Monday,
May 16, 2005

Part XII

Department of Justice

Semiannual Regulatory Agenda
DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE
8 CFR Ch. I  
21 CFR Ch. I  
27 CFR Ch. II  
28 CFR Ch. I

Regulatory Agenda

AGENCY: Department of Justice.
ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its spring 2005 regulatory agenda pursuant to Executive Order 12866 “Regulatory Planning and Review,” 58 FR 51735, and the

Supplementary Information: The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department’s unified agenda includes three regulations requiring such a review: “Commerce in Explosives (Including Explosives in the Fireworks Industry)” (RIN 1140-AA01); “Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities” (RIN 1190-AA44); and “Nondiscrimination on the Basis of Disability in State and Local Government Services” (RIN 1190-AA46). In accordance with the RFA, comments are specifically invited on these regulations. Those comments should be addressed to the contact persons listed in the entries for these items.

Dated: April 6, 2005.

Rachel L. Brand,
Acting Assistant Attorney General, Office of Legal Policy.

Bureau of Prisons—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1737</td>
<td>Inmate Discipline—Subpart Revision</td>
<td>1120–AB18</td>
</tr>
<tr>
<td>1738</td>
<td>Victim/Witness Notification</td>
<td>1120–AB25</td>
</tr>
<tr>
<td>1739</td>
<td>Autopsies</td>
<td>1120–AB26</td>
</tr>
<tr>
<td>1740</td>
<td>Searching and Detaining or Arresting Non-Inmates</td>
<td>1120–AB28</td>
</tr>
<tr>
<td>1741</td>
<td>Incoming Publications: Security Measures</td>
<td>1120–AB31</td>
</tr>
<tr>
<td>1742</td>
<td>Classification and Program Review</td>
<td>1120–AB32</td>
</tr>
<tr>
<td>1743</td>
<td>Inmate Work and Performance Pay Program: Reduction in Pay for Drug- and Alcohol-Related Disciplinary Offenses</td>
<td>1120–AB33</td>
</tr>
<tr>
<td>1744</td>
<td>Administrative Remedy Program—Subpart Revision</td>
<td>1120–AB34</td>
</tr>
</tbody>
</table>

Bureau of Prisons—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1745</td>
<td>Intensive Confinement Centers</td>
<td>1120–AA11</td>
</tr>
<tr>
<td>1746</td>
<td>Literacy Program</td>
<td>1120–AA33</td>
</tr>
<tr>
<td>1747</td>
<td>Telephone Regulations and Inmate Financial Responsibility</td>
<td>1120–AA39</td>
</tr>
<tr>
<td>1748</td>
<td>Telephone Regulations and Inmate Financial Responsibility</td>
<td>1120–AA49</td>
</tr>
<tr>
<td>1749</td>
<td>Good Conduct Time</td>
<td>1120–AA62</td>
</tr>
<tr>
<td>1750</td>
<td>Designation of Offenses Subject to Sex Offender Release Notification</td>
<td>1120–AA85</td>
</tr>
<tr>
<td>1751</td>
<td>Searches of Housing Units, Inmates, Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices</td>
<td>1120–AA90</td>
</tr>
<tr>
<td>1752</td>
<td>Drug Testing Program</td>
<td>1120–AA95</td>
</tr>
<tr>
<td>1753</td>
<td>Correspondence: Inspection of Outgoing General Correspondence</td>
<td>1120–AA98</td>
</tr>
<tr>
<td>1754</td>
<td>Infectious Disease Management</td>
<td>1120–AB03</td>
</tr>
<tr>
<td>1755</td>
<td>District of Columbia Educational Good Time Credit</td>
<td>1120–AB05</td>
</tr>
<tr>
<td>1756</td>
<td>Suicide Prevention Program</td>
<td>1120–AB06</td>
</tr>
<tr>
<td>1757</td>
<td>Drug Abuse Treatment Program: Subpart Revision and Clarification</td>
<td>1120–AB07</td>
</tr>
<tr>
<td>1758</td>
<td>National Security; Prevention of Acts of Violence and Terrorism</td>
<td>1120–AB08</td>
</tr>
<tr>
<td>1759</td>
<td>Inmate Fees for Health Care Services</td>
<td>1120–AB11</td>
</tr>
<tr>
<td>1760</td>
<td>Good Conduct Time: Aliens With Confirmed Orders of Deportation, Exclusion, or Removal</td>
<td>1120–AB12</td>
</tr>
<tr>
<td>1761</td>
<td>Civil Contempt of Court Commitments: Revision To Accommodate Commitments Under the DC Code</td>
<td>1120–AB13</td>
</tr>
<tr>
<td>1762</td>
<td>Central Inmate Monitoring (CIM) System: Streamlining Rules</td>
<td>1120–AB14</td>
</tr>
<tr>
<td>1763</td>
<td>Bureau of Prisons Emergencies</td>
<td>1120–AB17</td>
</tr>
<tr>
<td>1764</td>
<td>Administrative Safeguards for Psychiatric Treatment and Medication</td>
<td>1120–AB20</td>
</tr>
</tbody>
</table>
### Bureau of Prisons—Final Rule Stage (Continued)

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1765</td>
<td>Clarifying of Release Gratuities—Release Transportation Regulations To More Closely Conform to Statutory Provisions</td>
<td>1120–AB21</td>
</tr>
<tr>
<td>1766</td>
<td>Over-the-Counter Medications: Technical Correction</td>
<td>1120–AB29</td>
</tr>
</tbody>
</table>

### Bureau of Prisons—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1767</td>
<td>Drug Abuse Treatment Programs: Disincentives and Enhanced Incentives</td>
<td>1120–AA88</td>
</tr>
<tr>
<td>1768</td>
<td>Release of Information</td>
<td>1120–AA96</td>
</tr>
<tr>
<td>1769</td>
<td>Community Confinement</td>
<td>1120–AB27</td>
</tr>
</tbody>
</table>

### Civil Rights Division—Prerule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1770</td>
<td>Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (Section 610 Review)</td>
<td>1190–AA44</td>
</tr>
</tbody>
</table>

### Civil Rights Division—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1771</td>
<td>Nondiscrimination on the Basis of Disability in State and Local Government Services (Section 610 Review)</td>
<td>1190–AA46</td>
</tr>
<tr>
<td>1772</td>
<td>American Competitiveness and Workforce Improvement Act of 1998 Complaint Process</td>
<td>1190–AA48</td>
</tr>
<tr>
<td>1773</td>
<td>Amendments to Procedures Advising States and Political Subdivisions Specially Covered Under the Voting Rights Act How To Seek Pre clearance From the Attorney General of Proposed Voting Changes</td>
<td>1190–AA51</td>
</tr>
<tr>
<td>1774</td>
<td>Amendments to Coordination of Enforcement of Nondiscrimination in Fed erally Assisted Programs and Implementation of Executive Order 12250</td>
<td>1190–AA52</td>
</tr>
<tr>
<td>1775</td>
<td>Procedures To Review Police Departments for a Pattern or Practice of Conduct That Deprives Persons of Rights, Privileges, or Immunities Secured or Protected by the Constitution or Laws of the U.S.</td>
<td>1190–AA53</td>
</tr>
</tbody>
</table>

### Bureau of Alcohol, Tobacco, Firearms, and Explosives—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1776</td>
<td>Commerce in Explosives—Amended Definition of Propellant Actuated Device</td>
<td>1140–AA24</td>
</tr>
</tbody>
</table>

