

proposes to amend 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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 Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points*, signed August 27, 2009, and effective September 15, 2009, is to be amended as follows:

\* \* \* \* \*

*Paragraph 5000 General.*

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**AAL AK D Big Delta, AK [Removed]**

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*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

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**AAL AK E2 Big Delta, AK [Removed]**

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*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

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**AAL AK E4 Big Delta, AK [Removed]**

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*Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**AAL AK E5 Big Delta, AK [Removed]**

Issued in Anchorage, AK, on March 9, 2010.

**Anthony M. Wylie,**

*Manager, Alaska Flight Services Information Area Group.*

[FR Doc. 2010–7775 Filed 4–5–10; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF JUSTICE**

**Bureau of Prisons**

**28 CFR Part 540**

**[BOP Docket No. 1148–P]**

**RIN 1120–AB48**

**Communication Management Units**

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

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to establish and describe Communication Management Units (CMUs) by regulation. CMUs are designed to provide an inmate housing unit environment that enables staff monitoring of all communication between CMU inmates and persons in the community. The ability to monitor such communication is necessary to ensure the safety, security, and orderly operation of correctional facilities, and protect the public. The Bureau currently operates CMUs in two of its facilities. This rule would clarify existing Bureau practices with respect to CMUs.

**DATES:** Comments are due by June 7, 2010.

**ADDRESSES:** Written 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 regulation at [www.regulations.gov](http://www.regulations.gov). You may also comment by using the [www.regulations.gov](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 made available for public inspection online at [www.regulations.gov](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 has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on [www.regulations.gov](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.

**Discussion**

This proposed rule codifies and describes the Bureau’s procedures for designating inmates to, and limiting communication within, its Communication Management Units (CMU). Currently, the Bureau operates two CMUs, separately located at the Federal Correctional Complex (FCC), Terre Haute, Indiana (established in December 2006), and the United States Penitentiary (USP), Marion, Illinois (established in March 2008).

*Current regulatory authority.* The Bureau currently has regulatory authority to restrict the communications of high-risk inmates. *See, e.g.* 28 CFR 540.12 (authorizing Wardens to establish and exercise controls to protect individuals, security, discipline, and the good order of the institution); 28 CFR 540.14 (a) (indicating that institution staff shall open and inspect all incoming general correspondence.); 28 CFR 540.100 *et seq.* (authorizing limitations upon an inmate’s telephone privileges consistent with ensuring the security or good order of the institution or protection of the public, and authorizing Wardens to establish procedures that enable monitoring of telephone conversations); 28 CFR 540.40, *et seq.* (authorizing Wardens to limit inmate visiting when necessary to ensure the security and good order of the institution).

*Purpose of the CMU regulations.* The CMU regulations establish specific parameters for Bureau staff when operating CMUs while putting inmates and the public on notice of CMU operation.

The purpose of CMUs is to provide an inmate housing unit environment that enables staff to more effectively monitor communication between CMU inmates

and persons in the community. The CMU concept allows the Bureau to monitor inmates for whom such monitoring and communication limits are necessary, whether due to a terrorist link or otherwise, such as inmates who have previously committed an infraction related to mail tampering from within an institution, or inmates who may be attempting to communicate with past or potential victims. The ability to monitor such communication is necessary to ensure the safety, security, and orderly operation of correctional facilities, and protect the public. The volume, frequency, and methods of CMU inmate contact with persons in the community may be limited as necessary to achieve the goal of total monitoring, consistent with this subpart.

A CMU is a general population housing unit where inmates will ordinarily reside, eat, and participate in educational, recreational, religious, visiting, unit management, and work programming, within the confines of the CMU. Additionally, CMUs may contain a range of cells dedicated to segregated housing of inmates in administrative detention or disciplinary segregation status.

Under this regulation, initial consideration of inmates for CMU designation begins when the Bureau becomes aware of information relevant to the criteria described in § 540.201. The Bureau's Assistant Director, Correctional Programs Division, will then make a determination based on a review of the evidence presented, and a conclusion that the inmate's designation to a CMU is necessary to ensure the safety, security, and orderly operation of correctional facilities, or protect the public.

