account for nearly all of contracted swine production in the U.S.

In accordance with 5 U.S.C. 605 of the Regulatory Flexibility Act, we are not providing a final regulatory flexibility analysis because this rule will not have a significant economic impact on a substantial number of small entities. We do expect that small swine production contract growers will benefit indirectly from the proposed amendments, which should provide fairness in the marketing of swine and swine products.

Executive Order 12988

This rule was reviewed under Executive Order 12988, Civil Justice Reform. We do not intend the rule to have retroactive effect. The rule will not pre-empt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

E-Government Act Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 9 CFR Part 201

Confidential business information, Reporting and recordkeeping requirements, Stockyards, Trade practices.

■ For reasons set forth in the preamble, we amend 9 CFR part 201 as follows:

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

■ 1. Revise the authority citation for part 201 to read as follows:

Authority: 7 U.S.C. 182, 222, and 228, and 7 CFR 2.22 and 2.81.

■ 2. Revise § 201.53 to read as follows:

§ 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, swine contractor, live poultry dealer, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records, or representation concerning the market conditions or the prices or sale of any livestock, meat, or live poultry.

■ 3. Revise § 201.94 to read as follows:

§ 201.94 Information as to business; furnishing of by packers, swine contractors, live poultry dealers, stockyard owners, market agencies, and dealers.

Each packer, swine contractor, live poultry dealer, stockyard owner, market agency, and dealer, upon proper request, shall give to the Secretary or his duly authorized representatives in writing or otherwise, and under oath or affirmation if requested by such representatives, any information concerning the business of the packer, swine contractor, live poultry dealer, stockyard owner, market agency, or dealer which may be required in order to carry out the provisions of the Act and regulations in this part within such reasonable time as may be specified in the request for such information.

■ 4. Revise § 201.95 to read as follows:

§ 201.95 Inspection of business records and facilities.

Each stockyard owner, market agency, dealer, packer, swine contractor, and live poultry dealer, upon proper request, shall permit authorized representatives of the Secretary to enter its place of business during normal business hours and to examine records pertaining to its business subject to the Act, to make copies thereof and to inspect the facilities of such persons subject to the Act. Reasonable accommodations shall be made available to authorized representatives of the Secretary by the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer for such examination of records and inspection of facilities.

■ 5. Revise § 201.96 to read as follows:

§ 201.96 Unauthorized disclosure of business information prohibited.

No agent or employee of the United States shall, without the consent of the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer concerned, divulge or make known in any manner, any facts or information regarding the business of such person acquired through any examination or inspection of the business or records of the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer, or through any information given by the stockyard owner, market agency, dealer, packer, swine contractor, or live poultry dealer pursuant to the Act and regulations, except to such other agents or employees of the United States as may be required to have such knowledge in the regular course of their official duties or except insofar as they may be directed by the Administrator or by a court of competent jurisdiction, or except as they may be otherwise required by law.

Randall D. Jones,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E8–24945 Filed 10–20–08; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 570

[BOP Docket No. 1151–I]

RIN 1120–AB51

Pre-Release Community Confinement

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: In this document, the Bureau of Prisons (Bureau) revises current regulations on pre-release community confinement to conform with the requirements of the Second Chance Act of 2007, approved April 9th, 2008 (Pub. L. 110–199; 122 Stat. 657) (''Second Chance Act'').

DATES: This rule is effective October 21, 2008. Comments are due by December 22, 2008.

ADDRESSES: Submit comments to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at *http://www.regulations.gov*. You may also comment via the Internet to the Bureau at *BOPRULES@BOP.GOV* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically, you must include the BOP Docket No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and are available for public inspection online at *http://www.regulations.gov*. Such information includes personal identifying information (such as your name,

address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov*.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

Changes Made by This Rule

In this document, the Bureau revises current regulations on pre-release community confinement in 28 CFR part 570, subpart B, to conform with the requirements of the Second Chance Act of 2007, approved April 9th, 2008 (Pub. L. 110–199; 122 Stat. 657) (''Second Chance Act'').

The community confinement regulations currently implement the Bureau's categorical exercise of discretion for designating inmates to community confinement. The regulations state that the Bureau will designate inmates to community confinement only as a condition of pre-release custody and programming, during the last ten percent of the prison sentence being served, for a period not exceeding six months, unless specific Bureau programs allow greater periods of community confinement.