### Bureau of Alcohol, Tobacco, Firearms, and Explosives—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1777</td>
<td>27 CFR Part 55 Identification Markings Placed on Imported Explosive Materials</td>
<td>1140–AA02</td>
</tr>
<tr>
<td>1778</td>
<td>27 CFR 55 Commerce in Explosives—Explosive Pest Control Devices</td>
<td>1140–AA03</td>
</tr>
<tr>
<td>1779</td>
<td>27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)</td>
<td>1140–AA04</td>
</tr>
</tbody>
</table>
### Bureau of Alcohol, Tobacco, Firearms, and Explosives—Long-Term Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1780</td>
<td>Implementation of the Safe Explosives Act, Title XI, Subtitle C, of Public Law 107-296</td>
<td>1140–AA00</td>
</tr>
<tr>
<td>1781</td>
<td>27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry) (Rulemaking Resulting From a Section 610 Review)</td>
<td>1140–AA01</td>
</tr>
<tr>
<td>1782</td>
<td>27 CFR 178 Residency Requirement for Persons Acquiring Firearms</td>
<td>1140–AA05</td>
</tr>
<tr>
<td>1785</td>
<td>27 CFR 178 Implementation of Public Law 105-277 Relating to Secure Gun Storage</td>
<td>1140–AA10</td>
</tr>
<tr>
<td>1786</td>
<td>Implementation of the Safe Explosives Act, Title XI, Subtitle C, of Public Law 107-296—Delivery of Explosive Materials by Common or Contract Carrier</td>
<td>1140–AA20</td>
</tr>
<tr>
<td>1787</td>
<td>Commerce in Firearms and Ammunition—Importation of Firearm Frames, Receivers, and Barrels</td>
<td>1140–AA22</td>
</tr>
<tr>
<td>1788</td>
<td>Machine Guns, Destructive Devices, and Certain Other Firearms—Amended Definition of “Pistol”</td>
<td>1140–AA23</td>
</tr>
</tbody>
</table>

### Bureau of Alcohol, Tobacco, Firearms, and Explosives—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1790</td>
<td>Waiver for Firearm Prohibition on Nonimmigrant Visa Holders</td>
<td>1140–AA21</td>
</tr>
</tbody>
</table>

### Drug Enforcement Administration—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1791</td>
<td>Guidelines for Providing Controlled Substances to Ocean Vessels</td>
<td>1117–AA40</td>
</tr>
<tr>
<td>1792</td>
<td>Electronic Prescriptions for Controlled Substances</td>
<td>1117–AA61</td>
</tr>
<tr>
<td>1793</td>
<td>Reorganization and Clarification of DEA Regulations</td>
<td>1117–AA63</td>
</tr>
<tr>
<td>1794</td>
<td>Chemical Mixtures Containing Gamma-Butyrolactone</td>
<td>1117–AA64</td>
</tr>
<tr>
<td>1795</td>
<td>Chemical Mixtures Containing Listed Forms of Phosphorus</td>
<td>1117–AA66</td>
</tr>
<tr>
<td>1796</td>
<td>Electronic Application for Controlled Substances and Listed Chemical Registration: Technical Amendments</td>
<td>1117–AA91</td>
</tr>
<tr>
<td>1797</td>
<td>Revision of Reporting Requirements for Imports and Exports of List I and List II Chemicals</td>
<td>1117–AA92</td>
</tr>
<tr>
<td>1798</td>
<td>Changes in the Regulation of Iodine and Its Chemical Mixtures</td>
<td>1117–AA93</td>
</tr>
<tr>
<td>1799</td>
<td>Definition of Positional Isomer As It Pertains to the Control of Schedule I Controlled Substances</td>
<td>1117–AA94</td>
</tr>
<tr>
<td>1800</td>
<td>Controlled Substances and List I Chemical Registration and Reregistration Application Fees</td>
<td>1117–AA96</td>
</tr>
</tbody>
</table>

### Drug Enforcement Administration—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1801</td>
<td>Definition and Registration of Reverse Distributors</td>
<td>1117–AA19</td>
</tr>
<tr>
<td>1802</td>
<td>Exemption of Chemical Mixtures</td>
<td>1117–AA31</td>
</tr>
<tr>
<td>1803</td>
<td>Chemical Registration Waivers; Exemption From Chemical Registration Fees for Certain Persons</td>
<td>1117–AA67</td>
</tr>
<tr>
<td>1804</td>
<td>Authority for Practitioners To Dispense or Prescribe Approved Narcotic Substances for Maintenance or Detoxification Treatment</td>
<td>1117–AA68</td>
</tr>
<tr>
<td>1805</td>
<td>Reports by Registrants of Theft or Significant Loss of Controlled Substances</td>
<td>1117–AA73</td>
</tr>
<tr>
<td>1806</td>
<td>Preventing the Accumulation of Surplus Controlled Substances at Long-Term Care Facilities</td>
<td>1117–AA75</td>
</tr>
<tr>
<td>1807</td>
<td>Clarification of Registration Requirements for Individual Practitioners</td>
<td>1117–AA89</td>
</tr>
<tr>
<td>1808</td>
<td>Control of Sodium Permanganate as a List II Chemical</td>
<td>1117–AA90</td>
</tr>
<tr>
<td>1809</td>
<td>Implementation of the Anabolic Steroid Control Act of 2004</td>
<td>1117–AA95</td>
</tr>
</tbody>
</table>
### Drug Enforcement Administration—Long-Term Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1810</td>
<td>Security Requirements for Handlers of Pseudoephedrine, Ephedrine, and Phenylpropanolamine</td>
<td>1117–AA62</td>
</tr>
</tbody>
</table>

### Drug Enforcement Administration—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1811</td>
<td>Chemical Registration and Reregistration Fees</td>
<td>1117–AA50</td>
</tr>
<tr>
<td>1812</td>
<td>Electronic Orders for Schedule I and II Controlled Substances</td>
<td>1117–AA60</td>
</tr>
<tr>
<td>1813</td>
<td>Recordkeeping and Reporting Requirements for Drug Products Containing Gamma Hydroxybutyric Acid (GHB)</td>
<td>1117–AA71</td>
</tr>
<tr>
<td>1814</td>
<td>Chemical Registration and Reregistration Fees</td>
<td>1117–AA72</td>
</tr>
</tbody>
</table>

### Executive Office for Immigration Review—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1815</td>
<td>Suspension of Deportation and Cancellation of Removal for Certain Battered Spouses and Children; Motions To Reopen for Certain Battered Spouses and Children</td>
<td>1125–AA35</td>
</tr>
<tr>
<td>1816</td>
<td>International Matchmaking Organizations; Civil Penalties</td>
<td>1125–AA45</td>
</tr>
<tr>
<td>1817</td>
<td>Implementation of the Numerical Limit on Asylum Grants and Refugee Admission Based on Resistance to Coercive Population Control Measures</td>
<td>1125–AA48</td>
</tr>
<tr>
<td>1818</td>
<td>Executive Office for Immigration Review; Rules Governing Immigration Proceedings</td>
<td>1125–AA53</td>
</tr>
</tbody>
</table>