Upon arrival at the designated CMU, inmates will receive written notice from the Warden of the facility in which the CMU exists. The written notice will explain that designation to a CMU allows greater Bureau staff management of communication with persons in the community through complete monitoring of telephone use, written correspondence, and visiting. The volume, frequency, and methods, of CMU inmate contact with persons in the community may be limited as necessary to achieve the goal of total monitoring, consistent with this subpart. The written notice will also explain that general conditions of confinement in the CMU may be limited as necessary to provide greater management of communications, and that designation to the CMU is not punitive and, by itself, has no effect on the length of the inmate's incarceration. CMU inmates

continue to earn sentence credit in accordance with law and Bureau policy.

Through the written notice, inmates will also be informed that designation to the CMU follows the Assistant Director's decision that such placement is necessary for the safe, secure, and orderly operation of Bureau institutions, or protection of the public. The inmate will be provided an explanation of the decision in sufficient detail, unless providing specific information would jeopardize the safety, security, or orderly operation of the facility, or protection of the public.

Continued designation to the CMU will be reviewed regularly by the inmate's Unit Team under circumstances providing the inmate notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates. The inmate may challenge the CMU designation decision and any aspect of confinement therein, through the Bureau's administrative remedy program. While this regulation may allow for limiting the communication of inmates to whom it is applied, it will not extinguish their monitored communication abilities absent abuse or violations committed by the inmate.

With this regulation, the Bureau seeks, when warranted, on a case-by-case basis, to more effectively monitor communication while still accommodating the rights guaranteed by the First Amendment to petition for redress of grievances. By limiting the communications of these inmates, the Bureau seeks to balance First Amendment rights with its correctional mission.

The proposed regulation would clarify current authority for imposing limits and restrictions on the communications of inmates in the Bureau's custody based on evidence, either from outside sources (such as other federal agencies) or from internal sources (such as intelligence gained through observation of inmates in Bureau custody). Communications would be limited if such evidence indicates, *inter alia*, a high degree of potential risk to national security.

The approach of this rule will also provide a more effective means to implement a previously-published proposed rule (BOP Docket No. 1135) providing for limiting the communication opportunities of inmates who are: (1) Charged with, convicted of, or detained in relation to an offense under title 18 U.S. C. chapters 113B or 115; or (2) charged with having engaged in, have engaged in, are detained in relation to, or are linked in any way to terrorist-related

activity as part of their current or previous offense conduct or conduct while incarcerated.

BOP 1135 contemplated limiting the communications of inmates in a general population prison setting who were identified as having an identifiable link to terrorist-related activity. It is difficult to police inmate communication in the "open" context of a general population setting because it is harder to detect activity such as inmates sending mail under another inmate's name, or using another's PIN number, without constant monitoring.

By physically separating out the properly classified prisoners who need comprehensive monitoring, and involving the Assistant Director of the Bureau's Correctional Programs Division in addition to the Warden in the initial decision to restrict communications, we hope to lessen any adverse impact on the vast majority of the other prisoners not subject to comprehensive monitoring but still only subject to random monitoring.

After taking into consideration any public comment received after publication of this proposed rule, the Bureau will adopt a consolidated final rule.

This regulation, however, will be applied differently from regulations in 28 CFR part 501, which authorize the Attorney General to impose special administrative measures (SAMs). Under 28 CFR part 501, SAMs are imposed after approval by the Attorney General and are generally based on information from the FBI and the U.S. Attorney's Office (USAO), but are typically not based solely on information from internal Bureau of Prisons sources. Unlike 28 CFR part 501, the proposed regulations allow the Bureau to impose communication limits based on evidence from FBI or another federal law enforcement agency, or if Bureau of Prisons information indicates a similar need to impose communication restrictions, evidence which does not rise to the same degree of potential risk to national security or risk of acts of violence or terrorism which would warrant the Attorney General's intervention by issuance of a SAM.

Furthermore, while SAMs have the potential to restrict communication entirely, this regulation delineates a floor of limited communication, beneath which the Bureau cannot restrict unless precipitated by the inmate's violation of imposed limitations, and then only as a disciplinary sanction following due process procedures in 28 CFR part 541.

Also, the comprehensive monitoring provided by the new regulation would lead to greater protection for the public,

since reconstruction of communications from random monitoring may not provide a full scenario if dangerous communications are discovered.

