C. Discussion of Minor Edits to Section 543.32(h)

Upon further review of § 543.32(h), we decided to make two changes to that section to clarify the language and ensure it more closely aligns with the FTCA. The language of the second sentence to that section currently in effect via the interim final rule reads: ''If you have not received a letter either proposing a settlement or denying your claim within six months after the date your claim was presented, you may assume your claim is denied.'' The revised language included in the final rule reads: ''If you have not received a letter denying your claim within six months after the date your claim was presented, you may deem the absence of a response to your claim as a denial.''

The first change is to the first clause of the second sentence in section § 543.32(h). We changed the language by removing the phrase ''either proposing a settlement or'' because we do not want to imply the Bureau's proposal of a settlement within six months precludes the option of the claimant deeming a claim denied. As discussed more in the next paragraph, what triggers the option for the claimant to deem a claim denied and to file suit is the failure of an agency to make a final disposition of a claim within six months. Since a settlement offer is not a ''final disposition,'' it cannot serve to preclude the claimant from filing suit.

The second change is to the second clause of the second sentence in § 543.32(h). In reviewing our draft of the final rule, we determined that use of the word ''assume'' in the second sentence to § 543.32(h) was unnecessary and confusing inasmuch as the statute itself, 28 U.S.C. 2675(a), does not mention ''assumptions.'' That language confers upon the claimant the ''option'' to deem their claim finally denied; the claimant is not required to ''assume'' that the sending of a settlement proposal means they are not entitled to file suit if six months have elapsed since presentment. Instead, the claimant retains the option to continue negotiating with no statute of limitations penalty, or they may opt instead to ''deem'' the claim denied and pursue a lawsuit in federal court.

II. Regulatory Analyses

Executive Orders 12866, 13563 and 14094. This rule does not fall within a category of actions that the Office of Management and Budget (OMB) has determined constitutes a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB. The economic impact of this final rule is limited to inmates in the custody of the Federal Bureau of Prisons.

Executive Order 13132. This rule will not have substantial direct effect 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, the Bureau determines 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 rule 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.

Congressional Review Act. This rule is a not major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

List of Subjects in 28 CFR Part 543

Prisoners.

Colette S. Peters,

Director, Federal Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C 301; 28 U.S.C. 509, 510 and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96, the Bureau finalizes with minor changes, the interim rule published on November 7, 2023, (88 FR 76657) and the correction published on December 20, 2023 (88 FR 87903).

PART 543—LEGAL MATTERS

■ 1. The authority citation for 28 CFR part 543 continues 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), 5006–5024 (Repealed October 12, 1984 as to Offenses committed after that date), 5039; 28 U.S.C. 509, 510, 1346(b), 2671–80; 28 CFR 0.95–0.99, 0.172, 14.1–11.

Subpart C—Federal Tort Claims Act

■ 2. Revise § 543.32(h) to read as follows:

§ 543.32 Processing the claim.

* * * * *

(h) *Response timeline.* Generally, you will receive a decision regarding your claim within six months of when you properly present the claim. If you have not received a letter denying your claim within six months after the date your claim was presented, you may deem the absence of a response to your claim as a denial. You may then proceed to file a lawsuit in the appropriate United States District Court.

[FR Doc. 2024–29691 Filed 12–16–24; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 543

[BOP–1175–F]

RIN 1120–AB75

Inmate Legal Activities: Visits by Attorneys

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (''Bureau'' or ''BOP'') finalizes revisions to regulations related to attorney-client visits at BOP institutions.

DATES: Effective December 17, 2024, BOP adopts the interim final rule published at 89 FR 8330 on Feb. 7, 2024, as final without change.

FOR FURTHER INFORMATION CONTACT: Daniel J. Crooks III, Assistant General Counsel/Rules Administrator, Federal Bureau of Prisons, at (202) 353–4885.

SUPPLEMENTARY INFORMATION:

I. Background

On February 7, 2024, BOP published an interim final rule that amended regulations related to attorney visits. 89 FR 8330 (Feb. 7, 2024). The comment period closed on April 8, 2024, and we received six comments. Of those six comments, only two were related to the rule; each of those comments is discussed more fully below. Of the four unrelated comments, one noted generally that BOP should review its regulations annually for improvement; one was mistakenly posted to this docket instead of to the docket for another BOP rulemaking; another laments the general treatment of January

6 defendants; and the last advocates for revised regulations regarding clergy visits to BOP facilities. After consideration of the two relevant public comments, BOP is adopting the interim final rule on this subject without change.

II. Discussion

We received two relevant, substantive comments after publication of the interim final rule. Each comment is addressed below.