### Executive Office for Immigration Review—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1819</td>
<td>Suspension of Deportation and Cancellation of Removal</td>
<td>1125–AA25</td>
</tr>
<tr>
<td>1820</td>
<td>Authorities Delegated to the Director of the Executive Office for Immigration Review and the Chief Immigration Judge</td>
<td>1125–AA27</td>
</tr>
<tr>
<td>1821</td>
<td>Motions To Reopen for Suspension of Deportation and Special Rule Cancellation of Removal Pursuant to Section 1505(c) of the LIFE Act Amendments</td>
<td>1125–AA31</td>
</tr>
<tr>
<td>1822</td>
<td>Protective Orders in Immigration Administration Proceedings</td>
<td>1125–AA38</td>
</tr>
<tr>
<td>1823</td>
<td>Executive Office for Immigration Review Attorney/Representative Registry</td>
<td>1125–AA39</td>
</tr>
<tr>
<td>1824</td>
<td>Transfer of Jurisdiction Over Appeals of Fines From the Board of Immigration Appeals to the Office of the Chief Administrative Hearing Officer</td>
<td>1125–AA41</td>
</tr>
<tr>
<td>1825</td>
<td>Definitions; Fees; Powers and Authority of DHS Officers in Removal Proceedings</td>
<td>1125–AA43</td>
</tr>
<tr>
<td>1826</td>
<td>Background and Security Investigation Checks in Proceedings Before Immigration Judges and the Board of Immigration Appeals</td>
<td>1125–AA44</td>
</tr>
<tr>
<td>1827</td>
<td>Review of Custody Determinations</td>
<td>1125–AA47</td>
</tr>
<tr>
<td>1828</td>
<td>Reopened Proceedings on Petitions for Alien Entrepreneur Immigrant Classification (EB-5 Visas)</td>
<td>1125–AA49</td>
</tr>
<tr>
<td>1829</td>
<td>Information Relating to Aliens’ Duty To Surrender When Ordered Removed From the United States</td>
<td>1125–AA51</td>
</tr>
<tr>
<td>1830</td>
<td>Venue in Removal Proceedings</td>
<td>1125–AA52</td>
</tr>
<tr>
<td>1831</td>
<td>Affidavits of Support on Behalf of Immigrants</td>
<td>1125–AA54</td>
</tr>
</tbody>
</table>

### Executive Office for Immigration Review—Long-Term Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1832</td>
<td>Authority of Immigration Judges To Issue Civil Money Penalties</td>
<td>1125–AA18</td>
</tr>
</tbody>
</table>
### Executive Office for Immigration Review—Completed Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1833</td>
<td>Asylum Claims Made by Aliens Arriving From Canada at Land-Border Ports-of-Entry</td>
<td>1125–AA46</td>
</tr>
<tr>
<td>1834</td>
<td>Execution of Removal Orders; Countries to Which Aliens May Be Removed</td>
<td>1125–AA50</td>
</tr>
</tbody>
</table>

### Federal Bureau of Investigation—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1835</td>
<td>Enhanced Exchange of Criminal History Record and Nonserious Offense Identification Records</td>
<td>1110–AA20</td>
</tr>
</tbody>
</table>

### Federal Bureau of Investigation—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1836</td>
<td>Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)</td>
<td>1110–AA01</td>
</tr>
<tr>
<td>1837</td>
<td>Regulations Under the Pam Lychner Sexual Offender Tracking and Identification Act</td>
<td>1110–AA04</td>
</tr>
<tr>
<td>1838</td>
<td>Final Notice of Capacity; Supplement To Respond to Remand</td>
<td>1110–AA10</td>
</tr>
<tr>
<td>1840</td>
<td>Carriage of Concealed Weapons Pursuant to Public Law 108-277, the Law Enforcement Officers Safety Act of 2004</td>
<td>1110–AA24</td>
</tr>
</tbody>
</table>

### Federal Bureau of Investigation—Long-Term Actions

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1841</td>
<td>Communications Assistance for Law Enforcement Act: Definitions of “Replaced” and “Significantly Upgraded or Otherwise Undergone Major Modification”</td>
<td>1110–AA21</td>
</tr>
<tr>
<td>1842</td>
<td>Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act—Notice of Actual and Maximum Capacity: Paging, MSS, SMR, and ESMR</td>
<td>1110–AA22</td>
</tr>
</tbody>
</table>

### Legal Activities—Proposed Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>Reporting Under the Protection of Children From Sexual Predators Act as Amended</td>
<td>1105–AB06</td>
</tr>
</tbody>
</table>

### Legal Activities—Final Rule Stage

<table>
<thead>
<tr>
<th>Sequence Number</th>
<th>Title</th>
<th>Regulation Identifier Number</th>
</tr>
</thead>
<tbody>
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<td>1844</td>
<td>Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act</td>
<td>1105–AA65</td>
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<tr>
<td>1845</td>
<td>Ethical Standards for Attorneys for the Government</td>
<td>1105–AA67</td>
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<td>1846</td>
<td>Minimum Qualifications for Annuity Brokers in Connection With Structured Settlements Entered Into by the United States</td>
<td>1105–AA82</td>
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<td>1847</td>
<td>Inspection of Records Relating to Depiction of Sexually Explicit Performances</td>
<td>1105–AB05</td>
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<tr>
<td>1848</td>
<td>STOP Violence Against Women Formula Grant Program and STOP Violence Against Indian Women Discretionary Grant Program: Clarification of Match Requirement</td>
<td>1105–AB07</td>
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<td>1849</td>
<td>Guidelines for the PROTECT Act Amendments to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act</td>
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### Legal Activities—Final Rule Stage (Continued)

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<td>1850</td>
<td>DNA Sample Collection From Federal Offenders Under the Justice for All Act of 2004</td>
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### Legal Activities—Long-Term Actions

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<td>1852</td>
<td>National Motor Vehicle Title Information System (NMVTIS) Reporting Regulations</td>
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<td>1853</td>
<td>Enhanced Notice and Release Procedures for Owners of Seized Property Pursuant to the CAFRA of 2000; Disposition of Seized Property Too Costly To Maintain; Consolidation of Department Regulations</td>
<td>1105–AA74</td>
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### Office of Justice Programs—Proposed Rule Stage

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<td>Public Safety Officers’ Benefits Program</td>
<td>1121–AA56</td>
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<td>Criminal Intelligence Systems Operating Policies</td>
<td>1121–AA59</td>
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<td>1856</td>
<td>International Terrorism Victim Expense Reimbursement Program</td>
<td>1121–AA63</td>
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<td>1857</td>
<td>Victims of Crime Act (VOCA) Crime Victim Compensation Program Regulations</td>
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<td>Victim of Crime Act (VOCA) Victim Assistance Program</td>
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### Office of Justice Programs—Final Rule Stage

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<td>1859</td>
<td>Correctional Facilities on Tribal Lands Grant Program</td>
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<td>1861</td>
<td>Environmental Impact Review Procedures for the VOI/TIS Grant Program</td>
<td>1121–AA52</td>
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<td>1862</td>
<td>Federal Policy for the Protection of Human Subjects</td>
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### Office of Justice Programs—Completed Actions

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<tr>
<td>1863</td>
<td>Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)</td>
<td>1121–AA57</td>
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### Department of Justice (DOJ)

#### Bureau of Prisons (BOP)

**1737. INMATE DISCIPLINE—SUBPART REVISION**

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<th>Priority:</th>
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<tr>
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<tr>
<td>Abstract:</td>
<td>In this document, the Bureau of Prisons (Bureau) proposes to amend its Inmate Discipline and Special Housing Unit (SHU) regulations. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language and removing internal agency procedures (guidance to staff on how to implement disciplinary processes) that need not be in rules text. The changes involve extensive reorganization and updates to obsolete rules.</td>
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</tbody>
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#### Bureau of Prisons (BOP)

**1737. INMATE DISCIPLINE—SUBPART REVISION**

<table>
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<th>Priority:</th>
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<tr>
<td>Legal Authority:</td>
<td>5 USC 301; 18 USC 3621 to 3622, 4001, 4042, 4081 to 4082; 18 USC 4161 to 4166, 5006 to 5024, 5039; 28 USC 509 to 510</td>
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<td>CFR Citation:</td>
<td>28 CFR 541</td>
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<td>Legal Deadline:</td>
<td>None</td>
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<tr>
<td>Abstract:</td>
<td>In this document, the Bureau of Prisons (Bureau) proposes to amend its Inmate Discipline and Special Housing Unit (SHU) regulations. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language and removing internal agency procedures (guidance to staff on how to implement disciplinary processes) that need not be in rules text. The changes involve extensive reorganization and updates to obsolete rules.</td>
</tr>
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and unnecessary disciplinary codes and processes.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105
Fax: 202 305–4577
Email: squreshi@bop.gov

RIN: 1120–AB25

1738. VICTIM/WITNESS NOTIFICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: Not Yet Determined

CFR Citation: None

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) revises its rules on Victim/Witness Notifications to more accurately reflect updated and streamlined program processes and to clarify existing provisions by using simpler organization and language. For further simplification, we remove language relating solely to internal agency management procedures and practices.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105
Fax: 202 305–4577
Email: squreshi@bop.gov

RIN: 1120–AB26

1739. AUTOPSIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241 to 4247, 5006 to 5024 (Repealed October 12, 1984)

CFR Citation: 28 CFR 549.80

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) streamlines the rule on autopsies by removing internal agency management procedures that need not be stated in regulation.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105
Fax: 202 305–4577
Email: squreshi@bop.gov

RIN: 1120–AB28

1740. SEARCHING AND DETAINING OR ARRESTING NON–INMATES

Priority: Other Significant

Legal Authority: 5 USC 301, 551, 552a; 18 USC 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date.); 28 USC 509, 510, 530C(b)(6)

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to amend its regulations on incoming publications. This proposed rule streamlines and reorganizes the regulations. The amendment provides that inmates in all Bureau institutions may receive publications, whether hardcover or softcover, only from a publisher, book club, or bookstore. This amendment is necessary to reduce the amount of contraband introduced into Federal prisons through materials sent by mail. The presence of contraband in the prisons, including drugs, weapons, and escape-related materials poses grave dangers to staff, inmates, and the public. We considered alternate solutions to the problem of intercepting contraband, such as the use of technological security devices or increased staffing, but determined that these options were impracticable. This revision also adds advertising mail (advertising brochures, flyers, catalogs, and similar materials whose primary purpose is to sell a product or service) as a reason for rejection of an incoming publication. Advertising brochures, flyers, catalogs, and similar materials whose primary purpose is to sell a product(s) or service(s) will not be delivered to the inmate and will be destroyed without further notice to the inmate or sender.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105
Fax: 202 305–4577
Email: squreshi@bop.gov

RIN: 1120–AB28

1741. INCOMING PUBLICATIONS: SECURITY MEASURES

Priority: Other Significant

Legal Authority: 5 USC 301, 551, 552a; 18 USC 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date.); 28 USC 509, 510, 530C(b)(6)

CFR Citation: 28 CFR 540

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to amend its regulations on incoming publications. This proposed rule streamlines and reorganizes the regulations. The amendment provides that inmates in all Bureau institutions may receive publications, whether hardcover or softcover, only from a publisher, book club, or bookstore. This amendment is necessary to reduce the amount of contraband introduced into Federal prisons through materials sent by mail. The presence of contraband in the prisons, including drugs, weapons, and escape-related materials poses grave dangers to staff, inmates, and the public. We considered alternate solutions to the problem of intercepting contraband, such as the use of technological security devices or increased staffing, but determined that these options were impracticable. This revision also adds advertising mail (advertising brochures, flyers, catalogs, and similar materials whose primary purpose is to sell a product or service) as a reason for rejection of an incoming publication. Advertising brochures, flyers, catalogs, and similar materials whose primary purpose is to sell a product(s) or service(s) will not be delivered to the inmate and will be destroyed without further notice to the inmate or sender.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105
Fax: 202 305–4577
Email: squreshi@bop.gov

RIN: 1120–AB28
### 1742. CLASSIFICATION AND PROGRAM REVIEW

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** Not Yet Determined

**CFR Citation:** 28 CFR 524

**Legal Deadline:** None

**Abstract:** In this document, the Bureau of Prisons (Bureau) proposes to revise its regulations on classification and program review to remove unnecessary regulations and to ensure that classification and program review procedures adequately address inmate needs.

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<td><strong>Required:</strong> No</td>
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**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105  
Fax: 202 305–4577  
Email: squreshi@bop.gov  
RIN: 1120–AB32

### 1743. INMATE WORK AND PERFORMANCE PAY PROGRAM: REDUCTION IN PAY FOR DRUG- AND ALCOHOL-RELATED DISCIPLINARY OFFENSES

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 18 USC 3013, 3571, 3572, 3621, 3622, 3624, 3663, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 4126, 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 5 USC 301; 28 USC 509 and 510

**CFR Citation:** 28 CFR 545.25

**Legal Deadline:** None

**Abstract:** In this document, the Bureau of Prisons (Bureau) amends regulations on inmate work and performance pay to require that inmates receiving performance pay who are found through the disciplinary process (found in 28 CFR part 541) to have committed a level 100 or 200 series drug- or alcohol-related prohibited act will automatically have their performance pay reduced to maintenance pay level and be removed from any assigned work detail outside the secure perimeter of the institution.

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**Regulatory Flexibility Analysis**  
**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105  
Fax: 202 305–4577  
Email: squreshi@bop.gov  
RIN: 1120–AB33

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**DOJ—BOP Proposed Rule Stage**

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**Legal Authority:** 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987); 18 USC 5006 to 5024 (Repealed October 12, 1984, as to offenses committed after that date); 28 USC 509 and 510

**CFR Citation:** 28 CFR 542

**Legal Deadline:** None

**Unfunded Mandates:** Undetermined

**Abstract:** In this document, the Bureau of Prisons (Bureau) revises current regulations on the Administrative Remedy Program to clarify existing provisions and to expand the program to allow Federal inmates housed in contract facilities to file grievances related to Bureau issues. For further simplification, we remove language relating solely to internal agency practices and procedures. The changes would provide a consistent approach to correct the current deficiency in the Administrative Remedy Program and to provide Federal inmates housed in contract facilities with a process for addressing issues for which only the Bureau may grant relief.

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**Regulatory Flexibility Analysis**  
**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

Phone: 202 307–2105  
Fax: 202 305–4577  
Email: squreshi@bop.gov  
RIN: 1120–AB34
### 1745. INTENSIVE CONFINEMENT CENTERS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510  
**CFR Citation:** 28 CFR 524.31 to 524.34  
**Legal Deadline:** None  
**Abstract:** This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.  

#### Timetable:

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**Regulatory Flexibility Analysis Required:** No  
**Small Entities Affected:** No  
**Government Levels Affected:** None  
**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
Phone: 202 307–2105  
Fax: 202 305–4577  
Email: squreshi@bop.gov  
**RIN:** 1120–AA33

### 1747. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039  
**CFR Citation:** 28 CFR 540  
**Legal Deadline:** None  
**Abstract:** The Bureau of Prisons (Bureau) is withdrawing certain provisions in its rules on telephone regulations and on the inmate financial responsibility program (IFRP) which were published in the Federal Register on April 4, 1994 (59 FR 15812). In the April 4, 1994, revision of its rules on telephone regulations and on the IFRP, the Bureau delayed the effective date for provisions in sections 540.105(c) and 545.11(d)(10), which imposed limitations on the telephone privileges of inmates refusing to participate in the IFRP. These provisions were to become effective January 3, 1995. Due to ongoing litigation in Washington v. Reno, the effective date for these provisions was further delayed until January 4, 1996 (60 FR 240). In accordance with the Court-approved settlement in Washington v. Reno, through this rule, the Bureau withdrew these provisions and the reference to the IFRP telephone restrictions in 28 CFR section 540.100(a) and published at 61 FR 92 a new proposed rule to impose a different restriction on the telephone privileges of inmates who refuse to participate in the IFRP. This rule was finalized on December 28, 1999 (64 FR 72798, see RIN 1120-AA49).  

#### Timetable:

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**Regulatory Flexibility Analysis Required:** No  
**Small Entities Affected:** No  
**Government Levels Affected:** None  
**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
Phone: 202 307–2105  
Fax: 202 305–4577  
Email: squreshi@bop.gov  
**RIN:** 1120–AA39

### 1746. LITERACY PROGRAM

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510  
**CFR Citation:** 28 CFR 544.70 to 544.76  
**Legal Deadline:** None  
**Abstract:** This document makes changes to the Bureau’s literacy program regulations for the sake of clarification or simplification.

### 1748. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 5 USC 551; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 5006 to 5024; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624  
**CFR Citation:** 28 CFR 540.105; 28 CFR 545.11  
**Legal Deadline:** None  
**Abstract:** On January 2, 1996, BOP published an NPRM proposing limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program (BOP 1050). On December 28, 1999, BOP finalized that portion of the NPRM pertaining to limitations on commissary privileges. BOP is continuing to work on addressing issues raised by its proposed limitations on telephone privileges for inmates who are inmate financial responsibility program refusals. BOP will finalize that portion of its January 1996 NPRM in a separate document (BOP 1102).
### 1749. GOOD CONDUCT TIME

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 18 USC 3568; 28 USC 509 to 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039  
**CFR Citation:** 28 CFR 523  
**Legal Deadline:** None  
**Abstract:** This document notes the statutory requirements for the awarding of good conduct time, including the Bureau’s consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.  
**Timetable:**  
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<th>Action</th>
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### 1750. DESIGNATION OF OFFENSES SUBJECT TO SEX OFFENDER RELEASE NOTIFICATION

**Priority:** Other Significant  
**Legal Authority:** 18 USC 3565; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218  
**CFR Citation:** 28 CFR 571  
**Legal Deadline:** None  
**Abstract:** This document designates various offenses as sexual offenses for purposes of 18 U.S.C. 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders, and for these and other Federal inmates with a sex offense in their criminal history.  
**Timetable:**  
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### 1751. SEARCHES OF HOUSING UNITS, INMATES, INMATE WORK AREAS, AND PERSONS OTHER THAN INMATES: ELECTRONIC DEVICES

**Priority:** Other Significant  
**Legal Authority:** 18 USC 751 to 752; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082  
**CFR Citation:** 28 CFR 511; 28 CFR 552  
**Legal Deadline:** None  
**Abstract:** This document clarifies provisions in the Bureau’s regulations that pertain to the use of electronic devices in searches of inmates and persons other than inmates.  
**Timetable:**  
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### DOJ—BOP

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
**Fax:** 202 307–2105  
**Email:** squreshi@bop.gov

**RIN:** 1120–AA49

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**Regulatory Flexibility Analysis:** Required: No  
**Small Entities Affected:** No  
**Government Levels Affected:** None

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**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
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**RIN:** 1120–AA90

---

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
**Fax:** 202 307–2105  
**Email:** squreshi@bop.gov

**RIN:** 1120–AA85

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**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534  
**Fax:** 202 307–2105  
**Email:** squreshi@bop.gov

**RIN:** 1120–AA62

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1753. CORRESPONDENCE: INSPECTION OF OUTGOING GENERAL CORRESPONDENCE

Priority: Other Significant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

1754. INFECTIOUS DISEASE MANAGEMENT

Priority: Other Significant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; …

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document is a proposed rule (split from the interim final rule, RIN 1120-AA23) on the correctional management of tuberculosis, HIV, and hepatitis B. The changes to the regulations address the circumstances under which the Bureau conducts voluntary and involuntary testing.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

1755. DISTRICT OF COLUMBIA EDUCATIONAL GOOD TIME CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This rule establishes procedures for awarding educational good time credit consistent with the DC Code for offenders in Bureau institutions or Bureau contract facilities, under the National Capital Revitalization and Self-Government Improvement Act of 1997, who committed their offenses before August 5, 2000.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

1756. SUICIDE PREVENTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082, 5006 to 5024, 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 552

Legal Deadline: None

Abstract: This document revises Bureau regulations on the suicide prevention program for the sake of clarity and in order to remove Agency management procedures that do not need to be stated in regulations. The revised regulations more clearly delineate for the inmate the procedures used to identify and protect inmates deemed to be at risk for suicide.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

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RIN: 1120–AB03

RIN: 1120–AB05

RIN: 1120–AA98

RIN: 1120–AA95

RIN: 1120–AB06
1757. DRUG ABUSE TREATMENT PROGRAM: SUBPART REVISION AND CLARIFICATION

**Priority:** Info./Admin./Other

**Legal Authority:** 18 USC 3521 to 3528, 4042, 4046, 4081, 4082, 5006 to 5024, 5039; 28 USC 848, 509, 510; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; ...

**CFR Citation:** 28 CFR 550

**Legal Deadline:** None

**Abstract:** In this document, the Bureau of Prisons proposes to amend its regulations on the drug abuse treatment program. We intend this amendment to streamline and clarify these regulations, eliminating unnecessary text and obsolete language, and removing internal agency procedures that need not be in rules text.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** The action previously reported at RIN 1120-AA88 has been merged into this rulemaking.

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**RIN:** 1120–AB07

1758. NATIONAL SECURITY; PREVENTION OF ACTS OF VIOLENCE AND TERRORISM

**Priority:** Other Significant

**Legal Authority:** 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4042, 4081, 4082, 4161 to 4166, 5006 to 5024; 18 USC 5039; 28 USC 509, 510

**CFR Citation:** 28 CFR 500, 501

**Legal Deadline:** None

**Abstract:** Current Bureau of Prisons regulations on institutional management authorize the Bureau to impose special administrative measures with respect to specified inmates, based on information provided by senior intelligence or law enforcement officials, where it has been determined to be necessary to prevent the dissemination either of classified information that could endanger the national security or of other information that could lead to acts of violence and terrorism.

This rule extends the period of time for which such special administrative measures may be imposed from 120 days to up to 1 year and modifies the standards for approving extensions of such special administrative measures for further increments of time. In addition, in those cases where the Attorney General has certified that reasonable suspicion exists to believe that an inmate may use communications with attorneys or their agents to further or facilitate acts of violence or terrorism, this rule amends the existing regulations to provide that the Bureau is authorized to monitor mail or communications with attorneys in order to deter such acts, subject to specific procedural safeguards, to the extent permitted under the Constitution and laws of the United States. Finally, this rule provides that the head of each component of the Department of Justice that has custody of persons for whom special administrative measures are determined to be necessary may exercise the same authority to impose such measures as the Director of the Bureau of Prisons.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534

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**RIN:** 1120–AB11

1760. GOOD CONDUCT TIME: ALIENS WITH CONFIRMED ORDERS OF DEPORTATION, EXCLUSION, OR REMOVAL

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 28 USC 509 to 510; 5 USC 301; 18 USC 3621 to 3622, 3568, 4001, 4042, 4081 to 4082; 18 USC 4161 to 4166, 5006 to 5024, 5039

**CFR Citation:** 28 CFR 523.20

**Legal Deadline:** None

**Abstract:** In this document, the Bureau of Prisons (Bureau) proposes to amend its rules on Good Conduct Time (GCT). The purpose of this rule is to more...
effectively reduce the lengthy General Educational Development (GED) waiting lists and to reevaluate the “satisfactory progress in a literacy program” provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA) for aliens with confirmed orders of deportation, exclusion, or removal. This rule increases the proportion of our literacy funds and resources that go to inmates who will remain in the United States after release.

This rule exempts such inmate aliens from the “satisfactory progress in a literacy program” provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA). The Bureau’s Literacy Program rules currently comprise only GED attainment. This means that inmate aliens who have confirmed orders of deportation, exclusion, or removal, but do not have a high school diploma or GED, will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT. When considering GCT, we propose to allow 54 days GCT for each year served if the inmate is an alien with a confirmed order of deportation, exclusion, or removal, or from the Immigration and Naturalization Service (INS) (now referred to as the Bureau of Citizenship and Immigration Services (BCIS)).

In this rule the Bureau also reorganizes the rule for clarity and accuracy. Other than the substantive change regarding sentenced deportable aliens, we make no further substantive changes.

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Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534
Phone: 202 307–2105
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Email: squreshi@bop.gov

RIN: 1120–AB12

1762. CENTRAL INMATE MONITORING (CIM) SYSTEM: STREAMLINING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 18 USC 3621 to 3622, 3624, 4001, 4042, 4081 to 4082; 18 USC 4161 to 4166, 5006 to 5024, 5039; 28 USC 509 to 510; DC Code 24–101(a) and (b)

CFR Citation: 28 CFR 522

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) proposes to streamline its rules on the Central Inmate Monitoring system (CIM). We intend this amendment to streamline our regulations by removing internal agency management procedures that need not be stated in regulation. Bureau policy is a more appropriate vehicle through which to provide instructions and guidance to staff. All the provisions we removed consist of our instruction and guidance to Bureau staff. These provisions relate solely to internal agency management and practice and do not impose obligations or confer any benefits upon our regulated entities (the inmates) or the public. The procedures that were in these regulations will continue to exist, unchanged, in our policy statement on the Admission and Orientation Program. Any requirement imposed on our staff in these rules will remain a Bureau-wide requirement in our policy. It is important to note that we have not changed the substance of the CIM rules.

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Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534
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RIN: 1120–AB14
1763. BUREAU OF PRISONS
EMERGENCIES

Priority: Other Significant
Legal Authority: 5 USC 301; 18 USC
3621 to 3622, 3624, 4001, 4042, 4081
to 4082; 18 USC 4161 to 4166, 5006
to 5024, 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 501.1

Legal Deadline: None

Abstract: The Bureau of Prisons (Bureau) makes this interim final rule to clarify that, when there is an institutional or system-wide Bureau emergency that the Director or designee, such as a Warden, considers a threat to human life or safety, the Director or designee may suspend the operation of the rules in this chapter as necessary to handle the emergency. This rule clarifies that the Director may suspend Bureau rules as needed in light of any emergency affecting the Bureau, and the Warden may do so to deal with emergencies at the institution level. This rule change clarifying the Director’s authority to modify Bureau rules to handle emergencies is especially necessary in light of the recent terrorist attacks, threats to national security, threats of anthrax surrounding mail processing, and other events occurring on and after September 11, 2001.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534
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Email: squreshi@bop.gov

RIN: 1120–AB17

1764. ADMINISTRATIVE SAFEGUARDS
FOR PSYCHIATRIC TREATMENT AND
MEDICATION

Priority: Other Significant
Legal Authority: 5 USC 301; 18 USC
876b; 18 USC 3621, 3622, 3524, 4001,
4005, 4042, 4045, 4081, 4082; 18 USC
4241 to 4247, 5006 to 5024, 5039; 28
USC 509, 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: In this document, the Bureau of Prisons (Bureau) amends its regulations on Psychiatric Treatment and Medication. We make several minor word changes to conform more closely with the language of 18 U.S.C. sections 4241 to 4247 on psychiatric hospitalization. We remove from the rule one element of the standard for determining whether treatment or psychotropic medication is necessary because this element is inconsistent with community standards and case law. We also change the rules to conform with statutory authority regarding military prisoners and District of Columbia (DC) Code violators in Bureau custody. Previously, our procedures for involuntary psychiatric treatment and medication did not apply to military prisoners or DC Code violators. Under new statutory authority, military prisoners who are incompetent to stand trial, or who have been found not guilty by reason of lack of mental responsibility may now be committed to the Bureau’s custody. Sentenced DC Code offenders may now be involuntarily committed to a Bureau psychiatric hospital. Such military prisoners and DC Code violators are subject to our regulations. We revise the applicability statement accordingly.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 1120–AB20

1765. CLARIFYING OF RELEASE
GRATUITIES—RELEASE
TRANSPORTATION REGULATIONS TO
MORE CLOSELY CONFORM TO
STATUTORY PROVISIONS

Priority: Other Significant
Legal Authority: 5 USC 301; 18 USC
3555, 3568 to 3569, 3582, 3621 to 3622,
3624, 4001, 4042, 4081 to 4082; 18 USC
4161 to 4166, 4201 to 4218, 5006 to
5024, 5031 to 5042; 28 USC 509, 510;
US Cost, Art II, sec 2

CFR Citation: 28 CFR 571.22

Legal Deadline: None

Abstract: This document makes a minor clarifying change to the Bureau of Prisons (Bureau) regulations on release gratuities, transportation, and clothing. The amendment will clarify that the Bureau is authorized, upon an inmate’s release, to provide transportation to an inmate’s place of conviction or his legal residence only within the United States, under 18 U.S.C. 3624(d)(3). We intend this clarification to remove the misapprehension that the Bureau is authorized to provide transportation outside the United States.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534
Phone: 202 307–2105
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Email: squreshi@bop.gov

RIN: 1120–AB21
### 1766. OVER-THE-COUNTER MEDICATIONS: TECHNICAL CORRECTION

**Priority:** Info./Admin./Other. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 5 USC 301; 18 USC 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241 to 4247, 5006 to 5024 (Repealed October 12, 1984)

**CFR Citation:** 28 CFR 549.31

**Legal Deadline:** None

**Abstract:** This document makes a minor technical correction to the Bureau of Prisons (Bureau) regulations on Over-the-Counter (OTC) medications. Previously, our rule defined an inmate without funds as one who has had an average daily trust fund account balance of less than $6.00 for the past 30 days. The words “average daily” in that definition resulted in incorrect classifications by the Bureau’s business offices. The more accurate definition of an inmate without funds is one who has not had a trust fund account balance of $6.00 for the past 30 days. We therefore issue this technical correction.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi, Rules Administrator, Department of Justice, Bureau of Prisons, 320 First Street NW, HOLC Building, Washington, DC 20534 Phone: 202 307–2105 Fax: 202 305–4577 Email: squreshi@bop.gov

**RIN:** 1120–AB29

### Department of Justice (DOJ)

#### Bureau of Prisons (BOP)

### 1767. DRUG ABUSE TREATMENT PROGRAMS: DISINCENTIVES AND ENHANCED INCENTIVES

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 28 CFR 550

**Completed:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi Phone: 202 307–2105 Fax: 202 305–4577 Email: squreshi@bop.gov

**RIN:** 1120–AA88

### 1768. RELEASE OF INFORMATION

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 28 CFR 513

**Completed:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi Phone: 202 307–2105 Fax: 202 305–4577 Email: squreshi@bop.gov

**RIN:** 1120–AA96

### 1769. COMMUNITY CONFINEMENT

**Priority:** Other Significant

**CFR Citation:** 28 CFR 570.20 and .21

**Completed:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Sarah N. Qureshi Phone: 202 307–2105 Fax: 202 305–4577 Email: squreshi@bop.gov

**RIN:** 1120–AB27

### Department of Justice (DOJ)

#### Civil Rights Division (CRT)

### 1770. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (SECTION 504 REVIEW)

**Priority:** Economically Significant. Major under 5 USC 801.

**Legal Authority:** 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

**CFR Citation:** 28 CFR 36

**Legal Deadline:** None

**Abstract:** In 1991, the Department of Justice published regulations to implement title III of the Americans With Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago.
It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department’s title II regulations.