To conform these regulations to the language of the Second Chance Act, we make the following revisions:

Section 570.20 Purpose

In this regulation, we describe the Bureau's procedures for designating inmates to pre-release community confinement or home detention. We also provide a new definition of the term ''community confinement.'' Section 231(f) of the Second Chance Act amended 18 U.S.C. 3621 by adding a new subsection (g). New 18 U.S.C. 3621(g)(2) defines the term ''community confinement'' for purposes of that subsection by adopting the meaning ''given that term in application notes under section 5F1.1 of the Federal Sentencing Guidelines Manual'' in effect on the date of enactment of the Act. On April 9, 2008, the application notes to United States Sentencing Guideline (USSG) § 5F1.1 read as follows:

''Community confinement'' means residence in a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community facility; and participation in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

Although new subsection 18 U.S.C. 3621(g) relates on its face only to ''continued access to medical care,'' we adopt the definition of community confinement given in this provision for the purposes of subpart B as amended. The Second Chance Act itself variously uses the terms ''community confinement,'' ''community corrections agencies,'' ''community corrections facilities,'' and ''community confinement facilities,'' but it does so in contexts that indicate that these terms are meant to refer to the concept of community confinement generally. We therefore adopt the definition in 18 U.S.C. 3621(g) for clarity and consistency, and to maintain uniformity in application of the Second Chance Act provisions, we adopt this definition of ''community confinement'' as applicable in the context of these regulations. For clarity, we also add a parenthetical that explains that the Bureau includes residential re-entry centers in the definition of ''community confinement.''

In this section, we also add a definition of ''home detention.'' Section 231(g)(5)(B) of the Second Chance Act provides that ''[t]he term 'home detention' has the same meaning given the term in the Federal Sentencing Guidelines as of the date of the enactment of this Act.'' Once more, although this reference to the Federal Sentencing Guidelines is articulated in a different context, we deem it prudent to model our definition on that given by the Federal Sentencing Guidelines, as suggested by the Second Chance Act, for clarity and consistency in application.

In this section, therefore, we include a definition of ''home detention'' which is derived from USSG 5F1.2. Specifically, we define ''home detention'' as a program of confinement and supervision that restricts the defendant to his place of residence continuously, except for authorized absences, enforced by appropriate means of surveillance by the probation office or other monitoring authority. We add the phrase ''or other monitoring authority'' to the definition given by USSG 5F1.2 to allow for the possibility that the function of monitoring may be accomplished by other federal government agencies, employees, or contractors.

Section 570.21 Time-Frames

Section 251(a) of the Second Chance Act amends 18 U.S.C. 3624(c) to require that the Director must, ''to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community.'' Further, section 3624(c) is amended to state that ''[t]he authority under this subsection may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months.''

In this section, we therefore make the following changes to conform to the specific language in section 251(a) of the Second Chance Act: Paragraph (a) of the revised § 570.21 states that inmates may be designated to community confinement as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed twelve months; and paragraph (b) of the revised § 570.21 states that inmates may be designated to home detention as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed the shorter of ten percent of the term of the inmate's imprisonment or six months.

Section 570.22 Designation

In this section, we inform inmates that they will be considered for pre-release community confinement in a manner consistent with 18 U.S.C.

3621(b), determined on an individual basis, and of duration sufficient to optimize the likelihood of successful reintegration into the community. This section reflects the requirements of the Second Chance Act regarding the promulgation of these regulations. Section 251(a)(6) of the Second Chance Act requires the Bureau to implement regulations that ensure that placements in community confinement as a condition of pre-release custody are:

- Conducted in a manner consistent with 18 U.S.C. 3621(b);
- Determined on an individual basis; and
- Long enough ''to provide the greatest likelihood of successful reintegration into the community.''

Section 570.22 reflects the three factors listed above.

With regard to the requirement that determinations regarding pre-release community confinement are ''conducted in a manner consistent with 18 U.S.C. 3621(b),'' the Bureau will ensure that the following factors listed in section 3621(b) will be considered in making such determinations:

- The resources of the facility contemplated;
- The nature and circumstances of the offense;
- The history and characteristics of the prisoner;
- Any statement by the sentencing court concerning the purpose for which the sentence was imposed or recommending a specific type of institution; and
- Any pertinent policy statements issued by the United States Sentencing Commission.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553) allows exceptions to notice-and-comment rulemaking for ''(A) interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice; or (B) when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

18 U.S.C. 3624(c)(6) is a new provision that requires the Bureau to issue regulations reflecting these provisions ''not later than 90 days after the date of the enactment of the Second Chance Act of 2007, which shall ensure that placement in a community correctional facility by the Bureau of Prisons is—(A) conducted in a manner consistent with section 3621(b) of this title; (B) determined on an individual basis; and (C) of sufficient duration to provide the greatest likelihood of successful reintegration into the community.'' Therefore, these regulations are required to be promulgated no later than July 8, 2008, which was 90 days after the date of enactment of the Second Chance Act, April 9, 2008.

The current regulations on community confinement are not only inconsistent with regard to the time-frames articulated by the Second Chance Act, but also conflict with the goals of the new law by articulating a categorical exclusion that would preclude individual determinations.

Adopting these rules through the normal notice-and-comment procedures would not be consistent with the short statutory time-frame provided for implementing these regulatory changes. Requiring formal notice-and-comment procedures would be contrary to the public interest in this case, particularly because the revision of these regulations will provide a greater benefit for inmates, through the possibility of a greater community confinement time-frame than that contemplated under the current regulations. Because this change is responsive to mandates in legislation and is interpretive in nature, we find that normal notice-and-comment rulemaking is unnecessary and contrary to the public interest.

