

**DEPARTMENT OF JUSTICE****Bureau of Prisons****28 CFR Parts 506 and 540****[BOP-1091-P]****RIN 1120-AA86****Inmate Commissary Account Deposit Procedures****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons is proposing to amend its regulations on how an inmate may receive funds from family, friends, and other sources. Under current regulation, funds intended for any inmate's use are included in correspondence sent to the inmate or left with staff as part of visiting. Staff at the institution arrange for the deposit of these funds into the inmate's account. Under the proposed regulations, funds from family, friends, or other sources will no longer be sent to the inmate but will instead be sent directly to a centralized inmate commissary account in the form of a money order for receipt and posting. Any funds sent by family or friends to the inmate's location will not be accepted and will be rejected and returned to the sender provided there is an adequate return address. This amendment is intended to provide for the more efficient processing of inmate funds.

**DATES:** Comments due by June 22, 1999.**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, phone (202) 514-6655.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is proposing to add new regulations (28 CFR part 506) pertaining to inmate deposits and to make conforming amendments to its regulation on inmate correspondence (28 CFR 540.23). The current provisions in § 540.23 were published in the **Federal Register** on October 1, 1985 (50 FR 40109).

Current provisions on general correspondence allow an inmate, upon completing the appropriate form, to receive funds through the mail from family or friends or, upon approval of the Warden, from other persons for crediting to the inmate's trust fund account. Current provisions on visiting provide that the Warden may allow a visitor to leave money with a designated

staff member for deposit in the inmate's commissary account. Institution staff are responsible for processing these funds. The Bureau is proposing that all inmate funds from family and friends be sent directly to a centralized inmate commissary account. The deposit must be in the form of a money order and the envelope must not contain any enclosures intended for delivery to the inmate as any enclosure is subject to disposal. Personal checks are not acceptable, but will be returned provided the check has adequate return address information. Funds received from other sources such as tax refunds, dividends from stocks, or state benefits will be forwarded for deposit to the centralized inmate commissary account.

The Bureau currently manages its inmate accounting functions in a completely de-centralized fashion. Each institution operates separately and distinctly from one another, although each is performing virtually identical functions. For example, posting mail room collections to inmate accounts, making daily trips to the bank to deposit collections, establishing inmate accounts each time an inmate arrives at their current location, and transferring funds between institutions. The Bureau believes that having a centralized inmate commissary account will benefit the inmate by allowing them immediate access to their funds. Also, the centralized inmate commissary account will eliminate redundant work efforts, allow institutions complete access to detailed inmate account history, remove personal liability from institution staff related to handling of inmate funds, and enhance Bureau security by allowing centralized reporting and comparisons of sources of incoming funds and destination of outgoing funds across all institutions. The tremendous growth of the number of Bureau facilities coupled with new computer networking technology have made the current method of managing inmate funds outdated, inefficient, and costly.

The Bureau will test deposit procedures under a centralized inmate commissary account at a limited number of institutions. The inmates at the institutions selected for the test project will be notified individually of the procedures to follow and will be provided assistance in notifying family and friends of these same procedures. Information gathered from the test project will be used in conjunction with comments received from the public in evaluating any final rule.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General

Counsel, 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.

**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, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534, 202-514-6655.

**List of Subjects in 28 CFR Parts 506 and 540**

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(o), a new part 506 is proposed to be added to 28 CFR, chapter V, subchapter A, and part 540 in 28 CFR, chapter V, subchapter C is proposed to be amended as set forth below.

**SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION**

1. Part 506 is added to read as follows:

**PART 506—INMATE COMMISSARY ACCOUNT**

Sec.

506.1 Background.

506.2 Deposit procedures.

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part 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; 31 U.S.C. 1321; 28 CFR 0.95-0.99.

**§ 506.1 Background.**

The Bureau operates individual inmate commissary accounts to maintain inmates' monies while they are incarcerated. Deposits to the account may be made by family or friends, and for funds received from other sources.

**§ 506.2 Deposit procedures.**

(a) *Funds deposited by family and friends.* Deposits by family and friends must be mailed to the centralized inmate commissary account at the address provided by the Bureau and must be in the form of a money order.

(1) The deposit envelope must not contain any enclosures intended for delivery to the inmate. Any enclosure is subject to disposal.

(2) The deposit must be in the form of a money order made out to the inmate's full name and complete register number. Checks are to be returned to the sender provided the check contains an adequate return address.

(b) *Funds received from other sources.* Funds received from other sources in correspondence addressed to the inmate (for example, tax refunds, royalties from books, dividends from stocks, state benefits) are to be forwarded for deposit

to the centralized inmate commissary account.

**SUBCHAPTER C—INSTITUTIONAL MANAGEMENT****PART 540—CONTACT WITH PERSONS IN THE COMMUNITY**

1. The authority citation for 28 CFR part 540 continues to read as follows:

**Authority:** 5 U.S.C. 301, 551, 552A, 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part 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; 28 CFR 0.95-0.99.

2. Section 540.23, is revised to read as follows:

**§ 540.23 Inmate funds received through the mails.**

Except as provided for in part 506 of this chapter, funds enclosed in inmate correspondence are to be rejected. Deposits intended for the inmate's commissary account must be mailed directly to the centralized commissary account (see 28 CFR part 506).

3. In § 540.51 paragraph (g)(3) is revised to read as follows:

**§ 540.51 Procedures.**

\* \* \* \* \*

(g) \* \* \*

(3) The visiting room officer may not accept articles or gifts of any kind for an inmate, except packages which have had prior approval by the Warden or a designated staff member.

\* \* \* \* \*

[FR Doc. 99-10207 Filed 4-22-99; 8:45 am]

BILLING CODE 4410-05-P