In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions will be to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department’s technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant economic impact upon a substantial number of small entities.

The first step in adopting revised Standards is an advance notice of proposed rulemaking that was published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes that the advance notice will simplify and clarify the preparation of the proposed rule to follow. In addition to giving notice that the proposed rule will adopt revised ADA accessibility standards, the advance notice raises questions for public comment and proposes a framework for the regulatory analysis that will accompany the proposed rule.

The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes will include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department will issue as the second step of the above described title III rulemaking. This notice of proposed rulemaking will be issued under both title II and title III. For purposes of the title III regulation, this notice will propose to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG. The second stage will initiate the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

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### Regulatory Flexibility Analysis

Required: Yes

### Small Entities Affected: Businesses, Organizations

### Government Levels Affected: None

### Additional Information: RIN 1190-AA44, which will effect changes to 28 CFR 36 (the Department’s regulation implementing title III of the ADA), is related to another rulemaking of the Civil Rights Division, RIN 1190-AA46, which will effect changes to 28 CFR 35 (the Department’s regulation implementing title II of the ADA).

### Agency Contact:

John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035

Phone: 800 514–0301

TDD Phone: 800 514–0383

Fax: 202 307–1198

RIN: 1190–AA44
Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

The first part of the rulemaking process is an advance notice of proposed rulemaking, published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes the advance notice will simplify and clarify the preparation of the proposed rule to follow. In addition to giving notice of the proposed rule that will adopt revised ADA accessibility standards, the advance notice raises questions for public comment and proposes a framework for the regulatory analysis that will accompany the proposed rule. The adoption of revised ADA Standards consistent with revised ADAAG will also serve to address changes to the ADA Standards previously proposed under RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes will include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department will issue as the second step of the above-described title II rulemaking. This notice of proposed rulemaking will be issued under both title II and title III. For purposes of the title II regulation alone, this notice will also propose to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design.

### Timetable:

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### 1772. AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998 COMPLAINT PROCESS

**Priority:** Other Significant

**Legal Authority:** 8 USC 1182(n)(5); 8 USC 1103(a); 8 USC 1182(n); 8 USC 1324b

**CFR Citation:** 28 CFR 44.500: 28 CFR 68

**Legal Deadline:** None

**Abstract:** The American Competitiveness and Workforce Improvement Act (ACWIA)—enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998—made various changes to the Immigration and Nationality Act (the INA) relating to temporary nonimmigrant professionals. In this rule (RIN 1190-AA48), the Department’s Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) will implement the ACWIA “failure to select” protections—codified in the INA at section 212(n)(5)—by establishing a process under which U.S. workers may file complaints against certain employers deemed “H-1B dependent” that deny them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under this process, OSC may receive and review these complaints, and then—if there is reasonable cause to believe the allegations—initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS).

This rule also changes regulations of the Office of the Chief Administrative Hearing Officer (OCAHO) of the Executive Office for Immigration Review (EOIR) to provide for the review of arbitrators’ decisions and, where appropriate, the award of administrative relief for a “failure to select” cause of action under the American Competitiveness and Workforce Improvement Act of 1988. This new cause of action allows an aggrieved party to file a complaint against a covered employer when it seeks to hire an H-1B visa holder over an equally or better qualified United States worker who applied for the job. Arbitrators of the Federal Mediation and Conciliation Service will adjudicate the complaints. The regulation also allows the Office of the Chief Administrative Hearing Officer to
review the Arbitrator’s findings, if necessary, and to impose remedies against the employer. This rule is being coordinated with EOIR, the Department of Labor (DOL), and the FMCS.

**Abstract:** Section 5 of the Voting Rights Act of 1965 requires certain States and their political subdivisions (covered jurisdictions) to obtain “preclearance” from the Federal Government of proposed changes in voting practices and procedures prior to their implementation. Preclearance may be obtained either through litigation in the United States District Court for the District of Columbia or administratively from the Attorney General. In 1971, the Department first issued procedures for the administration of section 5 to inform covered jurisdictions concerning the manner in which they could comply with section 5 in the administrative proceeding before the Attorney General. In subsequent years, the Department has amended these procedures to reflect changes in section 5 law, in the Attorney General’s internal practices, and to make the procedures clearer and easier to follow. In the many years since the last major amendment to the procedures, there have been significant changes in section 5 law and in the practices employed by the Department in processing submissions, which are not reflected in the existing Procedures.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** Undetermined

**Government Levels Affected:** None

**Additional Information:** ACWIA increased the numerical cap on H-1B nonimmigrant aliens; required certain dependent employers to make additional attestations to the Department of Labor (DOL); increased the penalties for employers who have been found to be in violation of DOL’s rules; and created a “whistle blower” clause to protect H-1B workers who filed complaints against their employer.

**Agency Contact:** Katherine A. Baldwin, Deputy Special Counsel, Department of Justice, Civil Rights Division, Office of Special Counsel for Unfair Employment Practices, Office of Special Counsel for Immigration–Related Unfair Employment Practices, 950 Pennsylvania Avenue NW, Washington, DC 20530

Phone: 202 616–5594
Fax: 202 616–5509

Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

Phone: 703 305–0470
Email: eoir.regs@usdoj.gov

RIN: 1190–AA48

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**1773. AMENDMENTS TO PROCEDURES ADVISING STATES AND POLITICAL SUBDIVISIONS SPECIALLY COVERED UNDER THE VOTING RIGHTS ACT HOW TO SEEK PRECLEARANCE FROM THE ATTORNEY GENERAL OF PROPOSED VOTING CHANGES**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 301; 28 USC 509 to 510; 42 USC 1973a(c); 42 USC 1973c

**CFR Citation:** 28 CFR 51

**Legal Deadline:** None

**Abstract:** In 1988, the Civil Rights Restoration Act (CRRA) added definitions of “program or activity” and “program” to title VI and added a definition of “program or activity” to section 504. The added definitions were designed to clarify the broad scope of coverage of recipients’ programs or activities under these statutes. In a joint rulemaking described at RIN 1190-AA49, and published in the Federal Register on August 26, 2003, the Department of Justice and other Federal agencies conformed their regulations to the CRRA.

In the rulemaking described under this RIN (1190-AA52) the Department of Justice proposes to make conforming amendments to its coordination regulations concerning agency enforcement of title VI of the Civil Rights Act of 1964, 28 CFR 42.401 to 42.415, and agency enforcement of Section 504 of the Rehabilitation Act of 1973, 28 CFR 41.1 to 41.58. The proposed amendments explicitly incorporate the CRRA’s definitions of “program or activity” and “program” into the Department’s title VI and section 504 coordination regulations.

**Timetable:**

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**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Federal, Local, State

**Agency Contact:** Merrily A. Friedlander, Chief, Coordination and Review Section, Department of Justice, Civil Rights Division, P.O. Box 66560, Washington, DC 20035–6560

Phone: 202 307–2222
TDD Phone: 202 307–2678
Fax: 202 307–0595
Email: merrily.a.friedlander@usdoj.gov

RIN: 1190–AA52
1775. PROCEDURES TO REVIEW POLICE DEPARTMENTS FOR A PATTERN OR PRACTICE OF CONDUCT THAT DEPRIVES PERSONS OF RIGHTS, PRIVILEGES, OR IMMUNITIES SECURED OR PROTECTED BY THE CONSTITUTION OR LAWS OF THE U.S.