Comment 1: The commenter states that the revised rule does not go far enough to address other means that facilitate attorney-client communications, emphasizing that the availability of private telephone calls is essential to facilitate attorney-client communications. The commenter gave several examples where inmates and their attorneys encountered difficulties obtaining approval from officials at BOP institutions for unmonitored telephone calls. However, the commenter did not address the specific changes to the regulation addressing in-person visits by attorneys.

Response: BOP agrees that meaningful access to counsel includes reasonable access to unmonitored telephone calls to facilitate attorney-client communications. Through separate procedures, BOP enables confidential communications between an inmate and their attorney through legal visits, unmonitored telephone calls, and unmonitored legal correspondence. Title 28 CFR 540.102 and 540.103 address unmonitored telephone calls, while 28 CFR 540.18 and 540.19 address unmonitored legal correspondence.

However, the comment is out of scope as the interim final rule only addressed the procedures for in-person, confidential attorney visits as provided in Part 543, and did not address the different issue of rules applicable to telephone calls between inmates and their attorneys, which are in separate regulations at 28 CFR 540.102–540.103. To the extent the commenter's suggestion is intended to be construed as a petition for rulemaking pursuant to 5 U.S.C. 553(e), a comment to a rule pertaining to a different issue in a different set of regulations is not the proper mechanism to effectuate that provision. Individuals in BOP custody with individualized concerns or questions regarding the implementation of applicable regulations or policy are reminded of their rights to address such issues through the agency's Administrative Remedy Program, as outlined at 28 CFR part 542 and in BOP Program Statement 1330.18 (available at *www.bop.gov/policy*). Thus, BOP concludes that no changes are needed in the final rule in light of this comment.

Comment 2: The commenter states that the rule should address attorney visits for individuals located at administrative facilities in holdover status; that the rule does not address circumstances where a pretrial or unsentenced individual is in holdover status at a BOP institution that houses convicted individuals; that BOP's explanation for the rule indicates that attorneys can visit a client in BOP custody like social visitors during normal visiting hours without advanced notice; that many attorneys are unwilling to be added to their client's regular social visiting list and that some attorneys are unwilling to provide personally identifying information on the social visit application forms; and that BOP should clarify if attorneys can show up at an institution during normal social visiting hours for a visit in the common area (*i.e.,* not in a private setting) without providing sensitive personal information.

Response: As background, BOP is responsible for the custody and care of sentenced federal inmates, felony offenders convicted and sentenced to a term of imprisonment under the DC criminal code a number of state and military offenders who are housed on a contractual basis, and pretrial detainees and pre-sentenced offenders housed in BOP facilities on behalf of the United States Marshals Service (USMS).

The USMS is responsible for the care and custody of individuals charged with a federal offense. Responsible for housing approximately 63,000 detainees, the USMS acquires detention bedspace through agreements with state and local governments in addition to available BOP pretrial cells. Approximately 75 percent of the detainees in the custody of the USMS are detained in state, local, and private facilities; the remainder are housed in BOP facilities. Ordinarily, pretrial inmates in BOP custody are housed in administrative institutions including Metropolitan Detention Centers (MDCs), Federal Detention Centers (FDCs), and Metropolitan Correctional Centers (MCCs). These institutions may also house convicted inmates awaiting sentencing or movement to designated institutions, or sentenced inmates who require further court appearances. A small number of other BOP institutions also house pretrial inmates in specific units within the main facility or in jail units located in satellite buildings separate from the main facility.

As explained in the preamble to the interim final rule, the prior version of § 543.13(c) provided that, to schedule any legal visit at any BOP institution, an attorney must make an advance appointment for a visit through the warden, and that the warden must make every effort to accommodate a legal visit when prior notification is not practicable. That prior rule was promulgated on June 27, 1979.

To clarify, the interim final rule updated § 543.13(c) to allow both scheduled and unscheduled attorney visits during designated attorney visitation hours at BOP institutions whose mission is to house pretrial detainees and unsentenced individuals. However, the rule retains the requirement that attorneys seeking to visit clients at BOP institutions whose mission is to house convicted individuals must make an advance appointment for a legal visit and that the warden must make every effort to accommodate a legal visit when prior notification is not practicable.

