

partnership and not the separate activities or property of the controlled foreign corporation or any other person.

(iii) [Reserved]

(iv) *Effective date.* This paragraph (a)(5) applies to taxable years of a controlled foreign corporation beginning on or after the date final regulations are published in the **Federal Register**.

\* \* \* \* \*

**Par. 6.** In § 1.954-3, paragraph (a)(6) is added to read as follows:

**§ 1.954-3 Foreign base company sales income.**

(a) \* \* \*

(6) *Special rule applicable to distributive share of partnership income*—(i) *In general.* To determine the extent to which a controlled foreign corporation's distributive share of any item of gross income of a partnership would have been foreign base company sales income if received by it directly, under § 1.952-1(g), the property sold will be considered to be manufactured, produced or constructed by the controlled foreign corporation, within the meaning of paragraph (a)(4) of this section, only if the manufacturing exception of paragraph (a)(4) of this section would have applied to exclude the income from foreign base company sales income if the controlled foreign corporation had earned the income directly, determined by taking into account only the activities of, and property owned by, the partnership and not the separate activities or property of the controlled foreign corporation or any other person.

(ii) *Example.* The application of paragraph (a)(6)(i) of this section is illustrated by the following example:

*Example.* CFC, a controlled foreign corporation organized under the laws of Country A, is an 80 percent partner in Partnership X, a partnership organized under the laws of Country B. Partnership X performs activities in Country B that would constitute the manufacture of Product O, within the meaning of paragraph (a)(4) of this section, if performed directly by CFC. Partnership X, through its sales offices in Country B, then sells Product O to Corp D, a corporation that is a related person with respect to CFC, within the meaning of section 954(d)(3), for use within Country B. CFC's distributive share of Partnership X's sales income is not foreign base company sales income because the manufacturing exception of paragraph (a)(4) of this section would have applied to exclude the income from foreign base company sales income if CFC had earned the income directly. (The branch rule of paragraph (b) of this section does not apply to these facts).

(iii) *Effective date.* This paragraph (a)(6) applies to taxable years of a controlled foreign corporation beginning

on or after the date final regulations are published in the **Federal Register**.

\* \* \* \* \*

**Par. 7.** In § 1.954-4, paragraph (b)(2)(iii) is added to read as follows:

**§ 1.954-4 Foreign base company services income.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iii) *Special rule applicable to distributive share of partnership income.* A controlled foreign corporation's distributive share of a partnership's services income will be deemed to be derived from services performed for or on behalf of a related person, within the meaning of section 954(e)(1)(A), if the partnership is a related person with respect to the controlled foreign corporation, under section 954(d)(3), and, in connection with the services performed by the partnership, the controlled foreign corporation, or a person that is a related person with respect to the controlled foreign corporation, provided assistance that would have constituted substantial assistance contributing to the performance of such services, under paragraph (b)(2)(ii) of this section, if furnished to the controlled foreign corporation by a related person. This paragraph (b)(2)(iii) applies to taxable years of a controlled foreign corporation beginning on or after the date final regulations are published in the **Federal Register**.

\* \* \* \* \*

**Par. 8.** In § 1.956-2, paragraph (a)(3) is added to read as follows:

**§ 1.956-2 Definition of United States property.**

\* \* \* \* \*

(a) \* \* \*

(3) *Property owned through partnership.* For purposes of section 956, if a controlled foreign corporation is a partner in a partnership that owns property that would be United States property, within the meaning of paragraph (a)(1) of this section, if owned directly by the controlled foreign corporation, the controlled foreign corporation will be treated as holding an interest in the property equal to its interest in the partnership and such interest will be treated as an interest in United States property. This paragraph (a)(3) applies to taxable years of a controlled foreign corporation beginning

on or after the date final regulations are published in the **Federal Register**.

\* \* \* \* \*

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 00-23529 Filed 9-19-00; 8:45 am]

BILLING CODE 4830-01-U

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Parts 545 and 550

[BOP-1093-P]

RIN 1120-AA88

#### Drug Abuse Treatment Programs: Participation Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons is proposing to amend its regulations on participation requirements for the drug abuse education course and the institution residential drug abuse treatment program. The amendment clarifies the distinction between mandatory and voluntary participation in the drug abuse education course, removes eligibility limitations pertaining to cognitive impairments and learning disabilities, and addresses the effects of non-participation both in the drug abuse education course and in the institution residential drug abuse treatment program. This amendment is intended to encourage inmates to take advantage of the Bureau's drug treatment programs.

**DATES:** Comments due by November 20, 2000.

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

**SUPPLEMENTARY INFORMATION:** The Bureau of Prisons is proposing to amend its regulations on drug abuse treatment programs (28 CFR 550) pertaining to the requirements for the drug abuse education course and participation in the institution residential drug abuse treatment program.

