

of the purchasers, and the dates and times of the sales (referred to as the "logbook").

(b) The regulated seller must not sell a scheduled listed chemical product at retail unless the sale is made in accordance with the following:

(1) The purchaser presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of 8 CFR 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B).

(2) The purchaser signs the logbook as follows:

(i) For written logbooks, enters in the logbook his name, address, and the date and time of the sale.

(ii) For electronic logbooks, provides a signature using one of the following means:

(A) Signing a device presented by the seller that captures signatures in an electronic format. The device must display the warning notice in paragraph (d) of this section. Any device used must preserve each signature in a manner that clearly links that signature to the other electronically captured logbook information relating to the prospective purchaser providing that signature.

(B) Signing a bound paper book. The bound paper book must include, for such purchaser, either—

(1) A printed sticker affixed to the bound paper book at the time of sale that either displays the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale, or a unique identifier which can be linked to that electronic information, or

(2) A unique identifier that can be linked to that information and that is written into the book by the seller at the time of sale. The purchaser must sign adjacent to the printed sticker or written unique identifier related to that sale. The bound paper book must display the warning notice in paragraph (d) of this section.

(C) Signing a printed document that includes, for the purchaser, the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale. The document must be printed by the seller at the time of the sale. The document must contain a clearly identified signature line for a purchaser to sign. The printed document must display the warning notice in paragraph (d) of this section. Each signed document must be inserted into a binder or other secure means of document storage immediately after the purchaser signs the document.

(3) The regulated seller must enter in the logbook the name of the product and the quantity sold. Examples of methods of recording the quantity sold include the weight of the product per package and number of packages of each chemical, the cumulative weight of the product for each chemical, or quantity of product by Universal Product Code. These examples do not exclude other methods of displaying the quantity sold. Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology. Such electronic records must be provided pursuant to paragraph (g) of this section in a human readable form such that the requirements of paragraph (a) of this section are satisfied.

(c) The logbook maintained by the seller must include the prospective purchaser's name, address, and the date and time of the sale, as follows:

(1) If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on the identification and that the date and time entered are correct.

(2) If the seller enters the information, the prospective purchaser must verify that the information is correct.

(3) Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

(d) The regulated seller must include in the written or electronic logbook or display by the logbook, the following notice:

WARNING: Section 1001 of Title 18, United States Code, states that whoever, with respect to the logbook, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, shall be fined not more than \$250,000 if an individual or \$500,000 if an organization, imprisoned not more than five years, or both.

(e) The regulated seller must maintain each entry in the written or electronic logbook for not fewer than two years after the date on which the entry is made.

(f) A record under this section must be kept at the regulated seller's place of business where the transaction occurred, except that records may be kept at a single, central location of the regulated seller if the regulated seller has notified the Administration of the intention to do so. Written notification must be submitted by registered or

certified mail, return receipt requested, to the Special Agent in Charge of the DEA Divisional Office for the area in which the records are required to be kept.

(g) The records required to be kept under this section must be readily retrievable and available for inspection and copying by authorized employees of the Administration under the provisions of section 510 of the Act (21 U.S.C. 880).

(h) A record developed and maintained to comply with a State law may be used to meet the requirements of this section if the record includes the information specified in this section.

Dated: March 16, 2010.

**Joseph T. Rannazzisi,**  
*Deputy Assistant Administrator, Office of Diversion Control.*

[FR Doc. 2010-6175 Filed 3-22-10; 8:45 am]

**BILLING CODE 4410-09-P**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 513

[BOP Docket No. 1157-P]

RIN 1120-AB57

#### **Inmate Access to Inmate Central File: PSRs and SORs**

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Bureau of Prisons (Bureau) proposes to amend regulations regarding inmate access to Inmate Central File materials to prohibit sentenced inmates incarcerated in Bureau facilities, including those in contract facilities or community confinement, from possessing their Pre-Sentence Investigation Reports (PSRs), Statements of Reasons (SORs), or other similar sentencing documents from criminal judgments. Such inmates under this prohibition will continue to be permitted to review their PSRs and SORs.

**DATES:** Comments due by May 24, 2010.

**ADDRESSES:** Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at <http://www.regulations.gov>. You may also comment via the Internet by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:**

Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

**SUPPLEMENTARY INFORMATION:****Posting of Public Comments**

Please note that all comments received are considered part of the public record and are available for public inspection online at <http://www.regulations.gov>. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on <http://www.regulations.gov>.

Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**Proposed Rule**

The Bureau proposes to amend its regulation on inmate access to Inmate Central File documents (28 CFR 513.40). We published the current regulation in the **Federal Register** on December 9, 1996 (61 FR 64950). This proposed rule seeks to prohibit sentenced inmates incarcerated in Bureau facilities, including those in contract facilities or in community confinement, from possessing their Pre-Sentence

Investigation Reports (PSRs), Statements of Reasons (SORs), or other similar sentencing documents from criminal judgments. Such inmates under this prohibition will be permitted to review their PSRs, SORs, or other similar documents. Further, pretrial inmates in Bureau facilities, including those in contract facilities or in community confinement, may possess and review these documents in preparation for sentencing.

At present, inmates incarcerated in Bureau facilities, including those in contract facilities or in community confinement, may make a request at their facility for an opportunity to review and obtain copies of these documents. Under this rule, such inmates may review these documents and take notes, but are prohibited from possessing copies of these documents. This change addresses the problem of inmates pressuring other inmates for copies of their PSRs, SORs, or other similar documents, to learn if they are informants, gang members, have financial resources, etc. This change will help the Bureau better protect the safety and security of its institutions, inmates, staff, and the public.