Therefore, to best comply with Congress's mandate that the revised regulations be timely issued, we issue these changes revising subpart B of 28 CFR part 570 as an interim final rule. We will accept comments to this interim final rule and consider and discuss comments received during the comment period in our final rule document.

Further, we forgo the requirement under 5 U.S.C. 552(d) which provides for regulations to go into effect 30 days after the date of publication for the reasons stated above. In particular, a delayed effective date would be inconsistent with regard to the time-frames articulated by the Second Chance Act and rapid implementation would benefit inmates.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB.

The Bureau has assessed the costs and benefits of this rule as required by Executive Order 12866 section 1(b)(6) and has made a reasoned determination that the benefits of this rule justify its costs. This rule will have the benefit of eliminating confusion in the courts that has been caused by the changes in the Bureau's statutory interpretation, while allowing us to continue to operate in compliance with the revised statute. There will be no new costs associated with this rulemaking.

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. Therefore, under Executive Order 13132, we determine 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. section 605(b)), reviewed this regulation 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.

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 570

Prisoners.

Harley G. Lappin,

Director, 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, Bureau of Prisons in 28 CFR 0.96, we amend 28 CFR part 570 as set forth below.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 570—COMMUNITY PROGRAMS

■ 1. Revise the authority citation for 28 CFR part 570 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Revise subpart B to read as follows:

Subpart B—Pre-Release Community Confinement

Sec.
570.20 Purpose.
570.21 Time-frames.
570.22 Designation.

§ 570.20 Purpose.

The purpose of this subpart is to provide the procedures of the Bureau of Prisons (Bureau) for designating inmates to pre-release community confinement or home detention.

(a) *Community confinement* is defined as residence in a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community correctional facility (including residential re-entry centers); and participation in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

(b) *Home detention* is defined as a program of confinement and supervision that restricts the defendant to his place of residence continuously, except for authorized absences, enforced by appropriate means of surveillance by the probation office or other monitoring authority.

§ 570.21 Time-frames.

(a) *Community confinement.* Inmates may be designated to community confinement as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed twelve months.

(b) *Home detention.* Inmates may be designated to home detention as a condition of pre-release custody and programming during the final months of the inmate's term of imprisonment, not to exceed the shorter of ten percent of the inmate's term of imprisonment or six months.

(c) *Exceeding time-frames.* These time-frames may be exceeded when separate statutory authority allows greater periods of community confinement as a condition of pre-release custody.

§ 570.22 Designation.

Inmates will be considered for pre-release community confinement in a manner consistent with 18 U.S.C. section 3621(b), determined on an individual basis, and of sufficient duration to provide the greatest likelihood of successful reintegration into the community, within the time-frames set forth in this part.

[FR Doc. E8–24928 Filed 10–20–08; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

RIN 0596–AB63

Administration; Cooperative Funding; Correction

AGENCY: Forest Service, USDA.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulations, which were published in the **Federal Register** of November 8, 1999 (64 FR 60678). The regulations established the minimum requirements applicable to written agreements between the Forest Service and cooperators, such as individuals, States and local governments, and other non-Federal entities. Additionally, this rulemaking implemented amendments to the Act of June 30, 1914, which expanded the basis for accepting contributions for cooperative work, allows reimbursable payments by cooperators, and adequately protects the Government's interest.

DATES: Effective on October 21, 2008.

FOR FURTHER INFORMATION CONTACT: Patricia S. Palmer, Washington Office Grants and Agreements, (703) 605–4776 or Ken Kessler, Office of Tribal Relations, (202) 205–4972.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections implemented amendments to the Act of June 30, 1914 (16 U.S.C. 498). This Act authorizes the Secretary of Agriculture to receive and subsequently use money as contributions toward cooperative work in forest investigations or for the protection and improvement of the national forests. The rule implemented amendments the Act of June 30, 1914, (16 U.S.C. 498) by: (1) Providing for the use of contributions for cooperative work on the entire National Forest System; (2) Adding ''management'' to the list of activities for which contributions for cooperative work may be accepted; and (3) Providing specific authority to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement.

Need for Correction

As published, the final regulations do not define adequately the term non-Government cooperator. This term is defined so that non-Government entities can obtain a bond to protect the agency should the non-Government entity owe money to the agency for work performed on their behalf. Non-Government is defined in the negative by listing government entities and making all other entities non-Government. Omitted from the government list are federally recognized Indian tribes which means any Indian Tribe, band, nation, or other organized group or community, and other organizations funding a Forest Service agreement with pass through funding from an entity that is a member, division, or affiliate of a Federal, State, local government, or federally recognized Indian Tribe. This omission leads to inconsistent interpretation and, therefore, requires correction.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure, Fire prevention, Intergovernmental relations, National forests.

■ Accordingly, 36 CFR part 211 is corrected by making the following correcting amendments:

PART 211—ADMINISTRATION

■ 1. The authority citation for part 211 continues to read as follows:

Authority: 16 U.S.C. 472, 498, 551.

Subpart A—Cooperation

■ 2. Revise § 211.6 paragraph (c) to read as follows: