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:

I. Background and Basis for the Restoration of Regulatory Text

Section 6(a) of the FLSA requires covered employers to pay nonexempt employees a minimum wage of at least $7.25 per hour. *See* 29 U.S.C. 206(a). Since 1966, section 3(m) of the FLSA has permitted employers that meet certain requirements to satisfy a portion of their minimum wage obligation to a ''tipped employee'' by taking a partial credit, commonly known as a ''tip credit,'' toward the minimum wage based on the amount of tips that the tipped employee receives.[1] An employer that elects to take a tip credit cannot satisfy the entirety of the minimum wage requirement with tips because the employer must pay the tipped employee a direct cash wage of at least $2.13 per hour.[2] Based on the current Federal minimum wage of $7.25 per hour, the employer may claim a tip credit against its wage obligation of up to $5.12 per hour towards its minimum wage obligation for a tipped employee, provided—among other criteria—that the employee actually receives sufficient tips to earn not less than the FLSA minimum wage.

Section 3(t) of the FLSA defines a ''tipped employee'' as ''any employee engaged in an occupation in which [the employee] customarily and regularly receives more than $30 a month in tips.'' [3] The Department promulgated the original FLSA regulations for tipped employees in 1967, the year after Congress first created the tip credit provision.[4] As part of that rulemaking, the Department included a ''dual jobs'' provision, recognizing that an employee may be employed by the same employer both in a tipped occupation and in a non-tipped occupation, for example, ''where a maintenance man in a hotel also serves as a waiter.'' 29 CFR 531.56(e) (1967).[5] This provision explained that an employee is a ''tipped employee'' for the purposes of section 3(t) only while the employee is engaged in the tipped occupation, and their employer may take a tip credit against its minimum wage obligation only for the time the employee spends in that tipped occupation. *Id.* At the same time, the regulation recognized that tipped employees may perform ''related'' duties that are not ''themselves . . . directed toward producing tips,'' and used the example of a server who ''spends part of her time'' performing non-tipped duties, such as ''cleaning and setting tables, toasting bread, making coffee and occasionally washing dishes or glasses.'' *Id.*[6]

On December 30, 2020, the Department published *Tip Regulations Under the Fair Labor Standards Act (FLSA),* 85 FR 86756 (2020 Tip Rule), a final rule revising various regulatory requirements related to the treatment of tipped employees under the FLSA. Among other changes, the 2020 Tip Rule would have revised the Department's original dual jobs regulation at 29 CFR 531.56(e) consistent with subregulatory guidance issued by the Department in 2018 and 2019,[7] but the dual jobs provisions in the 2020 Tip Rule never took effect.

The 2020 Tip Rule was published with a scheduled effective date of March 1, 2021.[8] However, on February 26, 2021, the Department delayed the effective date of the 2020 Tip Rule until April 30, 2021.[9] On March 25, 2021, the Department proposed to further delay the effective date of three portions of the 2020 Tip Rule, including the portion of the rule that would have amended the Department's dual jobs regulation, until December 31, 2021.[10] On April 29, 2021, the Department finalized the proposed partial delay.[11]

On October 29, 2021, the Department published *Tip Regulations Under the Fair Labor Standards Act (FLSA); Partial Withdrawal,* 86 FR 60114 (2021 Dual Jobs Rule), which withdrew the dual jobs provisions of the 2020 Tip Rule.[12] Separately, the 2021 Dual Jobs Rule adopted at 29 CFR 531.56(e)–(f) a new dual jobs regulation, which—among other changes—set specific limits on the amount of time that tipped employees who are paid a direct cash wage which is less than the Federal minimum wage can spend performing ''work that is not tip-producing, but directly supports tip-producing work.'' [13] The 2021 Dual Jobs Rule took effect on December 28, 2021.

On October 29, 2024, the United States Court of Appeals for the Fifth Circuit issued a decision in *Restaurant Law Center* v. *U.S. Department of Labor,* vacating regulatory text codified at 29 CFR 531.56(e)–(f) from the Department's 2021 Dual Jobs Rule, with the effect of reinstating the Department's original dual jobs regulation. 115 F.4th 396 (5th Cir. 2024), *superseded on reh'g* (5th Cir. Oct. 29, 2024) (vacating the 2021 Dual Jobs Rule ''insofar as it modifies 29 CFR 531.56 as promulgated in 1967''). Since the Fifth Circuit's mandate issued on October 29, 2024, the operative version of 29 CFR 531.56(e) is thus the dual jobs regulation that was in place on December 27, 2021, prior to the effective date of the 2021 Dual Jobs Rule.