The SOR is contained on the last page(s) of an inmate's Federal Criminal Judgment (formally known as the Judgment in a Criminal Case). The SOR contains the sentencing court's final advisory U.S. Sentencing Guidelines (USSG) calculations, which reflect its decisions on various issues such as whether to impose a sentence which varies from the USSG and its reasons for doing so. PSRs, SORs, and other similar documents contain personal information regarding, for example, government assistance, gang affiliations, financial resources, involvement of family members and others in the community, etc.

In 2002, the Bureau recognized an emerging problem: Inmates, or inmate groups, pressure other inmates for copies of their PSRs and SORs to learn if they are informants, gang members, have financial resources, or to learn of others involved in the offense, etc. Inmates who produced, or refused to produce, the documents were often threatened, assaulted, and/or sought protective custody, all of which jeopardized the Bureau's ability to effectively and safely manage its institutions. The defense bar, Federal sentencing courts, and the Bureau identified this issue. The Bureau worked closely with the Administrative Office of the U.S. Courts (AOUSC) in crafting this change.

Inmates incarcerated in Bureau facilities, including those in contract

facilities or in community confinement, may still review their PSRs, SORs, or other similar documents locally. Staff must provide inmates reasonable opportunities to locally review these documents as staff time and official duties permit. During local reviews, inmates are allowed to make handwritten notes. Only the inmates' retention of copies of these documents is prohibited, unless the inmate is a pretrial inmate with a need to review these documents prior to sentencing.

In *Dept. of Justice v. Julian*, 486 U.S. 1 (1988), the U.S. Supreme Court decided the government was obligated to provide inmates access to their own pre-sentence investigation reports under the Freedom of Information Act (FOIA). By continuing to provide inmates reasonable access to locally review their PSRs and SORs, the Bureau's obligation under the FOIA is satisfied. The *Julian* decision did not mandate that inmates be permitted to obtain and possess copies of these documents contrary to legitimate penological interests, i.e., the safety and security of Bureau institutions, inmates, staff, and the public.

Finally, this rule indicates that persons other than the inmate may not obtain copies of inmate PSRs, SORs, or other similar documents from the Bureau while the inmate is incarcerated, even if they provide written authorization from the inmate. This is necessary because the Bureau has found that third parties not affiliated with the inmate sometimes force inmate authorization and then use the inmate's PSR and/or SOR to prove gang affiliation to other inmates or for other reasons that are contrary to legitimate penological interests, i.e., the safety and security of Bureau institutions, inmates, staff, and the public. Third parties may, however, continue to request copies of PSRs, SORs, or other similar documents directly from the sentencing court, defense counsel, or the U.S. Probation Office.

**Executive Order 12866**

We drafted and reviewed this regulation reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. It has been determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this rule has 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. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation. By approving it, the Director certifies that it will not have a significant economic impact upon a substantial number of small entities because: This rule is about 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 cause State, local and Tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule as defined by § 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.

#### List of Subjects in 28 CFR Part 513

Prisoners.

#### Harley G. Lappin,

Director, Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we propose to amend 28 CFR part 513, subpart D, as follows.

#### SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

#### PART 513—ACCESS TO RECORDS

1. Revise the authority citation for 28 CFR part 513 to read as follows:

**Authority:** 5 U.S.C. 301; 13 U.S.C.; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4942, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 31 U.S.C. 3711(f); 5 CFR part 297.

2. Revise § 513.40(a) as follows:

#### § 513.40 Inmate access to Inmate Central File.

\* \* \* \* \*

(a) *Inmate review of his/her Inmate Central File.* (1) *Request to review Inmate Central File.* An inmate may at any time request to review all disclosable portions of his/her Inmate Central File by submitting a request to a staff member designated by the Warden. Staff are to acknowledge the request and schedule the inmate, as promptly as is practical, for a review of the file at a time which will not disrupt institution operations.

(2) *Pre-Sentence Investigation Reports, Statements of Reason, or other similar documents.* Inmates incarcerated in Bureau facilities, including those in contract facilities or community confinement, are prohibited from possessing their Pre-Sentence Investigation Reports (PSRs), Statements of Reasons (SORs), or other similar sentencing documents from criminal judgments.

(i) *Sentenced inmates* in Bureau facilities, including those in contract facilities or community confinement, may request an opportunity to review these documents and take notes, but will not be permitted to possess copies of these documents.

(ii) *Pretrial inmates* in Bureau facilities, including those in contract facilities or community confinement, may possess and review these documents in preparation for sentencing.

(iii) *Persons other than the inmate* may not obtain copies of inmate PSRs, SORs, or other similar documents from the Bureau while the inmate is incarcerated in a Bureau facility, including those in contract facilities or community confinement, even if they provide written authorization from the inmate. Such persons may request these documents directly from the sentencing court, defense counsel, or U.S. Probation Office.

[FR Doc. 2010–6288 Filed 3–22–10; 8:45 am]

**BILLING CODE 4410–05–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2010–0129]

RIN 1625–AA00

#### Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the regulations establishing permanent safety zones in the Captain of the Port Lake Michigan zone during annual events. When these safety zones are activated, and thus subject to enforcement, this rule would restrict vessels from portions of water areas during annual events that pose a hazard to public safety. The safety zones amended by this proposed rule are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays, boat races, and other events.

**DATES:** Comments and related materials must be received by the Coast Guard on or before April 22, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2010–0129 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail BM1 Adam Kraft, Prevention Department, Coast Guard, Sector Lake Michigan, Milwaukee, WI, telephone (414) 747–7154, e-mail [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@uscg.mil). If you have questions on viewing or submitting