Likewise, there would be greater protection for inmates as a result of the new proposed rule. The initial decision regarding which inmates to more closely monitor is made by the Assistant Director of the Bureau's Correctional Programs Division, who has a broad scope of authority and a global understanding of the security concerns prevalent in the Bureau's correctional setting. In addition, the inmate can challenge this classification-based treatment decision through the Bureau's administrative remedy program. Further, the CMU inmate's regular inmate associates will not be general population inmates. In the new proposed rule, the only inmates being specially monitored are the inmates placed in the CMU.

Further, CMU monitoring would result in a fuller record that would more readily show whether an inmate's use of words may have been taken out of context and whether the inmate might not need to remain under close communications scrutiny.

Another advantage of CMU monitoring is that closer scrutiny and finer monitoring distinctions can be applied or removed in "stages" from the defined CMU inmate population, so that work and leisure opportunities can be adjusted for the population instead of simply excluding them from such opportunities. Also, consolidating high-risk inmates in the CMU would make it more operationally feasible to minimize the adverse consequences such as the communication delay to the monitored inmates, since the marshaling and organizing of resources into a standard approach should make it easier for translators and officials responding to requests for special exceptions to act quickly.

Under the proposed regulation, inmates may be designated to a CMU if:

- The inmate's current offense(s) of conviction, or offense conduct, included association, communication, or involvement, related to international or domestic terrorism;
- The inmate's current offense(s) of conviction, offense conduct, or activity while incarcerated, indicates a propensity to encourage, coordinate, facilitate, or otherwise act in furtherance of, illegal activity through communication with persons in the community;
- The inmate has attempted, or indicates a propensity, to contact victims of the inmate's current offense(s) of conviction;

- The inmate committed a prohibited activity related to misuse/abuse of approved communication methods while incarcerated; or

- There is any other evidence of a potential threat to the safe, secure, and orderly operation of prison facilities, or protection of the public, as a result of the inmate's communication with persons in the community.

One important category of inmates which might be designated to a CMU is inmates whose current offense(s) of conviction, or offense conduct, included association, communication, or involvement, related to international or domestic terrorism. Past behaviors of terrorist inmates provide sufficient grounds to suggest a substantial risk that they may inspire or incite terrorist-related activity, especially if communicated to groups willing to engage in or to provide equipment or logistics to facilitate terrorist-related activity. The potential ramifications of this activity outweigh the inmate's interest in unlimited communication with persons in the community.

Communication related to terrorist-related activity can occur in codes which are difficult to detect and extremely time-consuming to interpret. Inmates involved in such communication, and other persons involved or linked to terrorist-related activities, take on an exalted status with other like-minded individuals. Their communications acquire a special level of inspirational significance for those who are already predisposed to these views, causing a substantial risk that such recipients of their communications will be incited to unlawful terrorist-related activity.

The danger of coded messages from prisoners has been recognized by the courts. See *Turner v. Safley*, 482 U.S. 78, 93 (1987) ("In any event, prisoners could easily write in jargon or codes to prevent detection of their real messages."); *United States v. Salameh*, 152 F.3d 88, 108 (2d Cir. 1998) ("Because Ajaj was in jail and his telephone calls were monitored, Ajaj and Yousef spoke in code when discussing the bomb plot."); *United States v. Johnson*, 223 F.3d 665, 673 (7th Cir. 2000) ("And we know that anyone who has access to a telephone or is permitted to receive visitors may be able to transmit a lethal message in code."); *United States v. Hammoud*, 381 F.3d 316, 334 (4th Cir. 2004) ("A conversation that seems innocuous on one day may later turn out to be of great significance, particularly if the individuals are talking in code."); *United States v. Moncivais*, 401 F.3d 751, 757 (6th Cir. 2005) (noting that

seemingly nonsensical conversations could be in code and interpreted as indicative of drug dealing activity). Also, an Al Qaeda training manual contains the following advice regarding communications from prison: "Take advantage of visits to communicate with brothers outside prison and exchange information that may be helpful to them in their work outside prison. The importance of mastering the art of hiding messages is self evident here."

There have been cases of imprisoned terrorists communicating with their followers regarding future terrorist activity. For example, after El Sayyid Nosair assassinated Rabbi Kahane, he was placed in Rikers Island, where "he began to receive a steady stream of visitors, most regularly his cousin El-Gabrowni, and also Abouhalima, Salameh, and Ayyad. During these visits, as well as subsequent visits once Nosair was at Attica, Nosair suggested numerous terrorist operations, including the murders of the judge who sentenced him and of Dov Hikind, a New York City Assemblyman, and chided his visitors for doing nothing to further the jihad against the oppressors. Nosair also tape recorded messages while in custody \* \* \* *United States v. Rahman*, 189 F.3d 88, 105–06 (2d Cir. 1999). Imprisoned, Sheikh Abdel Rahman had urged his followers to wage jihad to obtain his release. Violent attacks and murders followed. *United States v. Sattar*, 314 F.Supp.2d 279, 288–89 (S.D.N.Y. 2004).

To minimize the risk of terrorist-related communication and other similar dangerous communication to or from inmates in Bureau custody, this regulation clarifies the Bureau's current authority to limit and monitor the communication of CMU inmates to immediate family members, U.S. courts, federal judges, U.S. Attorney's Offices, members of U.S. Congress, the Bureau, other federal law enforcement entities, and the inmate's attorney. The Bureau allows communication with these individuals to help inmates maintain family ties, and protect inmates' access to courts and other government officials in order to raise issues related to their incarceration or their conditions of confinement, while minimizing potential internal or external threats.

Particular consideration has also been given to the ability of CMU inmates to communicate via special mail. Special mail is defined in 28 CFR part 540. For the purposes of CMUs, however, this rule would limit special mail to privileged communication with the inmate's attorney. Correspondence from the correspondents listed in 28 CFR 540.2(c) as "special correspondence,"

other than attorneys. (e.g. President and Vice President of the United States, the Department of Justice, members of Congress, Governors, State legislatures, courts, media etc.) will be treated as “general correspondence” for the purposes of CMUs. There is no frequency or volume limitation on correspondence with an inmate’s attorney, unless necessary as a result of the inmate’s abuse or violation of these regulations.

To effectively and efficiently allow monitoring and review of the general correspondence communications of CMU inmates, those communications may be limited in frequency and volume as follows:

- Written correspondence may be limited to three pieces of paper, double-sided, once per week to and from a single recipient;
- Telephone communication may be limited to a single completed call per calendar month for up to 15 minutes; and
- Visiting may be limited to one hour each calendar month.

Unless the quantity to be processed becomes unreasonable or the inmate abuses or violates these regulations, there is no frequency or volume limitation on written correspondence with the following entities: U.S. courts, Federal judges, U.S. Attorney’s Offices, Members of U.S. Congress, The Bureau of Prisons, other federal law enforcement entities, or, as stated earlier, the inmate’s attorney (privileged communications only). Correspondence with these entities is not limited under these regulations in furtherance of inmates’ access to courts and their ability to defend in litigation.

By limiting the frequency and volume of the communication to/from inmates identified under this regulation, we will reduce the amount of communication requiring monitoring and review. Reducing the volume of communications will help ensure the Bureau’s ability to provide heightened scrutiny in reviewing communications, and thereby increasing both internal security within correctional facilities, and the security of members of the public.

Inmates may incur additional limitations on their communications as the direct result of abusing or violating individualized communication limits imposed under this subsection, but additional limitations will occur only to the extent possible under this regulation and according to the procedures in this subsection. Unmonitored communications with verified attorneys may be limited in the form of monitoring only as provided in 28 CFR

part 501 (regarding national security cases and prevention of acts of violence and terrorism) and part 543 (regarding inmate legal activities). Inmates may also be subject to disciplinary action or criminal prosecution for abusing or violating limits imposed under this subsection.

#### **Executive Order 12866**

This regulation falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute “significant regulatory actions” under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB. The Bureau of Prisons has assessed the costs and benefits of this regulation as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. There will be no new costs associated with this regulation.

