

obtained by dividing J's share for the taxable year of Y's self-charged interest deductions that are treated as passive activity deductions from the rental activity (\$6,000) by the greater of J's share for the taxable year of Y's self-charged interest deductions (\$8,000), or J's income for the taxable year from interest charged to Y (\$8,000). Thus, J's applicable percentage is 75 percent (\$6,000/\$8,000), and \$6,000 (75 percent x \$8,000) of J's income from interest charged to Y is treated as passive activity gross income from the rental activity J conducts through Y.

(iv) Under paragraph (c)(2)(i) of this section, the applicable percentage of J's interest income is recharacterized as passive activity gross income attributable to the passive trade or business activity. Paragraph (c)(3) of this section provides that the applicable percentage is obtained by dividing J's share for the taxable year of Y's self-charged interest deductions that are treated as passive activity deductions from the passive trade or business activity (\$2,000) by the greater of J's share for the taxable year of Y's self-charged interest deductions (\$8,000), or J's income for the taxable year from interest charged to Y (\$8,000). Thus, J's applicable percentage is 25 percent (\$2,000/\$8,000), and \$2,000 of J's income from interest charged to Y is treated as passive activity gross income from the passive trade or business activity J conducts through Y.

Par. 4. Section 1.469-11 is amended as follows:

1. Paragraph (a)(3) is amended by removing the language "and" at the end of the paragraph.
2. Paragraph (a)(4) is redesignated as paragraph (a)(5) and a new paragraph (a)(4) is added.
3. The paragraph headings for (c)(1) and (c)(1)(i) are revised.
4. Paragraph (c)(1)(iii) is added.
5. The added and revised provisions read as follows:

§ 1.469-11 Effective date and transition rules.

(a) * * *

(4) The rules contained in § 1.469-7 apply for taxable years ending after December 31, 1986; and

* * * * *

(c) * * *

(1) *Application of certain income recharacterization rules and self-charged rules—(i) Certain recharacterization rules inapplicable in 1987.* * * *

* * * * *

(iii) *Self-charged rules.* For taxable years beginning before June 4, 1991—

(1) A taxpayer is not required to apply the rules in § 1.469-7 in computing the taxpayer's passive activity loss and passive activity credit; and

(2) A taxpayer that owns an interest in a passthrough entity may use any reasonable method of offsetting items of interest income and interest expense

from lending transactions between the passthrough entity and its owners or between identically-owned passthrough entities (as defined in § 1.469-7(e)) to compute the taxpayer's passive activity loss and passive activity credit. Items from nonlending transactions cannot be offset under the self-charged rules.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for the part 602 continues to read:

Authority: 26 U.S.C. 7805.

Par. 6. In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control Numbers.

* * * * *

(b) * * *

| CFR part or section where identified and described | Current OMB control No. |
|--|-------------------------|
| * * * * * | * * * * * |
| 1.469-7 | 1545-1244 |
| * * * * * | * * * * * |

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: July 31, 2002.

Pamela F. Olson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 02-21203 Filed 8-20-02; 8:45 am]

BILLING CODE 4830-01-P

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 811

[CSOSA-0005-I]

RIN 3225-AA03

District of Columbia Sex Offender Registration

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Interim Rule.

SUMMARY: The Court Services and Offender Supervision Agency for the District of Columbia ("CSOSA") is issuing interim regulations that set forth procedures and requirements relating to the registration of sex offenders, verification of the information maintained on sex offenders, and

reporting of changes in that information. These regulations carry out responsibilities of CSOSA under federal and District of Columbia law.

DATES: Effective August 21, 2002; comments must be submitted by October 21, 2002; incorporation by reference of publications listed in the regulation is approved by the Director of the Federal Register as of August 21, 2002.

ADDRESSES: Office of the General Counsel, CSOSA, Room 1253, 633 Indiana Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Records Manager (telephone (202) 220-5359; e-mail roy.nanovic@csosa.gov).

SUPPLEMENTARY INFORMATION: The Court Services and Offender Supervision Agency for the District Of Columbia ("CSOSA") is adopting interim regulations on the registration of sex offenders (28 CFR part 811).

