

are intended for use in organ transplantation and labeled "For use in organ transplantation only."

\* \* \* \* \*

5. Section 121.7 is amended by redesignating paragraph (e) as paragraph (f) and by adding paragraph (e) to read as follows:

**§ 121.7 Identification of organ recipient.**

\* \* \* \* \*

(e) *Blood vessels considered part of an organ.* A blood vessel that is considered part of an organ under this part shall be subject to the allocation requirements and policies pertaining to the organ with which the blood vessel is procured until and unless the transplant center receiving the organ determines that the blood vessel is not needed for the transplantation of that organ.

\* \* \* \* \*

Dated: April 10, 2006.

**Elizabeth M. Duke,**  
*Administrator, Health Resources and Services and Administration.*

Dated: February 8, 2006.

**Jeffrey Shuren,**  
*Assistant Commissioner for Policy, Food and Drug Administration.*

[FR Doc. 06-4370 Filed 5-11-06; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 551

[BOP Docket No. 1140-P]

RIN 1120-AB42

#### Smoking/No Smoking Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to revise regulations pertaining to smoking/no smoking for inmates in Bureau facilities. The revised regulations indicate that smoking is generally prohibited in and on the grounds of Bureau institutions and offices, with the following two exceptions: Smoking is permitted as part of an authorized inmate religious activity; and, for Bureau staff and official visitors, smoking is permitted only in smoking areas designated by the Warden. This rule also clarifies that possession of smoking apparatus and tobacco in any form is prohibited for inmates, unless as part of an authorized inmate religious activity. Smoking is defined as inhaling the smoke of any substance through the use of smoking

apparatus including, but not limited to, cigars, cigarettes, or pipes. We intend this amendment to promote a clean air environment and to protect the health and safety of staff and inmates.

**DATES:** Comments due by July 11, 2006.

**ADDRESSES:** Our e-mail address is [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV). 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 [www.regulations.gov](http://www.regulations.gov). You may also comment via the Internet to BOP 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:** In this document, the Bureau proposes to revise regulations pertaining to smoking/no smoking for inmates in Bureau facilities. The revised regulations indicate that smoking is generally prohibited in and on the grounds of Bureau institutions and offices, with the following two exceptions: Smoking is permitted as part of an authorized inmate religious activity; and, for Bureau staff and official visitors, smoking is permitted only in smoking areas designated by the Warden. This rule also clarifies that possession of smoking apparatus and tobacco in any form is prohibited for inmates, unless as part of an authorized inmate religious activity. Smoking is defined as inhaling the smoke of any substance through the use of smoking apparatus including, but not limited to, cigars, cigarettes, or pipes. We intend this amendment to promote a clean air environment and to protect the health and safety of staff and inmates.

A final rule was published on this subject on March 24, 2004 (69 FR 13735), after publication of a proposed rule on November 25, 1998 (63 FR 65502), and a modification on May 6, 1999 (64 FR 24468). The 2004 final rule prohibited indoor smoking areas for general inmate use, but allowed Wardens to designate outdoor smoking areas for general inmate use.

Several comments to the proposed rule and modification objected to allowing even outdoor smoking areas for inmates. These commenters instead proposed a total ban on the possession and use of lighted tobacco products for all prisoners. The commenters

expressed dissatisfaction with the enforcement of the then-current smoking policy. Also, commenters expressed a general belief that prohibiting indoor smoking within Bureau facilities would have little impact on reducing smoking and improving the air quality. Two commenters on the original proposed rule also suggested that all tobacco products be banned and no tobacco products be sold in federal prisons.

As stated in the 2004 final rule document, the Bureau does not believe that removing tobacco products from the institution's commissary will have a significant economic impact as defined by the controlling statutes noted below. While there may be some impact on commissary profits, the Bureau believes that the health benefits outweigh any potential drop in such profits.

Also, when the 2004 regulations were implemented, Bureau policy mandated smoking cessation programs for inmates at all institutions to help ease inmate concerns about the possibility of no smoking areas. Nicotine patches are now available at the inmate's expense through commissary purchase.