Inmates with drug abuse problems who fail to enter drug treatment are at significantly higher risk of poor institutional adjustment, recidivism, and transition problems once released

into the community. Though many inmates take advantage of the Bureau's drug treatment services each year, some inmates who need drug treatment avoid program participation while incarcerated.

The current regulations for the drug abuse education course are contained in § 550.54 and were most recently published in the **Federal Register** on May 25, 1995 (60 FR 27694). These regulations distinguish between "mandatory" and "voluntary" participation in the drug abuse education course. Participation is mandatory if there is evidence in the inmate's Presentence Investigation that alcohol or other drug use contributed to the commission of the instant offense, alcohol or other drug use was a reason for violation either of supervised release, including parole, or BOP community status (CCC placement) for which the inmate is now incarcerated, or the inmate was recommended for drug programming during incarceration by the sentencing judge. Inmates not qualifying under the mandatory provisions are eligible to volunteer for the drug education program with the approval of the drug abuse treatment coordinator when participation space is available.

The Bureau is revising the regulation to remove the terms "mandatory," "voluntary," and "sanctions". Participation in the drug abuse education program is not intended to be mandatory in the sense that a refusal to participate would result in a disciplinary action. The intent is that if the inmate chooses to refuse to participate, certain consequences may follow which affect the inmate's eligibility for other program assignments (for example, work performance pay levels or community program eligibility). The Bureau is also adding as an additional eligibility criterion evidence of a history of alcohol or other drug use. This history of alcohol or other drug use need not be limited to circumstances surrounding the instant offense.

The current provisions for the institution residential drug abuse treatment program are contained in § 550.56 and were most recently published in the **Federal Register** on May 25, 1995 (60 FR 27694). The institution residential drug abuse treatment program allows participation by inmates to be voluntary. Currently, inmates may receive incentives for their satisfactory involvement in the residential program. For example, inmates may be eligible for financial achievement awards, recommendation for the maximum 180-day community

corrections center placement, and early release consideration (provided they meet the strict criteria for early release) upon full program completion.

In an effort to encourage more inmates to participate in the residential drug abuse treatment program, the Bureau is proposing to establish enhanced incentives at selected institutions. The three additional incentives being proposed in this document are tangible achievement awards as permitted by the Warden and allowed by the regulations governing personal property (for example, textbooks, journals, drug abuse program t-shirts), pencils, photographs of treatment ceremonies, and consideration for a nearer release transfer for medium and low security inmates. Nearer release transfers ordinarily are made to place the inmate in an institution nearer the inmate's release destination or to facilitate the release process. While the Bureau attempts to place inmates in institutions which are reasonably close to anticipated release destinations, other factors pertaining to inmate population management may mean that an inmate is not always optimally placed. In those instances where an inmate's placement has been affected by other factors, earning consideration for a nearer release transfer may be an additional mitigating factor in a subsequent decision to transfer the inmate to an institution nearer to the inmate's anticipated release destination.

The Bureau is also proposing to encourage participation by reluctant inmates with an identified treatment need through the use of specified consequences for non-participants. An inmate who has an identified treatment need but who refuses to participate in a residential treatment program at an institution which offers enhanced incentives will be subject to the following consequences: (1) If the inmate is eligible for parole, staff will notify the U.S. Parole Commission of the inmate's treatment need and the subsequent failure to participate in the residential drug abuse treatment program; (2) the inmate is not eligible for furlough (other than possibly an emergency furlough); (3) the inmate is not eligible for more than 90 days placement in community-based programs (for example, placement in a community corrections center); (4) the inmate is not eligible for performance pay above maintenance pay level, or for bonus or vacation pay; and (5) the inmate is not eligible for a Federal Prison Industries work assignment (unless the Warden makes exception on the basis of work program labor needs). For the sake of consistency, the

consequences pertaining to work assignment pay are also being revised in the provisions which pertain to the drug abuse education course (new § 550.54(e)).

The use of enhanced incentives at selected institutions together with the consequences of non-participation is intended to permit the Bureau to evaluate the effectiveness of a more aggressive approach in drug abuse treatment program placement. The Bureau assumes that these revisions will result in increased participation by inmates, particularly with respect to those inmates who do not meet the strict criteria for early release consideration but who do qualify for nearer release transfer. While the Bureau may further adjust the number of selected institutions to be used in this evaluation, any system-wide application of the additional incentives/consequences would be implemented through a separate rulemaking proceeding.

The Bureau's regulations for both the drug abuse education course and the institution residential treatment program contain provisions precluding participation by inmates with learning disabilities or mental impairments (§§ 550.54(c) and 550.56(a)(2)). In actuality, the Bureau has been able to make reasonable accommodations to allow such inmates to participate in the programs. The Bureau believes that these provisions are not necessary and accordingly has removed them in this proposed revision.

The Bureau's regulations on inmate work and performance pay (28 CFR 545, subpart C) are being amended to conform with these requirements. The Bureau's regulations on furloughs (28 CFR 570, subpart C) do not need to be amended because the Warden may deem the inmate's refusal to participate a failure to demonstrate sufficient responsibility to provide reasonable assurance that furlough requirements will be met (see § 570.34(d)).

#### **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 13212**

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 want to make Bureau documents easier to read and understand. If you can suggest how to improve the clarity of these regulations, call or write Sarah Qureshi at the address listed above.

#### List of Subjects

28 CFR Part 545

Prisoners.

28 CFR Part 550

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(p), we propose to amend parts 545 and 550 in subchapter C of 28 CFR, chapter V as follows.

#### Subchapter C—Institutional Management

#### PART 550—DRUG PROGRAMS

1. The authority citation for part 550 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 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; 21 U.S.C. 848; 28 U.S.C. 509, 510; Title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. Chapter 223); 28 CFR 0.95–0.99.

2. Section 550.54 is revised to read as follows:

##### § 550.54 Drug abuse education course.

(a) *Purpose.* The drug abuse education course is provided at all institutions. The purpose of the drug abuse education course is to inform inmates of the consequences of drug/alcohol abuse and addiction and to motivate inmates in need of drug abuse treatment to apply for further drug abuse treatment while incarcerated and upon release.

(b) *Placement.* (1) Staff are to give primary consideration for placement to an inmate who has been sentenced or returned to custody as a violator after September 30, 1991, when unit and/or drug abuse treatment staff determine through a combination of interview and file review that:

(i) There is evidence that alcohol or other drug use contributed to the commission of the instant offense;

(ii) Alcohol or other drug use was a reason for violation either of supervised release, including parole, or BOP community status (CCC placement) for which the inmate is now incarcerated;

(iii) The inmate was recommended for drug programming during incarceration by the sentencing judge; or,

(iv) There is evidence of a history of alcohol or other drug use.

(2) Staff may also consider for placement an inmate who requests to participate in the drug abuse education program but who does not meet the criteria of paragraph (b)(1) of this section.

(3) An inmate ordinarily will not be considered for placement in the drug abuse education course for the following reasons:

(i) The inmate does not have enough time remaining to serve to complete the drug abuse education course;

(ii) The inmate volunteers for, enters and completes a residential drug abuse treatment program, or

(iii) The inmate completes a structured drug abuse treatment program at one of the Bureau of Prisons' Intensive Confinement Centers (ICC).

(c) *Written consent.* All inmates who enter the drug abuse education course are required to sign an agreement to participate prior to admission to the course.

(d) *Completion.* Completion of the drug abuse education course requires attendance and participation during course sessions and a passing grade of at least 70 percent on an examination given at the end of the course. Inmates who are placed in the course under paragraph (b)(1) of this section ordinarily are provided at least three chances to pass the final examination before privileges are lost or effects of non-participation (see paragraph (e) of this section) are invoked. A certificate of achievement will be awarded to all who successfully complete the program. A copy of this certificate will be forwarded to the unit team for placement in the inmate's central file.

(e) *Effects of non-participation.* (1) An inmate who is considered for placement under paragraph (b)(1) of this section and who refuses participation or is placed in a treatment program pursuant to paragraph (b)(1) and withdraws, is expelled, or otherwise fails to meet attendance and examination requirements:

(i) Is not eligible for performance pay above maintenance pay level, or for bonus pay, or vacation pay;

(ii) Is not eligible for a Federal Prison Industries work program assignment (unless the Warden makes exception on the basis of work program labor needs);

(iii) Is not eligible for community programs.

(2) Inmates may be permitted to receive work promotions during their participation or while on a "waiting list" for the drug abuse education course. The Warden may make exceptions to the provisions of this paragraph for good cause with reasons for such exceptions documented in writing.

3. In § 550.56, paragraph (a)(2) is removed, and paragraphs (a)(3) through (5) are redesignated as paragraphs (a)(2) through (4), paragraphs (b) and (d)(3) are revised, and paragraph (e) is added to read as follows:

**§ 550.56 Institution residential drug abuse treatment program.**

\* \* \* \*

(b) *Application/Referral/Placement.* An inmate may be identified for referral and evaluation for the residential drug abuse treatment program by unit or drug treatment staff or apply for the program by submitting a request to a staff member (ordinarily, a member of the inmate's unit team or the drug abuse treatment coordinator). The decision on placement is made by the drug abuse treatment coordinator. While participation in the residential drug abuse treatment program is voluntary, an inmate who refuses to participate after the decision on placement is made is subject to the provisions of paragraph (e) of this section.