Under the Sex Offender Registration Act of 1999 ("SORA" or "Act", D.C. Law 13-137, D.C. Official Code sections 22-4001 *et seq.*), and section 166(a) of the Consolidated Appropriations Act, 2000 (Pub. L. 106-113 section 166(a), 113 Stat. 1530; D.C. Official Code section 24-133(c)(5)), CSOSA is responsible for carrying out sex offender registration functions in the District of Columbia, including maintaining and operating the sex offender registry. The sex offender registry contains information about sex offenders who live, reside, work, or attend school in the District of Columbia. Information about sex offenders and photographs, fingerprints, and supporting documents are provided by CSOSA to the Metropolitan Police Department, which is responsible for disclosing information about registered sex offenders to the public in conformity with District of Columbia laws and regulations. Appropriate information is also transmitted to the FBI, which operates the National Sex Offender Registry, and to sex offender registration authorities in other jurisdictions. This system is designed to further public safety by facilitating effective law enforcement, enabling members of the public to take lawful measures to protect themselves and their families, and reducing offenders' exposure to temptation to commit more crimes.

CSOSA is adopting these interim regulations, which exercise and implement powers and authorities of CSOSA under existing Federal and District of Columbia laws and District of Columbia regulations, in order to fully

effectuate the registration system and inform sex offenders and other members of the public of the requirements for registration. These regulations adopt and incorporate related regulations promulgated by the District of Columbia government, 6A DCMR sections 400 *et seq.*; include a statement of applicability; identify laws which provide for official notice to sex offenders concerning their obligation to register, but make it clear that lack of notice does not excuse a failure to register; discuss facts on which a determination of a person's obligation to register, the length of registration, and the notification classification may be based; authorize suspension of registration requirements during any period in which a sex offender is detained, incarcerated, confined, civilly committed, or hospitalized in a secure facility; set forth the duration of registration and the method for calculating a ten-year registration period; detail the obligations of sex offenders and CSOSA for initial registration; describe what a person must do to obtain judicial review of a determination that the person must register, or of a determination of the person's classification for purposes of registration or notification; detail the procedures and time limits for verification and reporting changes in registration information; provide alternatives for sex offenders who cannot comply with the time limits; describe the penalties for failing to comply with the Sex Offender Registration Act of 1999 or any procedures, requirements, rules, or regulations promulgated under the Act; and notify sex offenders where they are to direct information in writing or to appear in person.

Matters of Regulatory Procedure

Administrative Procedure Act

The implementation of these regulations as interim regulations, with provision for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 553(b)(3)(B) and (d)(3). The regulations implement, in part, section 166(a) of the Consolidated Appropriations Act, 2000 (Pub. L. 106-113 section 166(a), 113 Stat. 1530; D.C. Official Code section 24-133(c)(5)), which directs CSOSA to carry out sex offender registration functions in the District of Columbia, and various provisions of District of Columbia law and regulations, including sections 3, 8, 9 and 10 of the Sex Offender Registration Act of 1999 (D.C. Official Code section 22-4002, 4007, 4008 & 4009) and 6A DCMR

sections 405.1, 409.1, 409.2, 410.1, which grant CSOSA the authority to make certain decisions and to adopt procedures and requirements relating to sex offender registration in the District of Columbia.

As stated in the report of the District of Columbia Council's Judiciary Committee for the District's Sex Offender Registration Act, "[a] sex offender registration and notification program, if appropriately designed and effectively implemented, can promote public safety in at least three ways: by facilitating effective law enforcement; by enabling members of the public to take direct measures of a lawful nature for the protection of themselves and their families; and by reducing registered offenders' exposure to temptation to commit more offenses." Committee on the Judiciary, Report on Bill 13-250, The Sex Offender Registration Act of 1999, at 3 (Nov. 15, 1999). Given the importance of having accurate, complete, and up-to-date information about sex offenders available to both law enforcement officials and to the public, and the fact that the formulation of implementing regulations closely follows the statutory framework and existing District of Columbia regulations, it is impracticable and unnecessary to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b) or with the delayed effective date normally required under 5 U.S.C. 553(d). Moreover, as noted, the collection of sex offender registration information and its release to law enforcement and other agencies and the public pursuant to the Sex Offender Registration Act of 1999 furthers important public safety interests by facilitating the solution and prevention of crime by law enforcement, enabling lawful community self-protection measures, and reducing the temptation for recidivism. Delay in the full implementation of the law—including the ability to prosecute and take other actions in relation to sex offenders who fail to comply with its requirements—would thwart or delay the realization of these public safety benefits. Therefore, it would be contrary to the public interest to adopt these regulations with the prior notice and comment period normally required under 5 U.S.C. 553(b) or with the delayed effective date normally required under 5 U.S.C. 553(d).