Consistent with the Fifth Circuit's mandate, this rule amends 29 CFR 531.56 to reinstate the regulatory text as it appeared prior to the effective date of the 2021 Dual Jobs Rule. This action is a technical correction accounting for changes in the law which have already occurred.

II. Procedural and Other Matters

A. Administrative Procedure Act

Section 553(b)(B) of the Administrative Procedure Act (APA) provides that an agency is not required to publish a notice of proposed rulemaking in the **Federal Register** and solicit public comments when the agency has good cause to find that doing so would be ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The Department finds that good cause exists to dispense with public notice-and-comment rulemaking procedures in this final rule because such procedures are unnecessary. The final rule accounts for the effects of the Fifth Circuit's order in *RLC,* which already changed the operative regulatory provisions by vacating regulatory text codified at 29 CFR 531.56(e)–(f) from the Department's 2021 Dual Jobs Rule, with the effect of

[1] *See* Fair Labor Standards Amendments of 1966, Public Law 89–601, sec. 101, 80 Stat. 830, 830 (1966); *see also* 29 U.S.C. 203(m)(2)(A).

[2] *See* Fair Labor Standards Amendments of 1989, Public Law 101–157, sec. 5, 103 Stat. 938, 941 (1989) (requiring employers to pay a cash wage of at least ''50 percent of the [$4.25 per hour] minimum wage rate after March 31, 1991''). Although subsequent FLSA Amendments have increased the federal minimum wage, those amendments did not change the $2.13 per hour minimum cash wage for tipped employees, which has been in effect since April 1, 1991.

[3] 29 U.S.C. 203(t).

[4] *See* 32 FR 13575 (Sept. 28, 1967).

[5] *See* 32 FR 13580–81 (codified at 29 CFR 531.56(e)).

[6] In 2011, the Department issued a technical correction to its original dual jobs regulation by updating the amount of tips needed to qualify as a tipped employee under section 3(t) of the FLSA from $20 per month to $30 per month, *see* 76 FR 18855, accounting for the increase of that statutory threshold effectuated by the 1977 FLSA Amendments. *See* Fair Labor Standards Amendments of 1977, Public Law 95–151, sec. 3, 91 Stat. 1245, 1249 (1977). The 2011 rule did not otherwise change the Department's original dual jobs regulation.

[7] *See* 85 FR 86767–72, 86790.

[8] *Id.* at 86756.

[9] *See* 86 FR 11632.

[10] *See* 86 FR 15811.

[11] *See* 86 FR 22597.

[12] *See* 86 FR 60138.

[13] 86 FR 60158 (codified at 29 CFR 531.56(f)(4)). Specifically, the 2021 Dual Jobs Rule provided that tipped employees must receive the full minimum wage from their employer whenever untipped support work exceeds 20 percent of their workweek or 30 continuous minutes. *Id.* The 2021 Dual Job Rule also provided examples of tasks that fall into the following three categories: (1) tip-producing work; (2) work that directly supports tip-producing work; and (3) work that is not part of a tipped occupation. 86 FR 60157–58 (codified at 29 CFR 531.56(f)(2)–(3) and (5)).

reinstating the Department's earlier original dual jobs regulation. The final rule makes technical non-substantive revisions to correct the CFR to reflect the court's mandate. These amendments ensure the accuracy of the CFR, but do not alter any regulatory obligations.