\* \* \* \*

(d) \* \* \*

(3) An inmate who withdraws or is removed from the residential program may be returned to his/her prior institution (when the inmate had been specifically transferred for the purpose of program participation).

(e) *Effects of non-participation.* An inmate who refuses to participate after being selected by the drug abuse treatment coordinator for treatment at an institution that authorizes enhanced incentives (see § 550.57(a)(2)), or who withdraws from or is otherwise removed is subject to the following:

(1) Where applicable, staff are to notify the United States Parole Commission of the inmate's need for treatment and the inmate's failure to participate in the residential drug abuse treatment program.

(2) The inmate is not eligible for furlough (other than possibly an emergency furlough).

(3) The inmate is not eligible for more than 90 days community-based program placement.

(4) The inmate is not eligible for performance pay above maintenance pay level, or for bonus pay, or vacation pay.

(5) The inmate is not eligible for a Federal Prison Industries work program assignment (unless the Warden makes exception on the basis of work program labor needs).

4. In § 550.57, paragraph (a) is revised to read as follows:

**§ 550.57 Incentives for residential drug abuse treatment program participation.**

(a) An inmate may receive incentives for his or her satisfactory participation in the residential program. In addition to the basic incentives listed in paragraph (a)(1) of this section, an institution may offer enhanced

incentives as listed in paragraph (a)(2) of this section.

(1) *Basic incentives.* (i) Limited financial awards, based upon the inmate's achievement/completion of program phases.

(ii) Consideration for the maximum period of time (currently 180 days) in a Community Corrections Center placement, provided the inmate is otherwise eligible for this designation.

(iii) Local institution incentives such as preferred living quarters or special recognition privileges.

(iv) If eligible under § 550.58, consideration for early release.

(2) *Enhanced incentives.* (i) Tangible achievement awards as permitted by the Warden and allowed by the regulations governing personal property (see 28 CFR part 553).

(ii) Photographs of treatment ceremonies may be sent to the inmate's family.

(iii) Formal consideration for a nearer release transfer for medium and low security inmates.

\* \* \* \*

**PART 545—WORK AND COMPENSATION**

5. The authority citation for part 545 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3013, 3571, 3572, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4126, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

6. In § 545.25, paragraph (d) is revised to read as follows:

**§ 545.25 Eligibility for performance pay.**

\* \* \* \*

(d) An inmate who refuses participation, withdraws, is expelled, or otherwise fails attendance requirements of the drug abuse education course or the residential drug abuse treatment program is subject to the limitations specified in § 550.54(e) or § 550.56(e) of this chapter.

[FR Doc. 00–24052 Filed 9–19–00; 8:45 am]

BILLING CODE 4410–05–P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Parts 26, 161, and 165**

[USCG–1998–4399]

RIN 2115–AF75

**Vessel Traffic Service Lower Mississippi River**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Proposed rulemaking; notice of public meeting.

**SUMMARY:** The Coast Guard announces a public meeting on October 24, 2000, to receive comments on a proposed rulemaking establishing a Vessel Traffic Service (VTS) on the Lower Mississippi River. The meeting will be held at the Marine Safety Office in New Orleans, LA.

**DATES:** This public meeting will be held on Tuesday, October 24, 2000, from 9 a.m. to 5 p.m. The meeting may close early if all business is finished.

**ADDRESSES:** The public meeting will be held in the hearing room of the Marine Safety Office, 1615 Poydras Street, New Orleans, LA 70112–1254.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding the meeting location, contact Lieutenant Junior Grade Ken Mills, Vessel Traffic Service, telephone 504–589–2780. For questions regarding the proposed rulemaking, contact Mr. Jorge Arroyo, Office of Vessel Traffic Management, (G–MWV), Coast Guard, telephone 202–267–6277.

**SUPPLEMENTARY INFORMATION:** The notice of proposed rulemaking (NPRM) on a Vessel Traffic Service (VTS) on the Lower Mississippi River, published on April 26, 2000 (65 FR 24616), encouraged interested persons to participate in this rulemaking by submitting written data, views, or arguments by July 25, 2000. In response to several requests for additional time, the Coast Guard extended the comment period on the NPRM until December 1, 2000 (65 FR 50479). The NPRM and comments already received may be viewed at <http://dms.dot.gov>. The Coast Guard also received several requests for a public meeting at which interested parties could present their comments. This meeting is in response to those requests.

**Information on Service for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Lieutenant