

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 28 CFR Part 544

Prisoners.

**Harley G. Lappin,**

*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 544 as follows.

#### SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

#### PART 544—EDUCATION

■ 1. Revise the authority citation for 28 CFR part 544 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**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Subpart F is revised to read as follows:

#### Subpart F—Occupational Education Programs

Sec.

544.50 Purpose and scope.

544.51 Procedures.

544.52 Levels of Occupational Education Programs.

#### Subpart F—Occupational Education Programs

##### § 544.50 Purpose and scope.

The Bureau of Prisons offers eligible inmates the opportunity under its occupational education programs to participate in occupational education courses for the purpose of obtaining marketable skills designed to enhance post-release employment opportunities.

##### § 544.51 Procedures.

(a) *Eligibility.* All inmates are eligible to participate in an institution's occupational education program. An eligible inmate must apply through the inmate's unit team for placement consideration. The unit team will determine whether the occupational education course is appropriate for the inmate's apparent needs.

(b) *Special considerations for inmates under orders of deportation, exclusion, or removal:* (1) Generally, inmates under orders of deportation, exclusion, or

removal may participate in an institution's occupational education program if Bureau resources permit after meeting the needs of other eligible inmates.

(2) Inmates under orders of deportation, exclusion, or removal who the Attorney General has determined cannot be removed from the United States because the designated country of removal will not accept the inmate's return are exempted from the limitation in paragraph (b)(1) of this section, and may participate in an institution's occupational education in the same manner as other eligible inmates.

##### § 544.52 Levels of Occupational Education Programs.

Occupational education programs are offered at the certificate level and the classroom level. Each level may include the following types of training:

(a) *Exploratory Training.* Exploratory training is a study of occupations and industries for the purpose of providing the student with a general knowledge of the occupation and the world of work, rather than specific skill development.

(b) *Marketable Training.* Marketable training provides specific entry-level or advanced job skills. Marketable training may include "live work", that is, the training would result in a product or service produced by the inmate for actual use by the institution, FPI, another federal agency, or community service project.

(c) *Apprentice Training.* Apprentice training provides an inmate the opportunity to participate in training which prepares the inmate for employment in various trades through structured apprenticeship programs approved at the state and national levels by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

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#### DEPARTMENT OF JUSTICE

#### Bureau of Prisons

#### 28 CFR Part 544

[BOP-1019-F]

RIN 1120-AA25

#### Postsecondary Education Programs

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Prisons (Bureau) finalizes, without change, a proposed rule it published on July 17, 2000, at 65 FR 44400 to exclude from

postsecondary education programs courses offered as part of an occupational education program. Occupational education programs are covered in separate Bureau regulations.

**DATES:** This rule is effective December 19, 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:** In this document, the Bureau amends its regulations on postsecondary education programs to exclude courses offered as part of an occupational education program, which we cover in separate Bureau regulations.

Under this final rule, the inmate is responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. We intend this amendment to simplify the organization of the Bureau's regulations and to conform with the usual community standards of government-funded educational opportunities available to the general public.

We published this rule change as a proposed rule on July 17, 2000 (65 FR 44400). We received two comments on the proposed rule.

#### First Public Comment

One commenter proposed that we include brief language in our rule to allow staff to use the postsecondary education programs as a sign of positive adjustment by an inmate, favorably affecting the custody score on our Custody Classification Form.

The Bureau uses the Custody Classification Form to accurately evaluate and classify an inmate so that we can give the inmate an appropriate security level. The Bureau must properly determine an inmate's security level to ensure the safety and security of the inmate and the institution.

The Custody Classification Form that the commenter refers to is made up of many factors that staff can use to evaluate the inmate. One of these factors is called "Responsibility Demonstrated." To illustrate an inmate's level of responsibility, we instruct our staff to consider the inmate's general demeanor as reflected in peer group associates, degree of program involvement, level of dependability, and nature of interaction with staff and other inmates.

Although staff determine what behavior illustrates the inmate's level of responsibility, postsecondary education programs are not excluded. Under current Bureau policy, staff may use postsecondary education programs as a sign of positive adjustment by an inmate, as the commenter suggests. Because our current policy already allows for the commenter's suggestion, and because this is a matter of internal agency administration, we do not add further language to this final rule on this subject.

#### Second Public Comment

The second commenter suggested that we should include language in the rule "restricting refusal of postsecondary courses based solely on the information contained within the course (syllabus or informational) text." The commenter felt that "refusal should be limited to courses that pose a tangible threat, such as contact/handling of chemicals, unauthorized objects, or the required construction of unauthorized \* \* \* objects. Except in extreme circumstances, a decision to refuse a postsecondary course should not be made based solely on the knowledge offered by a particular text."

Because of the many different security levels and individual characteristics of our institutions, we afford our Wardens discretion in determining where possible security risks might arise. The Warden delegates this responsibility to the postsecondary education coordinator, who, under § 544.21(b) of these regulations, "determines that the course is appropriate in light of the institution's need for discipline, security, and good order."

If we do what the commenter suggests by articulating a uniform set of factors for Wardens to consider when determining whether or not to allow an inmate to take a particular course, we remove the Warden's discretion.

Also, because our institutions are varied and have individual characteristics, a uniform set of guidelines would curtail a Warden's flexibility in dealing with a particular institution's unique situation or security issue.

In addition, how a Warden makes the decision to allow or deny a particular course is an internal, agency administrative matter. For these reasons, we do not add further language to this final rule on this subject.

#### Executive Order 12866

The Director determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, and therefore it was not

reviewed by the Office of Management and Budget.

#### 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. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare 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 regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about 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 cause State, local and tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under 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.

#### List of Subjects in 28 CFR Part 544

Prisoners.