For the foregoing reasons, CSOSA is issuing these regulations without any delay in their effectiveness as an interim rule and without a prior notice of proposed rulemaking. Any interested person, however, who wishes to submit comments on the interim rule may do so

by writing or e-mailing the agency at the addresses given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions. CSOSA will consider comments received during the comment period before taking final action on the interim rule. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address.

Executive Order 12866

This rule has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of CSOSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of CSOSA, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to agency management, and its economic impact is limited to the agency'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, the Director of CSOSA has determined that no actions are 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. 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.

Plain Language Instructions

If you have suggestions on how to improve the clarity of these regulations, write, e-mail, or call the Records Manager (Roy Nanovic) at the address or telephone number given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

List of Subjects in 28 CFR Part 811

Incorporation by Reference; Probation and Parole.

Paul A. Quander, Jr.,

Director.

Accordingly, we amend chapter VIII, Title 28 of the Code of Federal Regulations by adding a new Part 811 as set forth below.

PART 811—SEX OFFENDER REGISTRATION

Sec.

- 811.1 Purpose and scope; relation to District of Columbia regulations.
- 811.2 Applicability.
- 811.3 Notice of obligation to register.
- 811.4 Determination of the obligation to register and the length of registration.
- 811.5 Commencement of the obligation to register.
- 811.6 Duration of the obligation to register.
- 811.7 Initial registration.
- 811.8 Review of determination to register.
- 811.9 Periodic verification of registration information.
- 811.10 Changes in registration information.
- 811.11 Compliance.
- 811.12 Penalties.
- 811.13 Notices and appearances.
- 811.14 Definitions.

Appendix A to Part 811—Listing of Sex Offender Registration Offenses by Class

Authority: 5 U.S.C. 301; Pub. L. 105–33, 111 Stat. 251; Pub. L. 106–113, sec. 166(a), 113 Stat. 1530

§ 811.1 Purpose and scope; relation to District of Columbia regulations.

(a) In accordance with its sex offender registration functions authorized by section 166(a) of the Consolidated Appropriations Act, 2000 (Pub. L. 106–113, sec. 166(a), 113 Stat. 1530; D.C. Official Code secs. 24–133(c)(5)) and as further authorized by the Sex Offender Registration Act of 1999 (“the Act,” D.C. Law 13–137, D.C. Official Code, secs. 22–4001 *et seq.*), the Court Services and Offender Supervision Agency for the District of Columbia (“CSOSA”) operates and maintains the sex offender registry for the District of Columbia. The regulations in this part set forth procedures and requirements relating to

registration, verification, and changes in information for sex offenders who live, reside, work, or attend school in the District of Columbia.

(b) Chapter 4 of Title 6A, District of Columbia Municipal Regulations (DCMR)(47 D.C. Reg. 10042, December 22, 2000), contains regulations issued by the government of the District of Columbia for the sex offender registration system in the District of Columbia (“District of Columbia regulations”). Chapter 4 of Title 6A, DCMR (47 D.C. Reg. 10042, December 22, 2000) is incorporated by reference in this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Chapter 4 of Title 6A, DCMR, is available for inspection at the Office of the Federal Register, 800 N. Capitol Street, NW., Suite 700, Washington, DC. Copies of Chapter 4 of Title 6A, DCMR, may be obtained from the District of Columbia’s Office of Documents and Administrative Issuances, 441 4th Street, NW., Room 520S, Washington, DC 20001. CSOSA hereby adopts all powers and authorities that the District of Columbia regulations authorize CSOSA to exercise, and hereby adopts all procedures and requirements that the District of Columbia regulations state that CSOSA shall adopt or carry out, including but not limited to all such powers, authorities, procedures and requirements relating to registration, verification, and changes in information.