Section 553(d) of the APA provides that substantive rules should take effect not less than 30 days after the date they are published in the **Federal Register** unless ''otherwise provided by the agency for good cause found[.]'' 5 U.S.C. 553(d)(3). The Department finds that good cause also exists to make this final rule immediately effective because a delayed effective date is unnecessary and contrary to the public interest. A delayed effective date is unnecessary because the Fifth Circuit's order vacating regulatory text codified at 29 CFR 531.56(e)–(f) from the Department's 2021 Dual Jobs Rule has already taken effect. Delaying the ministerial act of removing the regulatory text of the vacated rule and restoring the operative regulatory text in the **Federal Register** would also be contrary to the public interest in light of the Department's need to expediently implement the court's final judgment, and because it could lead to confusion, particularly among employers and tipped employees, about the FLSA's requirements for the payment of minimum wages to tipped employees. The Department concludes that a delayed effective date is both unnecessary and is contrary to the public interest, providing good cause to bypass a delayed effective date.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), hereafter jointly referred to as the RFA, requires that an agency prepare an initial regulatory flexibility analysis (IRFA) when proposing, and a final regulatory flexibility analysis (FRFA) when issuing, rules that will have a significant economic impact on a substantial number of small entities. However, the RFA only applies to ''rule[s] for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law.'' [14] Because the Department has determined for good cause that public notice and comment is not required, the Department is not publishing a notice of proposed rulemaking for this final rule to comply with the court's order. Therefore, the RFA and its procedural requirements do not apply.

C. Executive Orders 12866 and 13563

Under Executive Order 12866 (as amended by Executive Order 14094), OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the Executive order and OMB review. As amended by Executive Order 14094, section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $200 million or more; or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, territorial, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in the Executive order.

Executive Order 13563 directs agencies to, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; that it is tailored to impose the least burden on society, consistent with obtaining the regulatory objectives; and that, in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. Executive Order 13563 recognizes that some costs and benefits are difficult to quantify and provides that, when appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts. OIRA has determined that this final rule is not significant for the purpose of Executive Orders 12866 and 13563.

D. Congressional Review Act

Before a rule can take effect, 5 U.S.C. 801, the Congressional Review Act (CRA) requires agencies to submit the rule and a report indicating whether it is a major rule to Congress and the Comptroller General. This final rule does not qualify as a major rule for purposes of the CRA and is therefore not subject to the timing requirements provided in 5 U.S.C. 801(a)(3).

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–38, requires agencies to consider whether a rule will result in the expenditure of $100,000,000 or more (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. This technical amendment will not result in such an expenditure.

F. Executive Order 13132, Federalism

The Department has (1) reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The proposed rule would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections, their practical utility, the impact of paperwork and other information collection burdens imposed on the public, and how to minimize those burdens. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8. The final rule is also not subject to the requirements of the PRA because it does not contain a collection of information as defined in 44 U.S.C. 3502(3).

List of Subjects 29 CFR Part 531

Wages.

PART 531—WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

■ 1. The authority citation for part 531 continues to read as follows:

Authority: 29 U.S.C. 203(m) and (t), as amended by sec. 3(m), Pub. L. 75–718, 52 Stat. 1060; sec. 2, Pub. L. 87–30, 75 Stat. 65; sec. 101, sec. 602, Pub. L. 89–601, 80 Stat. 830; sec. 29(B), Pub. L. 93–259, 88 Stat. 55 sec. 3, sec. 15(c), Pub. L. 95–151, 91 Stat 1245; sec. 2105(b), Pub. L. 104–188, 110 Stat 1755; sec. 8102, Pub. L. 110–28, 121 Stat. 112; and sec. 1201, Div. S., Tit. XII, Pub. L. 115–141, 132 Stat. 348.

[14] *See* 5 U.S.C. 601(2); *see also id.* at 604(a) (requiring a FRFA for rules where the agency was ''required . . . to publish a general notice of proposed rulemaking'').

■ 2. Amend § 531.56 by revising paragraph (e) and removing paragraph (f) to read as follows:

§ 531.56 "More than $30 a month in tips."

* * * * *

(e) *Dual jobs.* In some situations an employee is employed in a dual job, as for example, where a maintenance man in a hotel also serves as a waiter. In such a situation the employee, if he customarily and regularly receives at least $30 a month in tips for his work as a waiter, is a tipped employee only with respect to his employment as a waiter. He is employed in two occupations, and no tip credit can be taken for his hours of employment in his occupation of maintenance man. Such a situation is distinguishable from that of a waitress who spends part of her time cleaning and setting tables, toasting bread, making coffee and occasionally washing dishes or glasses. It is likewise distinguishable from the counterman who also prepares his own short orders or who, as part of a group of countermen, takes a turn as a short order cook for the group. Such related duties in an occupation that is a tipped occupation need not by themselves be directed toward producing tips.

