

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

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AWP HI E5 Waimea-Kohala, HI [Revised]

Waimea-Kohala Airport, HI

(Lat. 200°00'05" N, long. 155°40'05" W)

Kamuela VOR/DME

(Lat. 19°59'53" N, long. 155°40'12" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Waimea-Kohala Airport and within 2 miles each side of the Kamuela VOR/DME 068° radial, extending from the 6.4-mile radius 12.6 miles northeast of the Kamuela VOR/DME and within 2 miles each side of the Kamuela VOR/DME 246° extending from the 6.4-mile radius to the 13.4 miles southwest of the Kamuela VOR/DME

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Issued in Los Angeles, California, on July 23, 2003.

Stephen J. Lloyd,

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Western-Pacific Region.*

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DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 549**

[BOP–1086–F]

RIN 1120–AA81

Over-The-Counter (OTC) Medications

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) establishes procedures governing inmate access to Over-The-Counter (OTC) medications. Currently, the inmate population can

only buy approved OTC medications through the commissary at their institutions. Our commissaries will continue to sell medications such as aspirin, acetaminophen, ibuprofen, chlorpheniramine, antacids, hemorrhoidal ointment, hydrocortisone cream, and a fiber supplement (e.g. Metamucil®), and other such medications used for symptomatic relief of common conditions. For inmates in inpatient status at our medical referral facilities, we will continue dispensing OTC medications at sick call. For all other inmates, we will continue dispensing OTC medications at sick call to inmates in the general population only if the inmate does not already have the OTC medication, and health services staff determine there is an immediate medical need which must be addressed before the inmate's regularly scheduled commissary visit, or that the inmate has no funds.

We intend that these procedures will help us allocate medical resources efficiently and cost-effectively, while remaining consistent with the Bureau's scope of services which meet inmates' medically mandatory and medically necessary needs.

EFFECTIVE DATE: September 11, 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: We amend our regulations on Over-The-Counter (OTC) medications (28 CFR part 549, subpart B). We published a proposed rule on this subject in the **Federal Register** on March 1, 1999 (64 FR 10094).

Summary of Public Comment

We received six comments. One generally supported the proposed rule, but five commenters objected.

Citing statutory authority requiring the Bureau to provide for the subsistence of persons charged to its custody, one commenter alleged that the proposed rule promoted the Bureau's economic interests over inmates' health needs and would further erode the quality of health care available to inmates.

This commenter argued that conditions in Bureau facilities leave inmates vulnerable to infection. The commenter further stated that Bureau health services staff do not act responsibly. For example, the commenter states that, at one

institution, sick call appointments may be scheduled 3 to 5 work days after the initial request. The commenter suggests that this is intended to discourage inmates from coming to sick call and that requiring inmates to buy OTC medications would deter inmates from making sick call appointments. The commenter further charges that the Bureau would use profits from the sale of OTC medications to fund tort claim or law suit settlements.

Two additional commenters alleged that costs associated with the upkeep of inmates are the government's responsibility and should remain so. These commenters also objected to the pricing of OTC medications currently available in the institution's commissary. One commenter suggested that if the cost of OTC medications was passed on to the inmate, the inmate should be given a wider choice of medications. The other commenter alleged that staff were likely to abuse the administration of the proposed regulations and that staff improperly followed outdated procedures for addressing inmate complaints. The commenter also criticized the general quality of staff and the level of professional training available to staff.

Another commenter stated that having OTC medications available through the commissary does not justify discontinuing sick call distribution. This commenter states that access to the commissary at some institutions is limited to one scheduled visit per week, that the commissary closes quarterly for inventory, and that the medications are not affordable or are overpriced. This commenter suggested that the proposed procedures may encourage inmates to break other Bureau rules, namely the prohibition on sharing personal property with other inmates.

One commenter believes it is dangerous to permit mental health patients to purchase OTC medications which may adversely interact with prescribed medications. Another also objected to potential negative interactions between prescribed and OTC medications.

Another commenter raised administrative procedural objections to the proposed rule and various Bureau policies for providing inmate health care. This commenter stated that the proposed rule did not cite a need for the change nor expected results from application of the new regulation. The commenter argued that OTC medications can be used for illnesses, and consequently the Bureau is contradicting itself when it states that OTC medications are being used for cosmetic and general hygiene issues.