SUMMARY: This document contains final regulations relating to the earned income credit. The regulations reflect changes in the law since the existing regulations were published in the **Federal Register** on March 13, 1980. Due to subsequent statutory changes in the applicable tax law, substantial portions of the regulations are no longer in conformity with current law. Accordingly, portions of the existing regulations are removed. These regulations apply to individual taxpayers claiming the earned income credit.

DATES: *Effective Date:* These regulations are effective March 6, 2003.

FOR FURTHER INFORMATION CONTACT: Shoshanna Tanner at (202) 622–6080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 32 of the Internal Revenue Code (Code). Section 32 allows a refundable credit to low-income taxpayers who meet certain income and eligibility requirements. Section 43 (the predecessor of section 32) was added to the Code by the Tax Reduction Act of 1975 (Pub. L. 94–12, 89 Stat. 26) and made permanent by the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2763). Final regulations (TD 7683) under section 43 were published in the **Federal Register** (45 FR 16174) on March 13, 1980. Section 43 was redesignated as section 32 by the Tax Reform Act of 1984 (Pub. L. 98–369, 98 Stat. 494). Section 1.43–2 was redesignated as § 1.32–2 in Treasury Decision 8448 (57 FR 54919) on November 23, 1992.

Section 1.32–2(b)(2) of the existing regulations refers to section 143 for an explanation of the term ''married individual''. The provisions of section 143 were reenacted as section 7703 by the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2085).

In addition, portions of the existing regulations are inconsistent with changes made by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, 104 Stat. 1388), the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16, 115 Stat. 38), and various other legislative enactments.

Explanation of Provisions

To comport with the redesignation of section 43 to section 32 and §§ 1.43–2 to 1.32–2, these final regulations replace references to section 43 with references to section 32. Similarly, these regulations replace the references to section 143 in § 1.32–2(b)(2) with references to section 7703. These regulations also remove the inconsistent provisions in the existing regulations.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f), these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Shoshanna Tanner of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Department of Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—INCOME TAXES

1. The authority for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

2. Section 1.32–2 is amended as follows:

1. Paragraphs (a), (b)(1), (c)(1), and (d) are removed and reserved.

2. Paragraphs (b)(2), (b)(3), (c)(2), and (e)(2) are revised.

The revisions read as follows:

§ 1.32–2 Earned income credit for taxable years beginning after December 31, 1978.

(a) [Reserved].

(b) * * * (1) [Reserved].

(2) *Married individuals.* No credit is allowed by section 32 in the case of an eligible individual who is married (within the meaning of section 7703 and the regulations thereunder) unless the individual and spouse file a single return jointly (a joint return) for the taxable year (see section 6013 and the regulations thereunder relating to joint returns of income tax by husband and wife). The requirements of the preceding sentence do not apply to an eligible individual who is not considered as married under section 7703(b) and the regulations thereunder (relating to certain married individuals living apart).

(3) *Length of taxable year.* No credit is allowed by section 32 in the case of a taxable year covering a period of less than 12 months. However, the rule of the preceding sentence does not apply to a taxable year closed by reason of the death of the eligible individual.

(c) * * * (1) [Reserved].

(2) *Earned income.* For purposes of this section, earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension, an annuity, unemployment compensation, or workmen's compensation, or an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business).

(d) [Reserved].

(e) * * * (1) * * *.

(2) *Reconciliation of payments advanced and credit allowed.* Any additional amount of tax under paragraph (e)(1) of this section is not treated as a tax imposed by chapter 1 of the Internal Revenue Code for purposes of determining the amount of any credit (other than the earned income credit) allowable under part IV, subchapter A, chapter 1 of the Internal Revenue Code.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: February 11, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–5339 Filed 3–5–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP–1082–F]

RIN 1120–AA77

Visiting Regulations: Prior Relationship

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) amends its visiting regulations to require that regular visiting privileges at all institutions ordinarily will be extended to friends and associates only when the relationship had been established prior to confinement. This requirement currently applies to visiting at Medium Security Level, High Security Level, and Administrative institutions, but not at Low and Minimum Security Level institutions. The purpose of this revision is to provide for uniformity of visiting procedures for all security levels and to maintain the security and good order of the institution while continuing to afford inmates with reasonable and equitable access to visiting. Because the prior relationship requirement is to apply to regular visitors, we also clarify the distinction between regular and special visitors.

EFFECTIVE DATE: April 7, 2003.

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: The Bureau amends its regulations on visiting (28 CFR part 540, subpart D). We published a proposed rule on this subject on May 18, 1999 (64 FR 27166).

Why Is the Bureau Revising the Visiting Regulations?

As part of a general review of security measures at Bureau institutions, this revision is to provide for uniformity of visiting procedures for all security levels and to maintain the security and good order of the institution while continuing to afford inmates with reasonable and equitable access to visiting. The heightened security measures were deemed necessary to better ensure that inmates do not abuse visiting privileges or use them to further criminal activity.

Who Is Affected by the Changes Made to the Visiting Regulations?