§ 811.2 Applicability.

(a) Sex offender registration requirements apply to all persons who live, reside, work, or attend school in the District of Columbia, and who:

- (1) committed a registration offense on or after July 11, 2000;
- (2) committed a registration offense at any time and were in custody or under supervision on or after July 11, 2000;
- (3) were required to register under the law of the District of Columbia as was in effect on July 10, 2000; or
- (4) committed a registration offense at any time in another jurisdiction and, within the registration period (see §§ 811.5 and 811.6), entered the District of Columbia to live, reside, work or attend school.

(b) “Committed a registration offense” means that a person was found guilty or found not guilty by reason of insanity of a registration offense or was determined to be a sexual psychopath. Registration offenses are defined in section 2(8) of the Sex Offender Registration Act of 1999 (D.C. Official Code § 22–4001(8)), subject to the exceptions in section

17(b) of that Act (D.C. Official Code section 22–4016), and are listed descriptively in the Appendix to Part 811 (which also provides information on registration and notification classes). Any future revision to the statutory provisions designating registration offenses will be effective notwithstanding the timing of any conforming revision of these regulations, including the Appendix.

§ 811.3 Notice of obligation to register.

(a) Sex offenders may be notified of their obligation to register under various provisions of law. See sections 4, 6 and 8 of the Sex Offender Registration Act of 1999 (D.C. Official Code sections 22–4003, 4005, 4007) (relating to notice by the District of Columbia Superior Court, Department of Corrections, or CSOSA); 18 U.S.C. 4042(c) (relating to notice by Federal Bureau of Prisons and probation offices); 18 U.S.C. 3563(a)(8), 3583(d), 4209(a) (inclusion of registration requirements as conditions of release under federal law); 42 U.S.C. 14071(b)(1) (notice under federal law standards for state sex offender registration programs).

(b) In some cases, sex offenders may not be notified of their obligation to register. Lack of notice does not excuse a failure to register because sex offenders have an independent obligation to register. Persons who have been convicted or found not guilty by reason of insanity of a sex offense or who have been determined to be a sexual psychopath should report to CSOSA in order to ascertain whether they are required to register.

§ 811.4 Determination of the obligation to register and the length of registration.

(a) If the Superior Court finds that a person committed a registration offense, the Superior Court enters an order certifying that the person is a sex offender and that the person is subject to registration for a prescribed period of time (see § 811.6).

(b) If a court order has not been entered certifying that a person is a sex offender and that the person is subject to registration for a prescribed period of time, CSOSA makes those determinations. CSOSA also determines the notification classification if the Court has not done so. Facts on which CSOSA’s determination may be based include:

- (1) The offense or offenses of conviction (or finding of not guilty by reason of insanity) or a determination that the person is a sexual psychopath;
- (2) For certain offenses, facts that may not be apparent on the face of the

conviction (or finding of not guilty by reason of insanity), such as:

- (i) the age of the victim;
- (ii) whether force was involved; or
- (iii) whether the offense involved an undercover law enforcement officer who was believed to be an adult;
- (3) Prior criminal history;
- (4) For an offense committed in or prosecuted under the law of another jurisdiction, whether the offense involved conduct that was the same as or substantially similar to a District of Columbia registration offense; and
- (5) The amount of time that has elapsed as computed under § 811.6.

§ 811.5 Commencement of the obligation to register.

(a) A sex offender's obligation to register starts when the sex offender is found guilty or not guilty by reason of insanity of a registration offense or is determined to be a sexual psychopath. However, CSOSA may suspend registration requirements during any period of time in which a sex offender is detained, incarcerated, confined, civilly committed, or hospitalized in a secure facility.

(b) A sex offender must register if the sex offender is placed on probation, parole, supervised release, or convalescent leave, is conditionally or unconditionally released from a secure facility, is granted unaccompanied grounds privileges or other unaccompanied leave, absconds or escapes, is otherwise not detained, incarcerated, confined, civilly committed, or hospitalized in a secure facility, or enters the District of Columbia from another jurisdiction to live, reside, work, or attend school. Registration shall be effectuated as provided in § 811.7 and may be carried out prior to the occurrence of a circumstance described in this paragraph, including the release of or granting of leave to a sex offender.