**Harley G. Lappin,**

*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 544 as follows.

## SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

### PART 544—EDUCATION

■ 1. Revise the authority citation for 28 CFR part 544 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.

■ 2. Revise Subpart C as follows:

#### Subpart C—Postsecondary Education Programs for Inmates

Sec.

544.20 Purpose and scope.

544.21 Procedures.

#### Subpart C—Postsecondary Education Programs for Inmates

##### § 544.20 Purpose and scope.

The Bureau of Prisons offers inmates the opportunity under its postsecondary education program to participate in postsecondary education courses (courses for college credit other than those courses which pertain to occupational education programs) which have been determined to be appropriate in light of the institution's need for discipline, security, and good order. Participation in postsecondary education courses which are part of occupational education programs is governed by the provisions of the Bureau's occupational education program (see subpart F of this part).

##### § 544.21 Procedures.

(a) The Warden or designee must appoint a postsecondary education coordinator (ordinarily an education staff member) for the institution. The postsecondary education coordinator is responsible for coordinating the institution's postsecondary education program.

(b) An inmate who wishes to participate in a postsecondary education course must apply through the postsecondary education coordinator. If the postsecondary education coordinator determines that the course is appropriate in light of the institution's need for discipline, security, and good order, the inmate may enroll provided that:

(1) The inmate meets eligibility requirements for the course which have been set by the course provider,

(2) The inmate is responsible for payment of any tuition either through personal funds, community resources, or scholarships available to the inmate, and

(3) The unit team determines that the course is appropriate for the inmate's apparent needs.

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**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Part 250**

RIN 1010-AC93

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Document Incorporated by Reference—API RP 14C**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Correcting amendment.

**SUMMARY:** This document makes a correction to the final rule titled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Document Incorporated by Reference—API RP 14C" that was published August 9, 2002 (67 FR 51757). A portion of the text in 30 CFR 250.803(b) was inadvertently deleted. This amendment will add the paragraphs back into the regulation.

**EFFECTIVE DATE:** This rule becomes effective on November 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Wilbon Rhome, Operations Analysis Branch at (703) 787-1587.

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of this correction supersede Section 250.803(b)(7) paragraphs (i), (ii), (iii), and (iv), Title 30 of the CFR, parts 200 to 699 inadvertently deleted.

**Need for Correction**

As published, the final regulations contain deletions that need to be reinstated.

**List of Subjects in 30 CFR Part 250**

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

**Correction of Publication**

■ Accordingly, 30 CFR Part 250 is corrected by making the following correcting amendment:

**PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

■ 1. The authority citation for part 250 continues to read as follows:

**Authority:** 43 U.S.C. 1331, *et seq.*

■ 2. In § 250.803, revise paragraph (b)(7) to read as follows:

**§ 250.803 Additional production system requirements.**

\* \* \* \* \*

(b)(7) *Gas compressors.* You must equip compressor installations with the following protective equipment as required in API RP 14C, Sections A4 and A8 (incorporated by reference as specified in § 250.198).

(i) A Pressure Safety High (PSH), a Pressure Safety Low (PSL), a Pressure Safety Valve (PSV), and a Level Safety High (LSH), and an LSL to protect each interstage and suction scrubber.

(ii) A Temperature Safety High (TSH) on each compressor discharge cylinder.

(iii) The PSH and PSL shut-in sensors and LSH shut-in controls protecting compressor suction and interstage scrubbers shall be designated to actuate automatic shutdown valves (SDV) located in each compressor suction and fuel gas line so that the compressor unit and the associated vessels can be isolated from all input sources. All automatic SDV's installed in compressor suction and fuel gas piping shall also be actuated by the shutdown of the prime mover. Unless otherwise approved by the District Supervisor, gas—well gas affected by the closure of the automatic SDV on a compressor suction shall be diverted to the pipeline or shut in at the wellhead.

(iv) A blowdown valve is required on the discharge line of all compressor installations of 1,000 horsepower (746 kilowatts) or greater.

\* \* \* \* \*

Dated: October 30, 2003.

**Rebecca W. Watson,**  
*Assistant Secretary—Land and Minerals Management.*

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 199**

RIN 0720-AA85

**TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2003 (NDAA-03)**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule contains several provisions found in the NDAA-03, Public Law 107-314, signed on December 2, 2002. Specifically this rule addresses eliminating the requirement for TRICARE preauthorization of inpatient mental health care for Medicare-eligible beneficiaries where Medicare is primary payer and has already authorized the care using Medicare certification of individual professional providers as sufficient documentation to also certify individual professional providers under TRICARE; and expanding the TRICARE Dental Program (TDP) eligibility for dependents of deceased members. Public comments are invited and will be considered for possible revisions to the final rule.

**DATES:** This rule is effective November 19, 2003. The effective date for the 32 CFR 199.4(a)(12)(ii)(E)(2) is October 1, 2003. The effective date for 32 CFR 199.13(c)(3)(ii)(E)(2) is December 2, 2002.

**APPLICABILITY:** The applicability date for 32 CFR 199.6(c)(2)(v) is for any TRICARE contract entered into on or after December 2, 2002.

**COMMENTS:** Comments will be accepted until January 20, 2004.

**ADDRESSES:** Forward comments to Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretch Parkway, Aurora, Colorado 80011-9066.

**FOR FURTHER INFORMATION CONTACT:** Ann N. Fazzini, (303) 676-3803 (The sections of this rule regarding elimination of mental health preauthorization and Medicare providers as TRICARE providers) or Major Shannon Lynch, (303) 676-3496 (The section of this rule regarding the TRICARE Dental Program). Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

**SUPPLEMENTARY INFORMATION:**