

participate in immigration hearings conducted by the INS (BCIS) and EOIR. After INS (BCIS) and EOIR make a decision to exclude, deport or remove an alien, the alien is transferred to an IHP release site close to deportation locations, where alien inmates remain until their sentences expire. The INS (BCIS) and EOIR, not the Bureau, make the decision regarding an alien's status. Therefore, there is no way that the Bureau can "wrongly classify" an alien, as the commenter feared.

One commenter cited the preamble to the original rule, published in 1979 (44 FR 38236), which stated that the purpose of the gratuity is to ensure that the alien has money to care for him-/herself in the community until he/she receives an income. The commenter suggested that eliminating this gratuity would be contrary to the purpose of providing the funds—for transportation and communicating with family or legal counsel.

Since aliens who had received the \$10 gratuity were not released to the community, but instead to INS (BCIS), they would have no need of support pending their ability to earn an income. Instead, they are released into the custody of INS (BCIS), who is responsible for transporting them, and they can access INS (BCIS) provisions for communicating with family members and legal counsel.

One commenter expressed concern that this rule would not actually reduce cost to the Bureau. According to our recent statistics, in December of 1999, we released approximately 958 INS (BCIS) detainees. Therefore, extrapolating this statistic, we estimate that approximately 11,500 aliens receive this gratuity annually. Therefore, this rule would save the Bureau approximately \$115,000 every year. We consider this a significant cost savings for the Bureau.

Finally, we received a letter which we construed to be a comment on the proposed rule, as it raised the subject of release gratuities. However, we found that the commenter, an inmate, did not address the issues raised by the proposed rule, but instead questioned the Bureau's application of 18 U.S.C. 4281, instead of 18 U.S.C. 3624(d), to his situation. Although this comment is not relevant to this final rule, we will briefly address it here.

18 U.S.C. 4281, which was repealed in 1984 (*see* Pub.L. 98-473, Title II, § 218(a)(7), October 12, 1984, 98 Stat. 2027), allowed only a \$100 gratuity to prisoners upon release. Its replacement, 18 U.S.C. 3624(d), allows "an amount of money, not more than \$500" in the Director's discretion. The inmate

commented that, on his release, he should receive the \$500 described in the latter statute instead of the \$100 described in the former statute.

Section 235 of Public Law 98-473 stated that 18 U.S.C. 3624 and other provisions created by that Public Law would "take effect on the first day of the first calendar month beginning 36 months after the date of enactment [October 12, 1984] and [would] apply only to offenses committed after the taking effect of this chapter." The effective date of 18 U.S.C. 3624 is, therefore, November 1, 1987. Because this commenter's offense occurred before November 1, 1987, 18 U.S.C. 3624(d) does not entitle him to a \$500 gratuity upon release.

We publish the proposed rule, without change, as a final rule. You may send further comments on this rule by writing to the address noted above. Although we will not formally respond to further comments by publication in the **Federal Register**, we will consider them.

#### Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has not been 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. Therefore, in accordance with Executive Order 13132, it is determined 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, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation 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 section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. It 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 571

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 part 551 in subchapter C of 28 CFR, chapter V as set forth below.

#### SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

#### PART 571—RELEASE FROM CUSTODY

■ 1. Revise the authority citation for 28 CFR part 571 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3565; 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3582, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 and 4201–4218 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5031–5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 1.1–1.10.

■ 2. In § 571.21, revise paragraph (e) to read as follows:

#### § 571.21 Procedures.

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(e) Staff will ensure that each alien released to immigration authorities for