§ 811.6 Duration of the obligation to register.

(a) *Lifetime registration.* The registration period for a sex offender who is required to register for life shall end upon the sex offender's death.

(b) *Term of years registration.* (1) The registration period for any other sex offender shall end upon the expiration of the sex offender's probation, parole, supervised release, conditional release, or convalescent leave, or ten years after the sex offender is placed on probation, parole, supervised release, conditional release, or convalescent leave, or is unconditionally released from a correctional facility, prison, hospital or other place of confinement, whichever is latest.

(2) In computing ten years, CSOSA will not count:

(i) Any time in which the sex offender has failed to register or otherwise failed to comply with requirements of the Act or any procedures, requirements, rules, or regulations promulgated under the Act, including these regulations and the District of Columbia regulations;

(ii) Any time in which a sex offender is detained, incarcerated, confined, civilly committed, or hospitalized in a mental health facility; and

(iii) Any time in which a sex offender was registered prior to a revocation of probation, parole, supervised release, conditional release, or convalescent leave.

(3) In computing ten years, CSOSA will count any time in which a sex offender was registered in another jurisdiction unless that time is not counted because of a circumstance set forth in paragraph (b)(2) of this section.

(c) *Reversal, vacation, or pardon.* A person's obligation to register terminates if the person's conviction, finding of not guilty by reason of insanity, or finding that the person is a sexual psychopath is reversed or vacated, or if the person has been pardoned for the offense on the ground of innocence, and the person has committed no other offenses for which registration is required.

(d) *Termination of obligation to register in the District of Columbia under other circumstances.* A sex offender's obligation to register in the District of Columbia terminates if the sex offender no longer lives, resides, works or attends school in the District of Columbia. However, the obligation to register in the District of Columbia resumes if the sex offender re-enters the District of Columbia within the registration period to live, reside, work or attend school.

§ 811.7 Initial registration.

(a) *Duties of sex offender.* (1) A sex offender must notify CSOSA within 3 days of the occurrence of any circumstance described in § 811.5(b), including but not limited to being sentenced to probation, being released (including any escape or abscondance) from incarceration or confinement, or entering the District of Columbia to live, reside, work, or attend school.

(2) A sex offender must meet with a responsible officer or official, as directed by CSOSA, for the purpose of registration, and must cooperate in such a meeting, including:

(i) Providing any information required for registration and cooperating in photographing and fingerprinting;

(ii) Reviewing information obtained by CSOSA pursuant to paragraph (b) of

this section as CSOSA directs and either attesting to its accuracy or setting forth in writing, under penalties of perjury, the exact portion or portions that are not accurate; and

(iii) Acknowledging receipt of information concerning the sex offender's duties under the Act, including reading (or, if the sex offender cannot read, listening to a reading of) and signing a form or forms stating that these duties have been explained to the sex offender.

(3) In case of disagreement with CSOSA's determination that the person must register or with CSOSA's determination of the person's classification for purposes of registration or notification, the person must follow the review procedures set forth in § 811.8.

(b) *Duties of CSOSA.* (1) CSOSA shall obtain information relating to the sex offender for the purpose of registration including:

(i) Name(s) and alias(es);

(ii) Date of birth;

(iii) Physical description such as sex, race, height, weight, eye color, hair color, tattoos, scars, or other marks or characteristics;

(iv) Social security, PDID, DCDC and FBI numbers;

(v) Driver's license number and make, model, color, and license plate number of any motor vehicle(s) the sex offender owns;

(vi) A photograph and set of fingerprints;

(vii) Current and/or anticipated home, school, work address(es) and telephone number(s); and

(viii) Other information that may assist CSOSA or the Metropolitan Police Department in locating the sex offender.

