

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

28 CFR Part 345

[BOP-1062-P]

RIN 1120-AA57

Federal Prison Industries (FPI) Inmate Work Programs: Eligibility

AGENCY: Federal Prison Industries, Inc., Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to limit from consideration for Federal Prison Industries (FPI) work assignments pretrial inmates or any inmate currently under an order for deportation or removal. In addition, any pretrial inmate or inmate in an FPI work assignment currently under a deportation or removal order shall be removed immediately and shall be reassigned to a non-FPI work assignment for which the inmate is eligible. This amendment is intended to help ensure that FPI work assignments ordinarily will be allocated to sentenced inmates who will be returning to the community within, rather than outside, the United States upon release.

DATES: Comments due by June 30, 1997.

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, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on Federal Prison Industries (FPI) inmate work assignments. A final rule on this subject was published in the **Federal Register** on March 27, 1995 (60 FR 15826) and was amended on November 20, 1996 (61 FR 59168).

Pursuant to statutory authority, it is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work (104 Stat. 4914). FPI is further required by statute to provide work assignments for inmates (18 U.S.C. 4122). These work assignments are designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits

which will be useful when released from the institution (see 28 CFR 345.10).

In order to ensure that sentenced inmates releasing in the United States will be afforded opportunities to work in FPI assignments, FPI is proposing to restrict from consideration for FPI assignment pretrial inmates and inmates currently under an order for deportation or removal, and to remove from an FPI assignment any pretrial inmate or inmate currently under a deportation or removal order. In keeping with the policy that convicted inmates shall work, any inmate so removed would be reassigned to a non-FPI work assignment for which the inmate is eligible. While a pretrial inmate is not required to work in any assignment other than housekeeping tasks in the inmate's own cell and in the community living area, the pretrial inmate may be eligible for an institutional assignment if the inmate signs a waiver of his or her right not to work (see 28 CFR 551.106).

Section 345.11 is therefore amended by adding a new paragraph (g) to reference the definition of "pretrial inmate." Sections 345.35 and 345.42 are amended to incorporate the above mentioned assignment and dismissal procedures.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. 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 (5 U.S.C. 601 *et seq.*), does not have a significant impact on a substantial number of small entities. Because 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, its economic impact is limited to the Bureau's appropriated funds.

Interested persons may participate in this proposed 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. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light

of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 345

Inventions and patents, Prisoners, Scholarships and fellowships, Wages.

Kathleen M. Hawk,

*Director, Bureau of Prisons, and
Commissioner of Federal Prison Industries.*

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 and the Board of Directors, Federal Prison Industries in 28 CFR 0.96(p) and 0.99, part 345 in chapter III of 28 CFR is proposed to be amended as set forth below.

PART 345—FEDERAL PRISON INDUSTRIES (FPI) INMATE WORK PROGRAMS

1. The authority citation for 28 CFR part 345 continues to read as follows:

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

2. In § 345.11, paragraph (g) is added to read as follows:

§ 354.11 Definitions.

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(g) *Pretrial inmate*—The definition of pretrial inmate in 28 CFR 551.101(a) is applicable to this part.

3. In § 345.35, paragraph (a) is revised to read as follows:

§ 345.35 Assignments to FPI.

(a) An inmate may be considered for assignment with FPI unless the inmate is a pretrial inmate or is currently under an order for deportation or removal. Any request by an inmate for consideration must be made through the unit team. FPI does not discriminate on the bases of race, color, religion, ethnic origin, age, or disability.

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4. In § 345.42, paragraph (d) is added to read as follows:

§ 345.42 Inmate worker dismissal.

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(d) Any inmate who is a pretrial inmate or who is currently under an order for deportation or removal shall be removed from any FPI work assignment and reassigned to a non-FPI work assignment for which the inmate is eligible.

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