implemented or are not available to prevent the transmission of the specific disease. Reference to HIV antibody screening as a criterion for work detail assignment has been removed. The Bureau believes that the provisions of paragraph (b) precisely state the criteria used for both housing and work detail assignment, and consequently there is no need to exclude further criteria. Paragraph (c) restates the provisions of former § 549.12.

The provisions in § 549.17 on confidentiality have been revised for the purpose of indicating wider applicability to chronic infectious diseases, to include reference to release under the Privacy Act, and to include a prohibition against third party disclosure.

The provisions in former § 549.18 have been designated as paragraph (i) of new § 549.18. As revised, new § 549.18 contains miscellaneous provisions pertaining to HIV or HBV. Paragraph (a) restates the provisions of former § 549.11 and, for the sake of emphasis, repeats the advisory on incident reports prescribed by new §549.13(b). Paragraph (b) restates the provisions of the introductory text of former § 549.16 (non-prescriptive language was not restated for the sake of conciseness). Paragraphs (c) and (d) partly restate the provisions of former §§ 549.16(a) (1) and (2). The remainder of §§ 549.16(a) (1) and (2) have been restated in new §549.13(b). Paragraph (e) revises the provisions of former § 549.16(b)(1) to limit inmate requests for voluntary HIV/ HBV antibody tests to no more than once yearly. Paragraph (f) restates the provisions of former § 549.16(b)(2). Paragraph (g) restates the provisions of former § 549.16(c). Paragraph (h) restates the provisions of former § 549.16(d) and adjusts the timeframe for notification to the United States Probation Office. Paragraph (i) restates the provisions of former § 549.18. Paragraph (j), formerly contained in § 549.19, has been revised to require clinical evaluation and review at least quarterly rather than monthly. This change is being made pursuant to guidelines on managing early HIV infection issued by the Agency for Health Care Policy and Research, Public Health Service. Paragraph (k) restates the provisions contained in former § 549.19.

The provisions on autologous blood banking contained in former § 549.20 have been removed. Under community standards of care, these provisions are considered to be discretionary. Because the typical procedures for blood banking necessitate a disproportionate allocation of Bureau resources (namely, staff escorts to community hospitals and constraints of time schedules), the Bureau has determined that it is impractical to offer this procedure to inmates.

The Bureau is publishing these revisions as an interim rule for two reasons. First, the Bureau has determined that it is important to effect these changes as quickly as possible in order to allow for the judicious management of those contagious diseases which can pose serious problems in the confined environment of a prison. Second, a significant portion of the regulations are restatements of provisions which had previously gone through proposed rulemaking. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered before the rule is finalized.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 549

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 549 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 549—MEDICAL SERVICES

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039: 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart A, consisting of §§ 549.10 through 549.20, is revised to consist of §§ 549.10 through 549.18 as follows:

Subpart A—Infectious Diseases

Sec.

- 549.10 Purpose and scope.
- 549.11 Program responsibility.

549.12 Reporting.

- 549.13 Medical testing.
- 549.14 Training.
- 549.15 Medical isolation and quarantining.
- 549.16 Duty and housing restrictions.
- 549.17 Confidentiality of information.
- 549.18 Human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

Subpart A—Infectious Diseases

§ 549.10 Purpose and scope.

This policy is designed to provide instruction and guidance in the management of infectious diseases in the confined environment of a correctional setting.

§549.11 Program responsibility.

(a) The Health Services Administrator (HSA) and Clinical Director (CD) of each institution shall be responsible for the development and implementation of this program.

(b) Each HSA shall designate a member of the clinical health care staff, for example, a physician, dentist, physician assistant, nurse practitioner, or nurse, as the Coordinator of Infectious Diseases (CID).

§549.12 Reporting.

The HSA shall ensure that each institution's respective state health department is informed of all cases of reportable infectious diseases. See § 549.17 for reporting requirements of chronic infectious diseases and for Freedom of Information Act requests.

§549.13 Medical testing.

(a) Bloodborne pathogens. Following an incident in which a staff member or an inmate may have been exposed to bloodborne pathogens, written, informed consent shall be obtained prior to acquiring or processing the source individual's blood or other biological specimen for the purpose of determining an actual exposure to a bloodborne pathogen. In the context of exposure incidents, no inmate shall be tested forcibly or involuntarily, unless such testing is ordered by a court with proper jurisdiction. Inmates may be subjected to disciplinary action for assaultive behavior related to an exposure incident.

(b) *HIV testing.* HIV testing programs are mandatory and include a yearly random sample, yearly new commitment sample, new commitment re-test sample, pre-release testing, and clinically indicated testing. Inmates must participate in all mandatory testing programs. Staff shall initiate an incident report for failure to follow an order for any inmate refusing one of the mandatory HIV testing programs.

(c) *Diagnostics*. (1) An inmate who refuses clinically indicated diagnostic