

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 553**

[BOP-1051-P]

RIN 1120-AA46

Inmate Personal Property**AGENCY:** Bureau of Prisons, Justice.**ACTION:** Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on inmate personal property to allow for the standardization of authorized personal property lists at Bureau institutions and to facilitate procedures for the transportation of personal property due to inmate transfer or release. This amendment is intended to provide for the more efficient and secure operation of the institution.

DATES: Comments must be submitted by May 31, 1996.

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 inmate personal property (28 CFR part 553, subpart B). A final rule on this subject was published in the Federal Register April 29, 1983 (48 FR 19573).

Current regulations governing inmate personal property specify that, consistent with the mission of the institution, each Warden shall identify in writing that personal property which may be retained by an inmate (see 28 CFR 553.10). Because of variations among institution lists, when inmates transfer between institutions not all property authorized at the sending institution may be considered authorized at the receiving institution. Any unauthorized property is mailed at government expense to another party of the inmate's choice.

In order to alleviate this problem, the Bureau is implementing a standardized list of property which would be authorized for retention at all institutions. The Warden retains the discretion to authorize additional items for retention at his or her institution. Typically, these additional items will be government-issued or perishable. The Bureau proposes that this standardized property list become fully implemented by November 1, 1997. Consequently,

§ 553.10 is being amended to refer to the standardized list and to additions authorized by the Warden. Under this new procedure, less personal property being transferred between institutions will be subject to rejection by the receiving institution. Property authorized for retention by the Warden in addition to the standardized list will be identified as such. Until full implementation of this procedure (i.e., November 1, 1997), the Bureau would continue to bear the cost of remailing to a non-Bureau address of the inmate's choice any property which would not be authorized by the receiving institution. After November 1, 1997, the inmate would be responsible for the cost of such remailing.

Both the standardized list and the additional items authorized by the Warden may include numerical limits on specific types of property (for example, two pair of athletic shoes). Such numerical limits reduces the reliance in the previous regulations on the amount of storage as a determining factor in the retention of personal property (former § 553.11(a)(1) had stated "Staff may allow an inmate to retain that authorized property which the inmate may neatly and safely store in the designated area"). Revised § 553.11 now includes reference to possible numerical limitations along with the procedures for notifying inmates of such limits.

The provisions for storage space in new paragraph (b) contain a clear statement that authorized personal property is to be stored in the designated area. Specific provisions in the former regulations as to the requirement to store special purchase items, commissary items, correspondence, and reading materials have been removed to reduce redundancy. New paragraphs (c) through (h) now focus on limitations other than those imposed by space constraints. With respect to clothing, new paragraph (c) provides that civilian clothing (i.e., clothing not issued to the inmate by the Bureau or purchased by the inmate from the commissary) ordinarily is not authorized for retention by the inmate. This is in keeping with the standardized list of personal property. The regulations formerly allowed for some variation (former § 553.11(b), "Staff may allow an inmate to retain that clothing, whether civilian (at institutions where authorized) or institution . . ."). Under new paragraph (c), such civilian clothing possessed by current inmates could be retained no later than November 1, 1997. New paragraphs (d) and (e) are unchanged and are being republished here for ease

of review. New paragraph (f) is merely being redesignated from former paragraph (g) and is also being republished for ease of review.

Section 553.14 has been revised to address more completely procedures for the shipment or disposal of property due to inmate transfer and release. The revised procedures allow for more flexibility in shipping property. As mentioned above, until November 1, 1997, these procedures continue to provide for the remailing, at Bureau expense, of personal property not authorized for retention by the receiving institution. After that date, the inmate would be responsible for such costs. Because the standardized list would be fully implemented by that date, the Bureau expects that there would be substantially reduced need for such remailings.

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. 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.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule 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 (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 553

Prisoners.

Kathleen M. Hawk,

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), part 553 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

Subchapter C—Institutional Management**PART 553—INMATE PROPERTY**

1. The authority citation for 28 CFR part 553 is revised to read as follows:

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), 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.

2. Section 553.10 is amended by revising the last sentence to read as follows:

§ 553.10 Purpose and scope.

* * * Consistent with the mission of the institution, each Warden shall identify in writing that personal property which may be retained by an inmate in addition to that personal property which has been approved by the Director for retention at all institutions.

