

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 501**

[BOP-1046-I]

RIN 1120-AA47

Scope of Rules: National Security**AGENCY:** Bureau of Prisons, Justice.**ACTION:** Interim rule with request for comments.

SUMMARY: This document amends Bureau of Prisons regulations on institutional management with respect to special administrative measures that may be necessary to avoid the risk of disclosure of classified information that could endanger national security. The affected inmate must be notified in writing as promptly as possible of the restrictions to be imposed. Restrictions may be imposed initially for up to 120 days, and may be extended in further increments of 120 days only upon additional written notification that the circumstances identified in the original certification continue to exist.

DATES: This rule shall take effect October 13, 1995; comments must be submitted by December 12, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons ("Bureau") is adopting interim regulations on the correctional management of cases implicating national security. Under these interim regulations, the Warden may implement administrative measures that are reasonably necessary to prevent disclosure of classified information by an inmate committed to Bureau custody. Application of these measures is likely to affect only a minute portion of the inmate population; specifically, only those inmates who are certified by the head of a member agency of the United States intelligence community as posing a threat to the national security through the possible disclosure of classified information.

It is not the intention of the Bureau that the restrictions imposed in these special cases include complete

curtailment of privileges. An inmate upon whom these special restrictions are imposed is entitled to notification in writing of the imposed restrictions and the basis for the restrictions. The affected inmate may appeal imposition of restrictions ordered under this section through the Bureau's Administrative Remedy Program, 28 CFR Part 542.

The Bureau is publishing this regulation as an interim rule under the "good cause" provision of 5 U.S.C. 553(b) in order to prevent any risk of disclosure of information that would be contrary to the public interest and detrimental to the national security. 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, and accordingly this rule was not reviewed by the Office of Management and Budget. 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 501**Prisoners.**

Peter M. Carlson,
Acting 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 501 in subchapter A of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION**PART 501—SCOPE OF RULES**

1. The authority citation for 28 CFR part 501 is revised 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), 4161-4166 (Repealed 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; 28 CFR 0.95-0.99.

2. Section 501.2 is added to read as follows:

§ 501.2 National security cases.

(a) Upon direction of the Attorney General, the Director, Bureau of Prisons, may authorize the Warden to implement special administrative measures that are reasonably necessary to prevent disclosure of classified information upon written certification to the Attorney General by the head of a member agency of the United States intelligence community that the unauthorized disclosure of such information would pose a threat to the national security and that there is a danger that the inmate will disclose such information. These special administrative measures may include placing the inmate in administrative detention and/or limiting certain privileges, including, but not limited to, correspondence, visiting, and use of telephone, as is reasonably necessary to prevent the disclosure of classified information. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(b) Designated staff shall provide to the affected inmate, as promptly as possible, written notification of the restrictions imposed and the basis for these restrictions. The notice's statement as to the basis may be limited in the interest of prison security or safety or national security. The inmate shall sign for and receive a copy of the notification.

(c) Initial placement of an inmate in administrative detention and/or any limitation of the inmate's privileges in accordance with paragraph (a) of this section may be imposed for up to 120 days. Special restrictions imposed in accordance with paragraph (a) of this section may be extended thereafter by the Director, Bureau of Prisons, in 120-day increments only upon receipt by the Attorney General of additional written certification from the head of a member agency of the United States intelligence community that the circumstances identified in the original certification continue to exist. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(d) The affected inmate may seek review of any special restrictions imposed in accordance with paragraph (a) of this section through the Administrative Remedy Program, 28 CFR Part 542.

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