Signed this 12th day of December, 2024.

Jessica Looman,

Administrator, Wage and Hour Division.

[FR Doc. 2024–29798 Filed 12–16–24; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 1

RIN 1505–AC32

Privacy Act Exemptions

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of the Treasury, Departmental Offices is issuing a final rule, exempting a new system of records entitled ''Department of the Treasury, Departmental Offices .413—Outbound Investment Security Program Notification System'' from certain provisions of the Privacy Act. The Outbound Investment Security Program Notification System is being established for information collected in connection with the implementation of Executive Order 14105 of August 9, 2023. The exemption is intended to comply with the legal prohibitions against the disclosure of certain kinds of information and to protect certain information maintained in this system of records.

DATES: This rule is effective on January 16, 2025.

FOR FURTHER INFORMATION CONTACT: For general questions and questions regarding privacy issues, please contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220; telephone: (202) 622–5710.

SUPPLEMENTARY INFORMATION:

Background

The Department of the Treasury (Treasury) published a notice of proposed rulemaking (Systems Exemption NPRM) in the **Federal Register**, 89 FR 76783 (published September 19, 2024), proposing to exempt portions of the system of records from one or more provisions of the Privacy Act.

As background, on August 9, 2023, the President issued Executive Order 14105, 88 FR 54867 (the Outbound Order), which declares a national emergency to address the threat to the United States posed by countries of concern, which seek to develop and exploit sensitive technologies or products critical for military, intelligence, surveillance, or cyber-enabled capabilities. Among other things, the Outbound Order directs the Secretary of the Treasury to issue regulations that require U.S. persons to provide notification of information to Treasury regarding certain transactions involving a person of a country of concern that is engaged in certain activities involving covered national security technologies and products that may contribute to the threat to the national security of the United States as identified in the Outbound Order. The Outbound Order also directs the Secretary of the Treasury to issue regulations that prohibit certain transactions by a U.S. person involving a person of a country of concern that is engaged in certain activities involving covered national security technologies and products that pose a particularly acute national security threat to the United States. The Outbound Order authorizes the Secretary of the Treasury to exempt from applicable prohibitions or notification requirements any transaction determined to be in the national interest of the United States. On August 9, 2023, Treasury issued an advance notice of proposed rulemaking, 88 FR 54961 (published August 14, 2023), to explain initial considerations and seek public comment on implementation of the Outbound Order.

On June 21, 2024, Treasury issued a notice of proposed rulemaking to seek public comment on the proposed rule, 89 FR 55846 (published July 5, 2024). On October 28, 2024, Treasury issued a final rule, [89 FR 90398] (published November 15, 2024) (the Outbound Rule), setting forth the regulations that implement the Outbound Order. The Outbound Rule requires U.S. persons to provide notification of certain transactions. This information will include relevant details on the U.S. person(s) involved in the transaction as well as information on the transaction and the foreign person(s) involved. These notifications will increase the U.S. Government's visibility into transactions by U.S. persons or their controlled foreign entities and involving technologies and products relevant to the threat to the national security of the United States due to the policies and actions of countries of concern. These notifications would also be helpful in highlighting aggregate sector trends and related capital flows as well as informing future policy development. The Outbound Rule also requires any U.S. person seeking a national interest exemption for a particular transaction to submit information to Treasury regarding the scope of that transaction including, as applicable, the information that would be required for a notification under the Outbound Rule.

Treasury's Departmental Offices published separately the notice of a new system of records, 89 FR 76917 (published September 19, 2024), for information collected in connection with the implementation of the Outbound Order.

Public Comments

Treasury received five comments on the Systems Exemption NPRM. Four commenters support the proposed exemptions because of their importance to protect national security. One commenter urged Treasury to consider the importance of transparency and accountability in government, as well as the impact exemptions to the Privacy Act could have on public trust. The commenter expressed concern that the Systems Exemption NPRM was too broad and noted that exemptions to the Privacy Act should be clearly defined and limited to situations implicating national security. The commenter also questioned whether there were any checks and balances in place to ensure that data is only collected in the interest of national security and public safety.