(2) CSOSA shall also obtain a detailed description of the offense(s) on the basis of which a sex offender is required to register, the presentence report(s), the victim impact statement(s), the date(s) of conviction and any sentence(s) imposed, the sex offender's criminal record and a detailed description of any relevant offense or offenses, pertinent statutes and case law in other jurisdictions, and any other information it deems useful in order to determine a sex offender's obligation to register, term of registration, and notification classification, to verify the accuracy of the information provided, to assist other jurisdictions' sex offender registration agencies and authorities, or to assist the Metropolitan Police Department in its law enforcement functions.

(3) CSOSA shall inform a sex offender of the sex offender's duty to:

(i) Comply with the requirements set forth in paragraph (a) of this section for initial registration;

(ii) Periodically verify the address(es) at which the sex offender lives, resides, works, and/or attends school, and other information, as provided in § 811.9;

(iii) Report any change of address and any other changes in registration information (including changes in appearance), as provided in § 811.10;

(iv) Notify CSOSA if the sex offender is moving to another jurisdiction or works or attends school in another jurisdiction and to register in any such jurisdiction; and

(v) Comply with the requirements of the Act and any procedures, requirements, rules, or regulations promulgated under the Act, including these regulations and the District of Columbia regulations.

(4) CSOSA shall inform the sex offender of the penalties for failure to comply with the sex offender's duties.

(5) If the Superior Court has not entered an order certifying that a person is a sex offender, CSOSA shall inform the person that, if the person disagrees with CSOSA's determination that the person must register or CSOSA's determination of the person's classification for purposes of registration or notification, then the person must follow the review procedures set forth in § 811.8. CSOSA shall provide the person with a form to notify CSOSA of an intent to seek such review.

§ 811.8 Review of determination to register.

(a) If a person, other than a person who has been certified as a sex offender by the Court, disagrees with CSOSA's determination that the person is subject to registration or with CSOSA's determination of the person's classification for purposes of registration or notification, the person may seek judicial review of the determination, subject to the limitations of section 5(a)(1) of the Act (D.C. Official Code § 22-4004(a)(1)), by:

(1) Immediately providing CSOSA with a notice of intent to seek review upon being informed of the determination; and

(2) Within 30 calendar days of the date on which the person is informed of CSOSA's determination, filing a motion in the Superior Court setting forth the disputed facts and attaching any documents or affidavits upon which the person intends to rely.

(b) A person who fails to comply with paragraph (a) of this section may seek review of CSOSA's determination only in conformity with the limitations of

section 5(a)(1) of the Act (D.C. Official Code Section 4004(a)(1)) and for good cause shown and to prevent manifest injustice by filing a motion in the Court within three years of the date on which the person is informed of CSOSA's determination.

§ 811.9 Periodic verification of registration information.

(a) Sex offenders who are required to register for life must verify registration information quarterly pursuant to the procedures set forth in paragraph (d) of this section.

(b) All other sex offenders must verify registration information annually pursuant to the procedures set forth in paragraph (d) of this section.

(c) Quarterly or annually, as appropriate, CSOSA will mail a verification form to the home address of the sex offender.

(d) The sex offender must correct any information on the form which is inaccurate or out of date and must sign, thumb-print, and return the form to CSOSA no later than 14 calendar days after the date on which CSOSA placed it in the mail. The sex offender has the option of returning the form by mail or in person unless:

(1) The sex offender is also on probation, parole, or supervised release or otherwise must report to CSOSA, and CSOSA directs the sex offender to verify the registration information in person;

(2) CSOSA directs the sex offender to appear in person because the sex offender has previously failed to submit a timely verification or submitted an incomplete or inaccurate verification; or

(3) CSOSA directs the sex offender to appear in person for the purpose of taking a new photograph documenting a significant change in physical appearance or updating a photograph that is five or more years old.

§ 811.10 Changes in registration information.

(a)(1) A sex offender must notify CSOSA if the sex offender:

(i) Ceases to live or reside at the registered address or moves to a different address;

(ii) leaves a job or obtains a new job, or leaves a school or enrolls in a new school; or

(iii) ceases to own or becomes an owner of any motor vehicle.

(2) A sex offender must notify CSOSA if there is a significant change in the sex offender's appearance and report as directed for the purpose of having a new photograph taken. Any question regarding whether a change in physical appearance is significant is to be referred to CSOSA.