Inmates currently confined at low or minimum security level facilities and any visitor for such inmate who did not have a relationship with the inmate prior to the inmate's incarceration are affected by this change. As of January 31, 2000, nearly 58,700 federal inmates (49% of the total inmate population) are housed in low or minimum security level facilities.

Summary of Comments Received and Agency Response

The Bureau received comments from six respondents. Three commenters expressed concerns about the impact on family visits (for example, children born after the inmate was incarcerated and new extended family members). In response, the Bureau notes that the prior relationship requirement pertains to friends and associates (28 CFR 540.44(c)). The prior relationship requirement does not apply to immediate family members (28 CFR 540.44(a)) and other relatives (28 CFR 540.44(b)).

One commenter believed that the policy could be easily circumvented if the proposed visitors were willing to lie about the prior relationship. The Bureau believes that visitors would be ill-advised to make false statements as certain federal penalties apply.

One commenter believes the proposed rule is biased and discourages the inmate from making new friends or associates while in prison. This commenter believes that if a visitor has no criminal record and poses no security threat to the institution that they should not be prohibited from visiting.

The purpose of the amendment is to maintain the security and good order of Bureau institutions. In accordance with our security review the Bureau believes it is necessary to standardize the prior relationship requirement at all security levels. Existing provisions still provide for exceptions to the prior relationship rule. The inmate retains access to new friends and associates through correspondence and the telephone.

Another commenter believes there is no problem with current visiting regulations and that the proposed rule lacks specificity, does not provide guidance to staff for administering the regulation, and will lead to a lack of uniformity among institutions. As noted above, the Bureau believes that for security reasons it is necessary to extend the prior relationship provision to all Bureau institutions. The Bureau must rely upon the Warden's correctional judgment in making determinations for exceptions to the prior relationship requirement.

The final commenter believes the current background information provided by visitors or an NCIC check is sufficient to protect the Bureau's interests and that the prior relationship requirement be removed for medium security and above institutions. This commenter states that the Bureau already has in place a procedure to restrict an inmate's visiting privileges and/or a visitor's ability to visit based on penological concerns and that further restrictions are not necessary. The Bureau assumes that the commenter is referring to the Bureau's discipline procedure (see 28 CFR part 541) when he states that the Bureau already has in place a procedure to restrict an inmate's visiting privileges. The Bureau believes that taking action after the fact does not sufficiently address the threat to the orderly operation of the visiting room. The Bureau believes, furthermore, that the prior relationship requirement serves a legitimate penological purpose at all security levels, and that it is necessary to extend the prior relationship requirement to minimum and low security level facilities. In extending the restrictions, the Bureau has chosen to retain the Warden's discretion to make exceptions to the prior relationship requirement.

After due consideration of the comments received, the Bureau is adopting the proposed rule as final without change. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

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 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.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Sarah Qureshi, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 307–2105.

List of Subjects in 28 CFR Part 540

Prisoners.

Kathleen Hawk Sawyer,

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 amend 28 CFR part 540 as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. Revise the authority citation for 28 CFR part 540 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, 510.

2. Revise the introductory text and paragraph (c) of § 540.44 to read as follows:

§ 540.44 Qualification as regular visitor.

An inmate desiring to have regular visitors must submit a list of proposed visitors to the designated staff. See § 540.45 for qualification as special visitor. Staff are to compile a visiting list for each inmate after suitable investigation in accordance with § 540.51(b) of this part. The list may include:

* * * * *

(c) *Friends and associates.* The visiting privilege ordinarily will be extended to friends and associates having an established relationship with the inmate prior to confinement, unless such visits could reasonably create a threat to the security and good order of the institution. Exceptions to the prior relationship rule may be made, particularly for inmates without other visitors, when it is shown that the proposed visitor is reliable and poses no threat to the security or good order of the institution.

* * * * *

3. Revise § 540.45 to read as follows:

§ 540.45 Qualification as special visitor.

Persons in the categories listed in this section may qualify as special visitors rather than as regular visitors. Visits by special visitors ordinarily are for a specific purpose and ordinarily are not of a recurring nature. Except as specified, the conditions of visiting for special visitors are the same as for regular visitors.

(a) *Business visitor.* Except for pretrial inmates, an inmate is not permitted to engage actively in a business or profession. An inmate who was engaged in a business or profession prior to commitment is expected to assign authority for the operation of such business or profession to a person in the community.

Pretrial inmates may be allowed special visitors for the purpose of protecting the pretrial inmate's business interests. In those instances where an inmate has turned over the operation of a business or profession to another person, there still may be an occasion where a decision must be made which will substantially affect the assets or prospects of the business. The Warden accordingly may permit a special business visit in such cases. The Warden may waive the requirement for the existence of an established relationship prior to confinement for visitors approved under this paragraph.

(b) *Consular visitors.* When it has been determined that an inmate is a citizen of a foreign country, the Warden must permit the consular representative of that country to visit on matters of legitimate business. The Warden may not withhold this privilege even though the inmate is in disciplinary status. The requirement for the existence of an established relationship prior to confinement does not apply to consular visitors.