#### **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. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient Federalism implications to warrant the preparation of 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 and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders and immigration detainees 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 regulation 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, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This regulation is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation 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 540**

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 amend 28 CFR part 540 as follows:

#### **SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**

#### **PART 540—CONTACT WITH PERSONS IN THE COMMUNITY**

1. The authority citation for 28 CFR part 540 continues to read as follows:

**Authority:** 5 U.S.C. 301, 551, 552a; 18 U.S.C. Chapters 113b and 115, 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part 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, 530C(b)(6).

2. Add a new subpart J, to read as follows:

#### **SUBPART J—COMMUNICATION MANAGEMENT HOUSING UNITS**

Sec.

- 540.200 Purpose and scope.
- 540.201 Designation criteria.
- 540.202 Designation procedures.
- 540.203 Written correspondence limitations.
- 540.204 Telephone communication limitations.
- 540.205 Visiting limitations.

#### **§ 540.200 Purpose and scope.**

(a) *Purpose of this subpart.* This subpart authorizes and defines the Federal Bureau of Prisons’ (Bureau) authority to operate, and designate inmates to, Communication Management Housing Units (CMUs) within Bureau facilities.

(b) *CMU.* A CMU is a general population housing unit where inmates

ordinarily reside, eat, and participate in all educational, recreational, religious, visiting, unit management, and work programming, within the confines of the CMU. Additionally, CMUs may contain a range of cells dedicated to segregated housing of inmates in administrative detention or disciplinary segregation status.

(c) *Purpose of CMUs.* The purpose of CMUs is to provide an inmate housing unit environment that enables staff to more effectively monitor communication between CMU inmates and persons in the community. The ability to monitor such communication is necessary to ensure the safety, security, and orderly operation of correctional facilities, and protect the public. The volume, frequency, and methods, of CMU inmate contact with persons in the community may be limited as necessary to achieve the goal of total monitoring, consistent with this subpart.

(d) *Application.* Any inmate (as defined in 28 CFR § 500.1(c)) meeting criteria prescribed by this subpart may be designated to a CMU.

(e) *Relationship to other regulations.* The regulations in this subpart supercede and control to the extent they conflict with, are inconsistent with, or impose greater limitations than the regulations in 28 CFR Part 540, or any other regulations in this chapter, except 28 CFR Part 501.

#### **§ 540.201 Designation criteria.**

Inmates may be designated to a CMU if evidence of the following criteria exists:

(a) The inmate's current offense(s) of conviction, or offense conduct, included association, communication, or involvement, related to international or domestic terrorism;

(b) The inmate's current offense(s) of conviction, offense conduct, or activity while incarcerated, indicates a propensity to encourage, coordinate, facilitate, or otherwise act in furtherance of, illegal activity through communication with persons in the community;

(c) The inmate has attempted, or indicates a propensity, to contact victims of the inmate's current offense(s) of conviction;

(d) The inmate committed prohibited activity related to misuse/abuse of approved communication methods while incarcerated; or

(e) There is any other evidence of a potential threat to the safe, secure, and orderly operation of prison facilities, or protection of the public, as a result of the inmate's communication with persons in the community.

#### **§ 540.202 Designation procedures.**

Inmates may be designated to CMUs only according to the following procedures:

(a) *Initial consideration.* Initial consideration of inmates for CMU designation begins when the Bureau becomes aware of information relevant to the criteria described in § 540.201.

(b) *Assistant Director authority.* The Bureau's Assistant Director, Correctional Programs Division, has authority to approve CMU designations. The Assistant Director's decision must be based on a review of the evidence, and a conclusion that the inmate's designation to a CMU is necessary to ensure the safety, security, and orderly operation of correctional facilities, or protect the public.

(c) *Written notice.* Upon arrival at the designated CMU, inmates will receive written notice from the facility's Warden explaining that:

(1) Designation to a CMU allows greater Bureau staff management of communication with persons in the community through complete monitoring of telephone use, written correspondence, and visiting. The volume, frequency, and methods, of CMU inmate contact with persons in the community may be limited as necessary to achieve the goal of total monitoring, consistent with this subpart;

(2) General conditions of confinement in the CMU may also be limited as necessary to provide greater management of communications;

(3) Designation to the CMU is not punitive and, by itself, has no effect on the length of the inmate's incarceration. CMU inmates continue to earn sentence credit in accordance with law and Bureau policy.

(4) Designation to the CMU follows the Assistant Director's decision that such placement is necessary for the safe, secure, and orderly operation of Bureau institutions, or protection of the public. The inmate will be provided an explanation of the decision in sufficient detail, unless providing specific information would jeopardize the safety, security, and orderly operation of correctional facilities, or protection of the public.

(5) Continued designation to the CMU will be reviewed regularly by the inmate's Unit Team under circumstances providing the inmate notice and an opportunity to be heard, in accordance with the Bureau's policy on Classification and Program Review of Inmates.

(6) The inmate may challenge the CMU designation decision, and any aspect of confinement therein, through

the Bureau's administrative remedy program.

#### **§ 540.203 Written correspondence limitations.**

(a) *General correspondence.* General written correspondence as defined by Part 540, may be limited to three pieces of paper (not larger than 8.5 x 11 inches), double-sided writing permitted, once per calendar week, to and from a single recipient at the discretion of the Warden, except as stated in (c) below. This correspondence is subject to staff inspection for contraband and for content.

(b) *Special mail.*

(1) Special mail, as defined in Part 540, is limited to privileged communication with the inmate's attorney.

(2) All such correspondence is subject to staff inspection in the inmate's presence for contraband and to ensure its qualification as privileged communication with the inmate's attorney. Inmates may not seal such outgoing mail before giving it to staff for processing. After inspection for contraband, the inmate must then seal the approved outgoing mail material in the presence of staff and immediately give the sealed material to the observing staff for further processing.

(c) *Frequency and volume limitations.* Unless the quantity to be processed becomes unreasonable or the inmate abuses or violates these regulations, there is no frequency or volume limitation on written correspondence with the following entities:

- (1) U.S. courts;
- (2) Federal judges;
- (3) U.S. Attorney's Offices;
- (4) Members of U.S. Congress;
- (5) The Bureau of Prisons;
- (6) Other federal law enforcement

entities; or

(7) The inmate's attorney (privileged communications only).

#### **§ 540.204 Telephone communication limitations.**

(a) *Monitored telephone communication* may be limited to immediate family members only. The frequency and duration of telephone communication may also be limited to a single connected call per calendar month, lasting no longer than 15 minutes. The Warden may require such communication to be in English, or translated by an approved interpreter.

(b) *Unmonitored telephone communication* is limited to privileged communication with the inmate's attorney. Unmonitored privileged telephone communication with the inmate's attorney is permitted as

necessary in furtherance of active litigation, after establishing that communication with the verified attorney by confidential correspondence or visiting, or monitored telephone use, is not adequate due to an urgent or impending deadline.

#### § 540.205 Visiting limitations.

(a) *Regular visiting* may be limited to immediate family members. The frequency and duration of regular visiting may also be limited to a one hour visit each calendar month. The number of visitors permitted during any visit is within the Warden's discretion. Such visits must occur through non-contact visiting facilities.

(1) Regular visits may be simultaneously monitored and recorded, both visually and auditorily, either in person or electronically.

(2) The Warden may require such visits to be conducted in English, or simultaneously translated by an approved interpreter.

(b) *Attorney visiting* is limited to attorney-client privileged communication as provided in Part 540. These visits may be visually, but not auditorily, monitored. Regulations and policies previously established under 28 CFR part 543 are applicable.

(2) For convicted inmates (as defined in 28 CFR part 551), regulations and policies previously established under 28 CFR part 543 are applicable.

[FR Doc. 2010-7728 Filed 4-5-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0109]

RIN 1625-AA00

#### Safety Zone; Big Bay Fourth of July Fireworks, San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a temporary safety zone on the navigable waters of the San Diego Bay in support of the Big Bay July Fourth Show to Benefit the San Diego Armed Services YMCA. This temporary safety zone is necessary to provide for the safety of crew, spectators, and other users and vessels of the waterway. Persons and vessels are prohibited from entering into, transiting through, or

anchoring within this temporary safety zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 6, 2010. Requests for public meetings must be received by the Coast Guard on or before May 6, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0109 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 Petty Officer Corey McDonald, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7262, e-mail [Corey.R.McDonald@uscg.mil](mailto:Corey.R.McDonald@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2010-0109), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and

material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via [www.regulations.gov](http://www.regulations.gov), it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-0109" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-0109" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on