

and housing. Inmates with infectious diseases that are transmitted through casual contact will be prohibited from work assignments in any area, until fully evaluated by a health care provider.

(b) Inmates may be limited in programming, duty, and housing when their infectious disease is transmitted through casual contact. The Warden, in consultation with the CD, may exclude inmates, on a case-by-case basis, from work assignments based upon the security and good order of the institution.

(c) If an inmate tests positive for an infectious disease, that test alone does not constitute sole grounds for disciplinary action. Disciplinary action may be considered when coupled with a secondary action that could lead to transmission of an infectious agent. Inmates testing positive for infectious disease are subject to the same disciplinary policy that applies to all inmates (*see* 28 CFR part 541, subpart B). Except as provided for in our disciplinary policy, no special or separate housing units may be established for HIV-positive inmates.

#### **§ 549.14 Confidentiality of information.**

Any disclosure of test results or medical information is made in accordance with:

(a) The Privacy Act of 1974, under which the Bureau publishes routine uses of such information in the Department of Justice Privacy Act System of Records Notice entitled "Inmate Physical and Mental Health Record System, JUSTICE/BOP-007"; and

(b) The Correction Officers Health and Safety Act of 1998 (codified at 18 U.S.C. 4014), which provides that test results must be communicated to a person requesting the test, the person tested, and, if the results of the test indicate the presence of HIV, to correctional facility personnel consistent with Bureau policy.

#### **§ 549.15 Infectious disease training and preventive measures.**

(a) The HSA will ensure that a qualified health care professional provides training, incorporating a question-and-answer session, about infectious diseases to all newly committed inmates, during Admission and Orientation.

(b) Inmates in work assignments which staff determine to present the potential for occupational exposure to blood or infectious body fluids will receive annual training on prevention of

work-related exposures and will be offered vaccination for Hepatitis B.

[FR Doc. 05-10042 Filed 5-19-05; 8:45 am]

BILLING CODE 4410-05-P

## **DEPARTMENT OF JUSTICE**

### **Bureau of Prisons**

#### **28 CFR Part 549**

[BOP-1129-F]

RIN 1120-AB29

#### **Over-The-Counter (OTC) Medications: Technical Correction**

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

**ACTION:** Final rule.

**SUMMARY:** This document finalizes a minor technical correction to the Bureau of Prisons (Bureau) regulations on Over-The-Counter (OTC) medications. Previously, our rule defined an inmate without funds as one who has had an average daily trust fund account balance of less than \$6.00 for the past 30 days. The words "average daily" in that definition resulted in incorrect classifications by the Bureau's business offices. The more accurate definition of an inmate without funds is one who has not had a trust fund account balance of \$6.00 for the past 30 days. We therefore issue this technical correction.

**DATES:** This rule is effective June 20, 2005.

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. Our email address is [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV).

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

**SUPPLEMENTARY INFORMATION:** We amend our regulations on Over-The-Counter (OTC) medications (28 CFR part 549, subpart B). We published a final rule on this subject in the **Federal Register** on August 12, 2003 (68 FR 47847), and this correction as an interim final rule on September 3, 2004 (69 FR 53804). We received no comments on the interim final rule, and therefore publish it as final without change.

Previously, our rule defined an inmate without funds as one who has had an average daily trust fund account balance of less than \$6.00 for the past 30 days. The words "average daily" in that definition resulted in incorrect classifications by the Bureau's business offices. The more accurate definition of an inmate without funds is one who has

not had a trust fund account balance of \$6.00 for the past 30 days. We therefore issue this technical correction.

#### **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. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare 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. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about 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 cause State, local and tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under 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 549

Prisoners.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

[FR Doc. 05-10044 Filed 5-19-05; 8:45 am]

BILLING CODE 4410-05-P

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 571

[BOP-1108-F]

RIN 1120-AB21

#### Clarifying of Release Gratuities— Release Transportation Regulations to More Closely Conform to Statutory Provisions

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

**ACTION:** Final rule.

**SUMMARY:** This document finalizes an interim rule which made a minor clarifying change to the Bureau of Prisons (Bureau) regulations on release gratuities, transportation, and clothing. The rule clarified that the Bureau is authorized, upon an inmate's release, to provide transportation to an inmate's place of conviction or his/her legal residence only within the United States, under 18 U.S.C. 3624(d)(3).

**DATES:** This rule is effective on June 20, 2005

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

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

**SUPPLEMENTARY INFORMATION:** We published this rule as an interim final rule on June 9, 2003 (68 FR 34301). We received no comments on this rule. We therefore finalize it without change.

Previously, 28 CFR 571.22 (c) stated that "[t]ransportation will be provided to an inmate's place of conviction, his legal residence within the United States, or to other such place as authorized and approved." However, 18 U.S.C. 3624(d)(3) allows only for "transportation to the place of the prisoner's conviction, to the prisoner's bona fide residence *within the United States*, or to such other place *within the United States* as may be authorized by the Director."

This rule revises the former rule only to the extent that it appeared to conflict

with the Bureau's statutory authority. The new 28 CFR 571.22(c) correctly states that "[t]ransportation will be provided to an inmate's place of conviction or legal residence within the United States or its territories."

#### 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, 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 571

Prisoners.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we adopt as final the interim rule published on June 9, 2003 (68 FR 34301), without change.

[FR Doc. 05-10045 Filed 5-19-05; 8:45 am]

BILLING CODE 4410-05-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD 07-05-012]

RIN 1625-AA08

#### Special Local Regulations: Annual Fort Myers Beach Air Show, Fort Myers Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent special local regulations for the Fort Myers Beach Air Show, Fort Myers Beach, Florida. This event will be held annually on the second consecutive Friday, Saturday, and Sunday of May between 8:30 a.m. and 4:30 p.m. EDT (eastern daylight time). This regulation is needed to restrict persons and vessels from entering the sterile zone (air box) below the aerial demonstration and restrict vessels from mooring/anchoring or transiting within the surrounding regulated area with the exception of the Matanzas Pass Channel. This rule is necessary to ensure the safety of life for the participating aircraft, spectators, and mariners in the area on the navigable waters of the United States.

**DATES:** This rule is effective May 20, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD 07-05-012] and are available for inspection or copying at