3. Section 553.11 is revised to read as follows:

§ 553.11 Limitations on inmate personal property.

(a) *Numerical limitations.* Authorized personal property may be subject to numerical limitations. The institution's Admission and Orientation program shall include notification to the inmate of any numerical limitations in effect at the institution and a current list of any numerical limitations shall be posted on inmate unit bulletin boards.

(b) *Storage space.* Staff shall set aside space within each housing area for use by an inmate. The designated area shall include a locker or other securable area in which the inmate is to store authorized personal property. The inmate shall be allowed to purchase an approved locking device for personal property storage in regular living units. Staff may not allow an inmate to accumulate materials to the point where the materials become a fire, sanitation, security, or housekeeping hazard.

(c) *Clothing.* Civilian clothing (i.e., clothing not issued to the inmate by the Bureau or purchased by the inmate from the commissary) ordinarily is not authorized for retention by the inmate. Civilian clothing which previously had been approved for retention may not be retained after November 1, 1997. Prerelease civilian clothing for an inmate may be retained by staff in the Receiving and Discharge area during the last 30 days of the inmate's confinement.

(d) *Legal materials.* Staff may allow an inmate to retain those legal materials which are necessary for an inmate's legal actions. Legal reference materials, such as books, may be retained if such materials are not available in the institution library. To ensure that materials do not become a fire, sanitation, security, or housekeeping hazard, each institution may establish a limit on the amount of, and storage location for, legal materials in the inmate's living area. Staff may authorize additional storage space, on a temporary, short-term basis, to an inmate who demonstrates a need for additional material in connection with that inmate's on-going litigation.

(e) *Hobbycraft materials.* Staff shall limit an inmate's hobby shop projects within the cell or living area to those projects which the inmate may store in designated personal property containers. Staff may make an exception for an item (for example, a painting) where size would prohibit placing the item in a locker. This exception is made with the understanding that the placement of the item is at the inmate's own risk. Staff shall require that hobby shop items be removed from the living area when completed, and be disposed of in accordance with the provisions of part 544, subpart D.

(f) *Radios and watches.* An inmate may possess only one approved radio and one approved watch at a time. The inmate must be able to demonstrate proof of ownership. An inmate who purchases a radio or watch through a Bureau of Prisons commissary is ordinarily permitted the use of that radio or watch at any Bureau institution if the inmate is later transferred. If the inmate is not allowed to use the radio or watch at the new institution, the inmate shall be permitted to mail, at the receiving institution's expense, the radio or watch to a destination of the inmate's choice. Where the inmate refuses to provide a mailing address, the radio and/or watch may be disposed of through approved methods, including destruction of the property.

(g) *Education program materials.* Education program materials or current correspondence courses may be retained

even if not stored as provided in paragraph (b) of this section.

(h) *Personal photos.* An inmate may possess photographs, subject to the limitations of paragraph (b) of this section, so long as they are not detrimental to personal safety or security, or to the good order of the institution.

4. Section 553.14 is revised to read as follows:

§ 553.14 Inmate transfer between institutions and inmate release.

(a) Except as provided for in paragraphs (a) (1) through (3) of this section, authorized personal property shall be shipped by staff to the receiving institution.

(1) The Warden ordinarily shall allow an inmate transferring to another institution to transport personal items determined necessary or appropriate by staff and, if applicable, legal materials for active court cases.

(2) The Warden may require or allow an inmate who is transferring to another institution under furlough conditions to transport all the inmate's authorized personal property with him or her.

(3) An inmate who is being released or who is transferring to a Community Corrections Center may arrange to ship personal property at the inmate's expense. The inmate is responsible for transporting any personal property not so shipped.

(b) If the inmate's personal property is not authorized for retention by the receiving institution, staff at the receiving institution shall arrange for the inmate's excess personal property to be mailed to a non-Bureau destination of the inmate's choice. Until November 1, 1997, the receiving institution shall bear the expense for this mailing. After November 1, 1997, the inmate shall bear the expense for this mailing.

(c) Whenever the inmate refuses to provide a mailing address for return of the property or, when required, refuses to bear the expense of mailing the property, the property is to be disposed of through approved methods, including destruction of the property.

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