must notify the work supervisor so that appropriate action (for example, medical attention, and submission of necessary reports) may be taken.

#### **§ 545.24 Eligibility for performance pay.**

(a) *Performance pay for accomplishments.* An inmate may receive performance pay for accomplishments in one or more of the following areas:

(1) Institution work assignment;

(2) Literacy program (GED) participation;

(3) Apprenticeship training; and

(4) Vocational training courses (approved by the Bureau as certified vocational training).

(b) *Calculating amount of performance pay to be awarded.* (1) *Date of work/program assignment.* An inmate is eligible for performance pay from the date of work or program assignment for each month that the inmate's performance justifies such payment.

(2) *Portion of month worked.* An inmate may receive performance pay only for that portion of the month that the inmate was working. Performance pay may not be awarded retroactively.

(3) *Hours worked.* An inmate is eligible to receive performance pay only for those hours during which the inmate is actually performing satisfactory work or actively participating in an education or vocational training program.

(4) *Absences.* Absences from an inmate's scheduled assignment for such reasons as call-outs, visits, sick call, interviews, or making telephone calls, will be deducted from the monthly number of hours worked and will accordingly reduce the amount of pay received by the inmate.

(5) *Vesting.* An inmate's performance pay, once earned, becomes vested.

(6) *Notification.* Each inmate in performance pay status shall be notified of monthly earnings.

(c) *Exceptions to eligibility for performance pay—*(1) *Refusal to participate in the financial responsibility program.* An inmate who refuses to participate in the financial responsibility program will not ordinarily receive performance pay above the maintenance pay level, or bonus pay, or vacation pay in accordance with 28 CFR part 545, subpart B.

(d) *Failure to comply with requirements of the drug abuse education course.* An inmate who refuses participation, withdraws, is expelled, or otherwise fails attendance or examination requirements of the drug

abuse education course or the RDAP is subject to the limitations specified in § 550.51(e) or § 550.53(g) of this chapter.

(e) *Commission of a level 100 or 200 series drug- or alcohol-related prohibited act.* Inmates receiving performance pay who are found through the disciplinary process (Part 541 of this subchapter) to have committed a level 100 or 200 series drug- or alcohol-related prohibited act will automatically have their performance pay reduced to maintenance pay level and will be removed from any assigned work detail outside the secure perimeter of the institution. This reduction to maintenance pay level will ordinarily remain in effect for one year, unless otherwise authorized by the Warden or designee.

#### **§ 545.25 Work evaluation.**

(a) *When work will be evaluated:* The work detail/program supervisor will evaluate each inmate at a minimum of every six months.

(b) *What work will be evaluated:* The evaluation will be based on only those hours during which the inmate actively participated in a work assignment or an education/vocational program.

(c) *How work will be evaluated:* The work detail/program supervisor will rate the inmate's performance in each of several categories, including, but not limited to the following: quality and quantity of work, initiative, ability to learn, dependability, response to supervision and instruction, safety and care of equipment, ability to work with others, and overall job proficiency.

#### **§ 541.26 Bonus pay.**

(a) *Bonus pay.* If the supervisor determines that an inmate has made exceptional accomplishments or appreciably contributed to the work assignment, the supervisor may recommend that the inmate receive bonus pay.

(b) *Special bonus pay.* An inmate may be recommended to receive special bonus pay based on exceptional work in a temporary job assignment if the assignment was previously identified by the Warden or designee, and approved by the Regional Director, as critical to the institution.

#### **§ 545.27 Inmate vacations.**

(a) *Eligibility for a vacation:* If an inmate has worked full-time for 12 consecutive months on an institution work assignment, and the work supervisor so recommends, the inmate may take a five-day paid vacation at the inmate's prevailing hourly rate.

(b) *Accumulation of vacation credit.* The Warden or designee may authorize

an inmate to accumulate vacation credit when:

(1) The inmate is transferred to another institution for the benefit of the government or because of the inmate's favorable adjustment (custody reduction); or

(2) The inmate is placed in a new work assignment in the institution for the benefit of the government or institution, rather than solely at the inmate's request or because of the inmate's poor performance or adverse behavior.

#### **§ 545.28 Achievement awards.**

Inmates may receive achievement awards in the following manner:

(a) *Education program completion.* With prior approval of the Education Department, each inmate who completes the Literacy program, Vocational Training, or related trades classroom work that is part of a certified apprenticeship program may be granted an achievement award from performance pay funds.

(b) *Drug treatment satisfactory progress/completion.* With prior approval of the Psychology Services Department, each inmate who is making satisfactory progress or completes a residential drug treatment program may also be granted an achievement award from performance pay funds.

#### **§ 545.29 Special awards.**

Inmates who perform exceptional services not ordinarily a part of the inmate's regular assignment may be granted a special award regardless of the inmate's work or program status. The special award may be in the form of a monetary payment in addition to any other award (e.g., extra good time) given.

#### **§ 545.30 Funds due deceased inmates.**

If performance pay is due to a deceased inmate for work performed and not yet paid, the Bureau will make the payment to a legal representative of the inmate's estate or in accordance with the laws of descent and distribution of the state of domicile (most recent legal residence).

[FR Doc. 2010-3902 Filed 3-2-10; 8:45 am]

**BILLING CODE 4410-05-P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **32 CFR Part 157**

[DoD-2008-OS-0075; RIN 0790-AI33]

#### **Reduction of Use of Social Security Numbers (SSN) in the Department of Defense (DoD)**

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes policy and assigns responsibilities for social security number (SSN) reduction in DoD. It incorporates Office of the Under Secretary of Defense for Personnel and Readiness Directive-type Memorandum titled "DoD Social Security Number (SSN) Reduction Plan."

**DATES:** Comments must be received by May 3, 2010.

**ADDRESSES:** You may submit comments, identified by docket number and/or the Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Andrew Uscher, 703-696-0109.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866, "Regulatory Planning and Review"**

It has been certified that 32 CFR part 157 does not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribunal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### **Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been certified that 32 CFR part 157 does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year.

#### **Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that 32 CFR part 157 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule establishes policy and assigns responsibilities for SSN reduction in DoD.

#### **Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been certified that 32 CFR part 157 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

#### **Executive Order 13132, "Federalism"**

It has been certified that 32 CFR part 157 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

#### **List of Subjects in 32 CFR Part 157**

Privacy, Security measures, Social Security numbers.

Accordingly, 32 CFR part 157 is proposed to be added to read as follows:

#### **PART 157—REDUCTION OF USE OF SOCIAL SECURITY NUMBERS (SSN) IN THE DEPARTMENT OF DEFENSE (DOD)**

Sec.

- 157.1 Purpose.
- 157.2 Applicability.
- 157.3 Definitions.
- 157.4 Policy.
- 157.5 Responsibilities.
- 157.6. Guidance on the use of the SSN by the DoD.
- 157.7. DoD SSN reduction in forms and systems.
- 157.8. Approval for use of the SSN.
- 157.9 Information requirements.