In consideration of the concerns raised by these commenters and to further strengthen the Bureau's intention to protect the health and safety of both staff and inmates, we propose to revise the Bureau's smoking regulations to indicate that smoking is generally prohibited in and on the grounds of Bureau institutions and offices, with the following two exceptions: Smoking is permitted as part of an authorized inmate religious activity; and, for Bureau staff and official visitors, smoking is permitted only in smoking areas designated by the Warden.

Also in consideration of the commenters' concerns, this rule will prohibit inmate possession of smoking apparatus and tobacco in any form, unless as part of an authorized inmate religious activity.

The hazards associated with tobacco smoke and second-hand inhalation of smoke by nonsmokers is well documented and the known health risks associated with smoking support implementation of stricter smoking/no smoking rules. The Bureau believes that prohibiting smoking, including inmate possession of smoking apparatus and tobacco in any form, with only limited exceptions for authorized inmate religious activity and for Bureau staff and official visitors, designated smoking areas is the most practicable step toward promoting a clean air environment and protecting the health and safety of staff and inmates.

**Executive Order 12866**

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

**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, in accordance with Executive Order 13132, 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.

**List of Subjects in 28 CFR Part 551**

Prisoners.

**Harley G. Lappin,**

*Director, 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 551 as set forth below.

**Subchapter C—Institutional Management****PART 551—MISCELLANEOUS**

1. The authority citation for 28 CFR 551 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed 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; Pub. L. 99–500 (sec. 209); Attorney General's May 1, 1995 Guidelines for Victim and Witness Assistance.

2. Revise subpart N to read as follows:

**Subpart N—Smoking/No Smoking Areas**

Sec.

- 551.160 Purpose and Scope.
- 551.161 Definitions.
- 551.162 Smoking Generally Prohibited.
- 551.163 Possession of Smoking Apparatus and Tobacco Prohibited.

**§ 551.160 Purpose and Scope.**

To advance towards becoming a clean air environment and to protect the health and safety of staff and inmates, the Bureau of Prisons will restrict areas and circumstances where smoking is permitted within its institutions and offices.

**§ 551.161 Definitions.**

For the purposes of this subpart, *smoking* is defined as inhaling the smoke of any substance through the use of smoking apparatus including, but not limited to, cigars, cigarettes, or pipes.

**§ 551.162 Smoking Generally Prohibited.**

Smoking is generally prohibited in and on the grounds of Bureau institutions and offices, with the following two exceptions:

- (a) Smoking is permitted as part of an authorized inmate religious activity; and
- (b) For Bureau staff and official visitors, smoking is permitted only in smoking areas designated by the Warden.

**§ 551.163 Possession of Smoking Apparatus and Tobacco Prohibited.**

Possession of smoking apparatus and tobacco in any form is prohibited for inmates, unless as part of an authorized inmate religious activity.

[FR Doc. E6–7237 Filed 5–11–06; 8:45 am]

BILLING CODE 4410–05–P

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Part 1253**

RIN 3095–AB50

**NARA Facility Locations and Hours**

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Proposed rule.

**SUMMARY:** NARA proposes to revise its regulations on the locations and hours of NARA facilities to reflect the relocation of two facilities in the past fiscal year. This proposed rule will affect the public.

**DATES:** Comments are due by June 12, 2006.

**ADDRESSES:** NARA invites interested persons to submit comments on this proposed rule. Please include "Attn: RIN 3095–AB50" and your name and mailing address in your comments. Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: Submit comments by facsimile transmission to 301–837–0319.
- Mail: Send comments to Regulations Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.
- Hand Delivery or Courier: Deliver comments to 8601 Adelphi Road, College Park, MD.

**FOR FURTHER INFORMATION CONTACT:**

Laura McCarthy at 301–837–3023 or fax number 301–837–0319.

**SUPPLEMENTARY INFORMATION:** The NARA—Southeast Region (Atlanta) records center relocated from East Point, Georgia, to Ellenwood, Georgia. The hours of the facility are Monday through Friday, 7:30 a.m. to 3 p.m. The NARA—Pacific Region (Riverside) records center moved from Laguna Niguel, California, to Riverside, California; the hours at this facility are Monday through Friday, 8:45 a.m. to 3 p.m. for scheduled appointments.

This proposed rule is not a significant regulatory action for the purposes of