(c) *Representatives of community groups.* The Warden may approve visits on a recurring basis to representatives from community groups (for example, civic, volunteer, or religious organizations) who are acting in their official capacity. These visits may be for the purpose of meeting with an individual inmate or with a group of inmates. The requirement for the existence of an established relationship prior to confinement for visitors does not apply to representatives of community groups.

(d) *Clergy, former or prospective employers, sponsors, and parole advisors.* Visitors in this category ordinarily provide assistance in release planning, counseling, and discussion of family problems. The requirement for the existence of an established relationship prior to confinement for visitors does not apply to visitors in this category.

4. Revise § 540.46 to read as follows:

§ 540.46 Attorney visits.

Requirements for attorney visits are governed by the provisions on inmate legal activities (see §§ 543.12 through 543.16 of this chapter). Provisions pertinent to attorney visits for pretrial inmates are contained in § 551.117 of this chapter.

5. Revise § 540.47 to read as follows:

§ 540.47 Media visits.

Requirements for media visits are governed by the provisions on contact with news media (see subpart E of this part). A media representative who wishes to visit outside his or her official duties, however, must qualify as a regular visitor or, if applicable, a special visitor.

§ 540.48 [Removed and reserved]

6. Remove and reserve § 540.48.

7. In § 540.51, redesignate paragraphs (c) through (g) as paragraphs (d) through (h), and add a new paragraph (c) to read as follows:

§ 540.51 Procedures.

* * * * *

(c) *Verification of special visitor credentials.* Staff must verify the qualifications of special visitors. Staff may request background information and official assignment documentation

from the potential visitor for this purpose.

* * * * *

[FR Doc. 03–5256 Filed 3–5–03; 8:45 am]

BILLING CODE 4410–05–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

RIN 3076AA09

Arbitration Schedule of Fees

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: The Federal Mediation and Conciliation Service is issuing a final regulation replacing the fee schedule item for processing requests for panels of arbitrators with two new fee schedule categories—one for processing requests on-line and the other for requests which require processing by FMCS staff. In addition, FMCS is increasing the rates for requests which require staff processing and for requests for lists and biographic sketches of arbitrators.

EFFECTIVE DATE: April 7, 2003.

FOR FURTHER INFORMATION CONTACT: Vella M. Traynham, Director of Arbitration Services, FMCS, 2100 K Street, NW., Washington, DC 20427. Telephone (202) 606–5111; Fax (202) 606–3749.

SUPPLEMENTARY INFORMATION: On November 25, 2002, FMCS issued proposed regulations to amend the appendix to 29 CFR part 1504 by replacing the general category on the fee schedule for requests for panels with two new categories, one for processing electronic requests for panels and the other for requests which require processing by FMCS staff. FMCS proposed maintaining the $30.00 fee for processing electronic requests but increasing the fee to $50.00 for requests that must be processed by FMCS staff. FMCS also proposed increasing the cost for lists and biographical sketches of arbitrators in specific areas from $10.00 per request plus $.10 per page to $25.00 per request for $.25 per page. FMCS did not receive any comments before the comment period closed on January 23, 2003 and is therefore amending this rule as proposed on November 25, 2002.

Executive Order 12866

This regulation has been deemed significant under section 3(f)(3) of Executive Order 12866 and as such has been submitted to and reviewed by the Office of Management and Budget.

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 section 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 29 CFR Part 1404

Administrative practice and procedure, Arbitration, Arbitration fees, Labor Management relations.

For the reasons set forth in the preamble, FMCS amends 29 CFR part 1404 as follows:

PART 1404—ARBITRATION SERVICES

1. The authority citation for part 1404 continues to read as follows:

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 *et seq.*

2. The Appendix to 29 CFR part 1404 is revised to read as follows:

Appendix to 29 CFR Part 1404—Arbitration Policy; Schedule of Fees

Annual listing fee for all arbitrators: $100 for the first address; $50 for the second address

Request for panel of arbitrators processed by FMCS staff: $50

Request for panel of arbitrators on-line: $30.00

Direct appointment of an arbitrator when a panel is not used: $20.00 per appointment

List and biographic sketches of arbitrators in a specific area: $25.00 per request plus $.25 per page.

John J. Toner,

Chief of Staff.

[FR Doc. 03–5063 Filed 3–5–03; 8:45 am]

BILLING CODE 6372–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[NH–055a; FRL–7458–3]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: New Hampshire; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the sections 111(d) negative declaration submitted by the New Hampshire Department of Environmental Services (DES) on July 22, 1998. This negative declaration adequately certifies that there are no existing municipal solid waste (MSW) landfills located in the state of New Hampshire that have accepted waste since November 8, 1987 and that must install collection and control systems according to EPA's emissions guidelines for existing MSW landfills. EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit control plans to EPA. These state control plans show how states intend to control the emissions of designated pollutants from designated facilities (*e.g.*, landfills). The state of New Hampshire submitted this negative declaration in lieu of a state control plan.

DATES: This direct final rule is effective on May 5, 2003, without further notice unless EPA receives significant adverse comment by April 7, 2003. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.

Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: John J. Courcier, (617) 918–1659.

SUPPLEMENTARY INFORMATION:

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