(3) A sex offender must notify CSOSA if the sex offender is moving to another jurisdiction or if the sex offender works or attends school in another jurisdiction and must register in any such jurisdiction.

(b) Notice of the changes described in paragraph (a) of this section must be in writing and must be provided prior to the change if feasible and in any event within three days of the change. Notices of change in address or place of work or school attendance must include new address, location, and phone number information. Notice relating to ownership of a motor vehicle must include the make, model, color, and license plate number of the vehicle.

§ 811.11 Compliance.

(a) A sex offender may be excused from strict compliance with the time limits set forth in these regulations if the sex offender notifies CSOSA in advance of circumstances that will interfere with compliance and makes alternative arrangements to satisfy the requirements or, in the case of an emergency, notifies CSOSA as soon as the sex offender is able to do so.

(b) CSOSA may direct that a sex offender meet with a responsible officer or official for the purpose of securing compliance or discussing non-compliance with any requirements of the Act or any procedures, requirements, rules, or regulations promulgated under the Act, including these regulations and the District of Columbia regulations.

§ 811.12 Penalties.

A violation of the requirements of the Act or any procedures, requirements, rules, or regulations promulgated under the Act, including these regulations and the District of Columbia regulations, may result in criminal prosecution under section 16 of the Act (D.C. Official Code Section 22-4015), revocation of probation, parole, supervised release, or conditional release, and extension of the registration period under § 811.6(b)(2).

§ 811.13 Notices and appearances.

Unless otherwise directed by the Court or CSOSA,

(a) Notices or reports that are required to be submitted in writing should be sent to: Sex Offender Registration Unit, Court Services and Offender Supervision Agency, Room 2002, 300 Indiana Avenue, NW., Washington, DC 20001.

(b) A person who is required to report in person should go to: Sex Offender Supervision Office, Court Services and Offender Supervision Agency, Room

2002, 300 Indiana Avenue, NW., Washington, DC 20001.

§ 811.14 Definitions.

(a) The terms “attends school,” “Court,” “in custody or under supervision,” “sex offender,” and “works” shall have the same meaning as set forth in Section 2 of the Sex Offender Registration Act of 1999 (D.C. Official Code Section 22–4001).

(b) The term “the Act” means the Sex Offender Registration Act of 1999 (D.C. Official Code Section 22–4001 *et seq.*).

(c) The term “days” means business days unless otherwise specified.

(d) In relation to a motor vehicle, the term “owns” includes both exclusive ownership and co-ownership, and the term “owner” includes both exclusive owners and co-owners.

Appendix A to Part 811—Listing of Sex Offender Registration Offenses by Class

Class A Offenders—All Lifetime Registrants

(D.C. Official Code Secs. 22–4001(6), 4002(b), 4011(b)(2)(A))

1. Class A includes offenders who have been convicted or found not guilty by reason of insanity of:

- (a) First degree sexual abuse;
- (b) Second degree sexual abuse;
- (c) Rape;
- (d) Forcible sodomy;
- (e) First degree child sexual abuse committed against a child under 12;
- (f) Carnal knowledge (statutory rape) committed against a child under 12;
- (g) Sodomy committed against a child under 12;
- (h) Murder committed before, during, or after engaging in or attempting to engage in a sexual act or contact or rape;
- (i) Manslaughter committed before, during, or after engaging in or attempting to engage in a sexual act or contact or rape;
- (j) Attempting to commit any of the foregoing offenses;
- (k) Conspiring to commit any of the foregoing offenses; or
- (l) Assault with intent to commit any of the foregoing offenses.

2. Class A also includes offenders who:

- (a) In two or more trials or plea proceedings, have been convicted or found not guilty by reason of insanity of a felony registration offense or any registration offense against a minor. (Recidivism).
- (b) In a single trial or plea proceeding, have been convicted or found not guilty by reason of insanity of registration offenses against two or more victims where each offense is a felony or committed against a minor (Multiple victims).
- (c) Have been determined to be sexual psychopaths.

3. Class A also includes offenders who have been convicted or found not guilty by reason of insanity under the law of another jurisdiction of offenses that involved conduct that is the same as or substantially similar to that above.