Attorney visits for holdover inmates. The term ''holdover'' refers to individuals in BOP custody who are transferring from one BOP institution to another. These individuals are categorized as being in holdover status until they arrive at the institution to which they are officially designated. The interim final rule did nothing more than allow both scheduled and unscheduled attorney visits during designated attorney visitation hours at BOP institutions that have a pretrial mission housing pretrial and unsentenced individuals, and it retains the requirement for an advanced appointment for attorney visits at all other BOP institutions. Accordingly, attorney visits with any individual in holdover status housed at an institution that does not have a pretrial mission must ordinarily make an advance appointment for a legal visit. Individuals in holdover status and their attorneys may coordinate legal visits in the same manner as the offender population at the particular facility in which the individual is temporarily housed en route to their designated institution. To clarify, it is the type of institution and its specific mission that are determinative for purposes of scheduling attorney visits; an individual's temporary status as a ''holdover'' is not determinative. Further changes to the rule addressing attorney visits for pretrial and unsentenced individuals on holdover status are unnecessary.

Adding attorneys to client's social visiting list. The commenter urges that this rule address the option for attorneys to be added to their client's social visiting list, but that subject is addressed by separate rules applicable

to regular visitors at 28 CFR part 540, subpart D. In coordination with their client, attorneys may seek to be added to their client's regular social visiting list and visit under the same conditions as other visitors in accordance with part 540, subpart D.

Again, this comment is out of scope of what was addressed in the interim final rule. Such social visits are conducted in an open setting, not a confidential setting for attorneys to meet with their clients privately. By contrast, confidential attorney visits, which are the subject of this rule, are governed by part 543. To the extent the commenter's suggestion is intended to be construed as a petition for rulemaking pursuant to 5 U.S.C. 553(e), a comment to a rule pertaining to a different issue in a different set of regulations is not the proper mechanism to present such a petition. Thus, the BOP concludes that no changes are needed in the final rule in light of this comment.

The commenter also urges that the rule clarify whether attorneys are required to submit the same personal information as other visitors to be added to the inmate's approved social visitor list. As noted, attorneys may seek to be added to their client's regular social visiting list and visit under the same conditions as other visitors pursuant to separate rules applicable to regular visitors at 28 CFR part 540, subpart D, and the more granular details regarding the processing of social visits are addressed in the BOP policy implementing those provisions. The BOP declines to make changes to Part 543 in response to this comment.

For the foregoing reasons, we conclude that no changes are needed in the regulatory language in § 543.13(c) and (e) as adopted in the interim final rule, and that no other changes are needed in BOP's regulations in connection with this specific rulemaking action. Accordingly, this rule finalizes the interim final rule without change.

IV. Regulatory Certifications

Executive Orders 12866, 13563 and 14094. This rule does not fall within a category of actions that the Office of Management and Budget (OMB) has determined constitutes a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB. The economic impact of this final rule is limited to inmates in the custody of the Bureau of Prisons and their attorneys.

Executive Order 13132. This rule will not have substantial direct effect 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, BOP determines that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform (Plain Language). This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 to specify provisions in clear language. Pursuant to section 3(b)(1)(I) of the Executive Order, nothing in this final rule or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Program that is the subject of this final rule is intended to create any legal or procedural rights enforceable against the United States.

Regulatory Flexibility Act. The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this rule 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 and detainees committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to BOP'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 (as adjusted for inflation) 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.

Congressional Review Act. This rule is a not major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

List of Subjects in 28 CFR Part 543

Prisoners, Legal Activities.

PART 543—LEGAL MATTERS

■ Accordingly, under rulemaking authority vested in the Attorney General in 5 U.S.C 301; 28 U.S.C. 509, 510 and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96, BOP adopts the interim final rule on this subject, published at 89 FR 8330 on Feb. 7, 2024, as a final rule, without change.

Colette S. Peters,

Director, Federal Bureau of Prisons.

[FR Doc. 2024–29681 Filed 12–16–24; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 531

RIN 1235–AA44

Tip Regulations Under the Fair Labor Standards Act (FLSA); Restoration of Regulatory Language

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Final rule; technical amendment.

SUMMARY: On October 29, 2021, the U.S. Department of Labor (Department) published a final rule (2021 Dual Jobs Rule) addressing the determination of when a tipped employee is employed in dual jobs under the Fair Labor Standards Act (FLSA or the Act). The 2021 Dual Jobs Rule took effect on December 28, 2021.On October 29, 2024, a federal appeals court issued an order vacating regulatory text from the Department's 2021 Dual Jobs Rule, with the effect of reinstating the Department's original FLSA regulation on the topic. In accordance with that court order, the Department is issuing this final rule to remove from the Code of Federal Regulations (CFR) the corresponding regulatory text that the Department promulgated through the 2021 Dual Jobs Rule and reinstate regulatory text as it existed in the CFR prior to the effective date of the 2021 Dual Jobs Rule. This action is a technical amendment accounting for changes in the law which have already occurred.

DATES: This rule is effective December 17, 2024.

FOR FURTHER INFORMATION CONTACT: Daniel Navarrete, Director of Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: