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Done in Washington, DC on April 23, 2012.  
**Alfred V. Almanza**,  
 Administrator.

[FR Doc. 2012-10111 Filed 4-25-12; 8:45 am]

BILLING CODE 3410-DM-P

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[CPCLO Order No. 008-2012]

### Privacy Act of 1974; Implementation

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In the **Federal Register**, the Bureau of Prisons (Bureau or BOP), a component of the Department of Justice, has published a notice of a revised Privacy Act system of records, Inmate Central Records System (JUSTICE/BOP-005). In this notice of proposed rulemaking, the Bureau proposes to amend its Privacy Act regulations for the Inmate Central Records System

(JUSTICE/BOP-005) by now exempting this system from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); (f); and (g) of the Privacy Act of 1974 pursuant to 5 U.S.C. 552a(j) and (k) for the reasons set forth in the following text. The exemptions are necessary to avoid interference with the law enforcement and functions and responsibilities of the Bureau.

Public comment is invited.

**DATES:** Comments must be received by May 29, 2012.

**ADDRESSES:** Address all comments to the Privacy Analyst, Office of Privacy and Civil Liberties, National Place Building, Suite 1000, Washington, DC 20530, or by facsimile 202-307-0693. To ensure proper handling, please reference the CPCLO Order number in your correspondence. You may review an electronic version of the proposed rule at <http://www.regulations.gov>. You may also submit a comment via the Internet by using the comment form for this regulation at <http://www.regulations.gov>. Please include the CPCLO Order number in the subject box.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Standard Time on the day the comment period closes because <http://www.regulations.gov> terminates the public's ability to submit comments at that time. Commenters in time zones other than Eastern Standard Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

**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 <http://www.regulations.gov> and in the Department's public docket. Such information includes personally identifying information (such as name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the term "PERSONALLY IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personally identifying information you do not want posted online or made available in the public docket 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 or made available in the public docket, you must include the term "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 online or made available in the public docket.

Personally identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**FOR FURTHER INFORMATION CONTACT:** C. Darnell Stroble, Attorney-Advisor, Federal Bureau of Prisons, 202-514-9180.

**SUPPLEMENTARY INFORMATION:** In the Notice section of today's **Federal Register**, the Bureau published a revised Privacy Act system of records notice, Inmate Central Records System (JUSTICE/BOP-005). This system assists the Attorney General and the Bureau of Prisons in meeting statutory responsibilities for the safekeeping, care and custody of incarcerated persons. It serves as the primary record system on these individuals and includes information critical to the continued safety and security of federal prisons and the public.

In this rulemaking, the Bureau proposes to exempt this Privacy Act system of records from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Although this system of records was previously exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), the Bureau is seeking additional exemptions pursuant to 5 U.S.C. 552a(j)(2), adding exemptions pursuant to 5 U.S.C. 552a(k), and consolidating the exemptions together in one location of the Code of Federal Register. Therefore, the proposed rule seeks to delete all references of the Inmate Central Records System (JUSTICE/BOP-005) from paragraphs (a)

and (b) of 28 CFR 16.97 and replace paragraphs (j) and (k) of 28 CFR 16.97 with new exemption language as set forth in the following text.

### Regulatory Flexibility Act

This proposed rule relates to individuals, as opposed to small business entities. Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, therefore, the proposed rule will not have a significant economic impact on a substantial number of small entities.

### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, 5 U.S.C. 601 et seq., requires the Bureau to comply with small entity requests for information and advice about compliance with statutes and regulations within Bureau jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at <http://archive.sba.gov/advo/laws/sbrefa.html>.

### Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), requires that the BOP consider the impact of paperwork and other information collection burdens imposed on the public. There is no current or new information collection requirement associated with this proposed rule. The records that are contributed to the Inmate Central Records system would be created in any event by law enforcement entities and their sharing of this information electronically will not increase the paperwork burden on the public.

### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 109 Stat. 48, requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A “Federal mandate” is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, \$100 million or more in any one year the UMRA analysis is required. This proposed rule would not impose Federal mandates on any State,

local, or tribal government or the private sector.

### List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, it is proposed to amend 28 CFR Part 16 as follows:

### PART 16—[AMENDED]

1. The authority citation for part 16 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

### Subpart E—Exemption of Records Systems Under the Privacy Act

2. Section 16.97 is amended to delete all references to “Inmate Central Record System (JUSTICE/BOP–005)” from paragraphs (a) and (b) and replace (j) and (k) with the following:

#### § 16.97 Exemption of Bureau of Prisons Systems—limited access.

\* \* \* \* \*

(j) The following system of records is exempt pursuant to 5 U.S.C. 552a(j) and (k) from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H), and (I), (5), (8); (f); and (g): The Inmate Central Records System (JUSTICE/BOP–005).

(k) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any investigative interest in the individual. Revealing this information may thus compromise ongoing law enforcement efforts, as well as efforts to identify and defuse any potential acts of terrorism. Revealing this information may also

permit the record subject to take measures to impede the investigation, such as destroying evidence, intimidating potential witnesses, or fleeing the area to avoid the investigation.

(2) From subsection (c)(4) notification requirements because this system is exempt from the access and amendment provisions of subsection (d).

(3) From subsections (d)(1), (2), (3), and (4), because these provisions concern individual access to and amendment of records, compliance with which could jeopardize the legitimate correctional interests of safety, security, and good order of prison facilities; alert the subject of a suspicious activity report of the fact and nature of the report and any underlying investigation and/or the investigative interest of the BOP and other law enforcement agencies; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, and/or flight of the subject; possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Although the BOP has rules in place emphasizing that records should be kept up to date, requirement of amendment of these records would interfere with ongoing law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for the proper safekeeping, care, and custody of incarcerated persons, and for the proper security and safety of federal prisons and the public. In addition, to the extent that the BOP may collect information that may also be relevant to the law enforcement operations of other agencies, in the interests of overall, effective law enforcement, such information should be retained and made available to those agencies with such relevant responsibilities.

(5) From subsections (e)(2) because the nature of criminal investigative and correctional activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations and activities, it is not feasible to rely solely

upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information and compromise ongoing criminal investigations or correctional management decisions.

(6) From subsections (e)(3) because in view of BOP's operational responsibilities, the application of this provision would provide the subject of an investigation or correctional matter with substantial information which may in fact impede the information gathering process or compromise ongoing criminal investigations or correctional management decisions.

(7) From subsections (e)(4)(G) and (H) because this system is exempt from the access provisions of subsection (d) pursuant to subsections (j) and (k) of the Privacy Act.

(8) From subsection (e)(4)(I) because publishing further details regarding categories of sources of records in the system would compromise ongoing investigations, reveal investigatory techniques and descriptions of confidential informants, or constitute a potential danger to the health or safety of law enforcement personnel.

(9) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Data which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance during the course of an investigation or with the passage of time, and could be relevant to future law enforcement decisions. In addition, because many of these records come from the courts and other state and local criminal justice agencies, it is administratively impossible for them and the Bureau to ensure compliance with this provision. The restrictions of subsection (e)(5) would restrict and delay trained correctional managers from timely exercising their judgment in managing the inmate population and providing for the safety and security of the prisons and the public.

(10) From subsection (e)(8), because to require individual notice of disclosure of information due to a compulsory legal process would pose an impossible administrative burden on BOP and may alert subjects of investigations, who might otherwise be unaware, to the fact of those investigations.

(11) From subsection (f) to the extent that this system is exempt from the provisions of subsection (d).

(12) From subsection (g) to the extent that this system is exempted from other provisions of the Act.

Dated: April 18, 2012.

**Nancy C. Libin,**

*Chief Privacy and Civil Liberties Officer,  
United States Department of Justice.*

[FR Doc. 2012-9774 Filed 4-25-12; 8:45 am]

**BILLING CODE 4410-05-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-0072]

RIN 1625-AA00

#### Safety Zone; Jet Express Triathlon, Sandusky Bay, Lake Erie, Lakeside, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the waters of Lake Erie in the vicinity of East Harbor State Park, OH, from 8 a.m. until 10 a.m. on September 9, 2012. This proposed safety zone is intended to restrict vessels from portions of Lake Erie during the Jet Express Triathlon. This proposed safety zone is necessary to protect participants, spectators and vessels from the hazards associated with triathlon event.

**DATES:** Comments and related materials must be received by the Coast Guard on or before May 29, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG-2012-0072 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 email ENS Benjamin Nessia,

Response Department, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418-6040, email [Benjamin.B.Nessia@uscg.mil](mailto:Benjamin.B.Nessia@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-2012-0072), 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 submitted 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 email 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-2012-0072" in the "Keyword" box. 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.