Class B Offenders—“Ten Year” Registrants

(Other Offenses Against Minors, Wards, Patients, or Clients)

(D.C. Official Code Secs. 22–4001(8), 4002(a), 4011(b)(2)(B))

1. Class B includes offenders who are not included in Class A and have been convicted or found not guilty by reason of insanity of any of the following crimes against a minor (that is, a person under the age of 18):

- (a) Third degree sexual abuse;
- (b) Fourth degree sexual abuse;
- (c) Misdemeanor sexual abuse;
- (d) First degree child sexual abuse;
- (e) Second degree child sexual abuse;
- (f) Carnal knowledge (statutory rape);
- (g) Sodomy committed against a minor;
- (h) Indecent acts on a child;
- (i) Enticing a child;
- (j) Lewd, indecent or obscene acts;
- (k) Sexual performance using a minor;
- (l) Incest;
- (m) Obscenity;
- (n) Prostitution/Pandering;
- (o) Assault (unwanted sexual touching);
- (p) Threatening to commit a sexual offense;
- (q) First or second degree burglary with intent to commit sex offense;
- (r) Kidnapping (does not require a sexual purpose);
- (s) Assault with intent to commit any of the foregoing offenses;
- (t) Attempting to commit any of the foregoing offenses;
- (u) Conspiring to commit any of the foregoing offenses; or
- (v) Any offense against a minor for which the offender agreed in a plea agreement to be subject to sex offender registration requirements.

2. Class B also includes offenders who are not included in Class A and have been convicted or found not guilty by reason of insanity of any of the following crimes regardless of the age of the victim:

- (a) First degree sexual abuse of a ward or resident of a hospital, treatment facility or other institution.
- (b) Second degree sexual abuse of a ward or resident of a hospital, treatment facility or other institution.
- (c) First degree sexual abuse of a patient or client.
- (d) Second degree sexual abuse of a patient or client.

3. Class B also includes offenders who are not included in Class A and have been convicted or found not guilty by reason of insanity under the law of another jurisdiction of offenses that involved conduct that is the same as or substantially similar to that above.

Class C Offenders—“Ten Year” Registrants

(Other Offenses Against Adult Victims)

(D.C. Official Code Secs. 22–4001(8), 4002(a), 4011(b)(2)(C))

1. Class C includes offenders who are not included in Class A or Class B and have committed any of the following crimes against an adult (that is, a person 18 years of age or older):

- (a) Third degree sexual abuse;
- (b) Fourth degree sexual abuse;

(c) First or second degree burglary with intent to commit sex offense;

(d) Kidnapping with intent to commit sex offense;

(e) Threatening to commit a sexual offense (felony);

(f) Assault with intent to commit any of the foregoing offenses;

(g) Attempting to commit any of the foregoing offenses;

(h) Conspiring to commit any of the foregoing offenses; or

(i) Any offense for which the offender agreed in a plea agreement to be subject to sex offender registration requirements.

2. Class C also includes offenders who are not included in Class A or Class B and have been convicted or found not guilty by reason of insanity under the law of another jurisdiction of offenses that involved conduct that is the same as or substantially similar to that above.

Exceptions (D.C. Official Code Sec. 22–4016(b))

The following do not constitute registration offenses:

1. Any sexual offense between consenting adults or an attempt, conspiracy or solicitation to commit such an offense, except for offenses to which consent is not a defense as provided in Section 218 of the Anti-Sexual Abuse Act of 1994 (D.C. Official Code § 22–3017).

2. Any misdemeanor offense that involved a person’s sexual touching or attempted or solicited sexual touching of an undercover law enforcement officer where the person believed that the officer was an adult.

3. Any misdemeanor offense committed against an adult, except where the offender agrees in a plea agreement to be subject to sex offender registration requirements.

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COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 812

[CSOSA–0006–I]

RIN 3225–AA04

Collection and Use of DNA Information

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Interim Rule.

SUMMARY: The Court Services and Offender Supervision Agency for the District of Columbia (“CSOSA”) is adopting interim regulations to implement section 4 of the DNA Analysis Backlog Elimination Act of 2000, in conjunction with District of Columbia laws enacted pursuant to that Act which specify qualifying District of Columbia offenses for purposes of DNA