Priority: Other Significant
Legal Authority: 5 USC 301; 28 USC 509
CFR Citation: Not Yet Determined
Legal Deadline: None
Abstract: Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. section 14141 (section 14141), the Attorney General is authorized to file lawsuits seeking court orders to reform police departments engaging in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured by the Constitution or laws of the United States. To date, the Department of Justice has conducted reviews of police departments pursuant to section 14141 using informal procedures. The purpose of this rule is to formalize the procedures by which the Department reviews police departments for a pattern or practice of unlawful conduct.

Department of Justice (DOJ)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

1776. COMMERCE IN EXPLOSIVES—AMENDED DEFINITION OF PROPELLANT ACTUATED DEVICE

Priority: Other Significant
Legal Authority: 18 USC 847
CFR Citation: 27 CFR 555
Legal Deadline: None
Abstract: The Department of Justice is proposing to amend the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to clarify that the term “propellant actuated device” does not include hobby rocket motors or rocket-motor reload kits consisting of or containing ammonium perchlorate composite propellant (APCP), black powder, or other similar low explosives.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Government Levels Affected: None
Agency Contact: Brad Schlozman, Deputy Assistant Attorney General, Department of Justice, Civil Rights Division, Room 5541, Room 3337, 950 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 305–8060
RIN: 1190–AA53

Department of Justice (DOJ)
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

1777. IDENTIFICATION MARKINGS PLACED ON IMPORTED EXPLOSIVE MATERIALS

Priority: Other Significant
Legal Authority: 18 USC 847
CFR Citation: 27 CFR 555
Legal Deadline: None
Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to require licensed importers to identify by marking all imported explosive materials. The Department is also incorporating into the regulations the provisions of ATF Ruling 75-35, relating to methods of marking containers of explosive materials. In addition, the Department is amending the regulations to remove the requirement that a licensee or permittee file for an amended license or permit in order to change the class of explosive materials described in their license or permit from a lower to a higher classification.

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Regulatory Flexibility Analysis
Required: No
Government Levels Affected: None
Additional Information: Transferred from RIN 1512-AC25

Agency Contact: James Ficaretta, Program Manager, Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927–8203
RIN: 1140–AA24

1778. COMMERCE IN EXPLOSIVES—EXPLOSIVE PEST CONTROL DEVICES

Priority: Substantive, Nonsignificant
Legal Authority: 18 USC 847
CFR Citation: 27 CFR 555
Legal Deadline: None
Abstract: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to provide a limited exemption from the requirements of
part 555 for wildlife pest control devices that are used for agricultural and other pest control operations.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** Transferred from RIN 1512-AC80

**Agency Contact:**
James Ficaretta, Program Manager, Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927–8203
RIN: 1140–AA03

---

**DOJ—ATF**

1779. COMMERCE IN FIREARMS AND AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 18 USC 847; 18 USC 921 to 931

**CFR Citation:** 27 CFR 478

**Legal Deadline:** None

**Abstract:** The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1968 (18 U.S.C. chapter 44). These amendments add to the category of “prohibited persons” anyone convicted of a “misdemeanor crime of domestic violence.” The amendments require individuals acquiring handguns from Federal firearms licensees to certify (in accordance with the Brady Handgun Violence Prevention Act) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** Transferred from RIN 1512-AB64

**Agency Contact:**
James Ficaretta, Program Manager, Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927–8203
RIN: 1140–AA04

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**Department of Justice (DOJ)**

**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**

1780. IMPLEMENTATION OF THE SAFE EXPLOSIVES ACT, TITLE XI, SUBTITLE C, OF PUBLIC LAW 107–296

**Priority:** Other Significant

**CFR Citation:** 27 CFR 555

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**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** James Ficaretta
Phone: 202 927–8203
RIN: 1140–AA00

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1781. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY) (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

**Priority:** Other Significant

**CFR Citation:** 27 CFR 555

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**Timetable:**

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1782. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

**Priority:** Other Significant

**CFR Citation:** 27 CFR 478

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**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** James Ficaretta
Phone: 202 927–8203
RIN: 1140–AA05

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1783. IMPLEMENTATION OF PUBLIC LAW 104–208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 27 CFR 555

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**Timetable:**

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### Department of Justice (DOJ)

**Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)**

**1785. IMPLEMENTATION OF PUBLIC LAW 105-277 RELATING TO SECURE GUN STORAGE**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 27 CFR 478
- **Timetable:**
  - **Action:** NPRM
  - **Date:** 09/09/06
  - **FR Cite:**
  - **Regulatory Flexibility Analysis Required:** No
  - **Small Entities Affected:** No
  - **Government Levels Affected:** Federal
  - **Agency Contact:** James Ficaretta
  - **Phone:** 202 927–8203
  - **RIN:** 1140–AA10

**1786. IMPLEMENTATION OF THE SAFE EXPLOSIVES ACT, TITLE XI, SUBTITLE C, OF PUBLIC LAW 107-296—DELIVERY OF EXPLOSIVE MATERIALS BY COMMON OR CONTRACT CARRIER**

- **Priority:** Other Significant
- **CFR Citation:** 27 CFR 555
- **Timetable:**
  - **Action:** NPRM
  - **Date:** 09/11/03
  - **FR Cite:** 68 FR 53509
  - **Interim Final Rule Effective:** 09/11/03
  - **Comment Period End:** 10/14/03
  - **Final Action:** 05/00/06
  - **Regulatory Flexibility Analysis Required:** No
  - **Small Entities Affected:** No
  - **Government Levels Affected:** None
  - **Agency Contact:** James P. Ficaretta
  - **Phone:** 202 927–8203
  - **RIN:** 1140–AA20

**1787. COMMERCE IN FIREARMS AND AMMUNITION—IMPORTATION OF FIREARM FRAMES, RECEIVERS, AND BARRELS**

- **Priority:** Other Significant
- **CFR Citation:** 27 CFR 478
- **Timetable:** Next Action Undetermined
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** James P. Ficaretta
  - **Phone:** 202 927–8203
- **RIN:** 1140–AA22

**1788. MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS—AMENDED DEFINITION OF “PISTOL”**

- **Priority:** Other Significant
- **CFR Citation:** 27 CFR 479
- **Timetable:**
  - **Action:** NPRM
  - **Date:** 04/07/05
  - **FR Cite:** 70 FR 17624
  - **NPRM Comment Period End:** 05/09/05
  - **Final Action:** 12/00/06
  - **Regulatory Flexibility Analysis Required:** No
  - **Small Entities Affected:** No
  - **Government Levels Affected:** None
  - **Agency Contact:** James P. Ficaretta
  - **Phone:** 202 927–8203
  - **RIN:** 1140–AA23

**1789. IMPLEMENTATION OF PUBLIC LAW 106-58, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 27 CFR 478
- **Completed:**
  - **Reason:** Merged With 1140–AA10
  - **Date:** 03/02/05
  - **FR Cite:**

**1790. WAIVER FOR FIREARM PROHIBITION ON NONIMMIGRANT VISA HOLDERS**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 27 CFR 478

**Completed Actions**

**1789. IMPLEMENTATION OF PUBLIC LAW 106-58, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000**

- **Reason:** Merged With 1140–AA10
  - **Date:** 03/02/05
  - **FR Cite:**

**1790. WAIVER FOR FIREARM PROHIBITION ON NONIMMIGRANT VISA HOLDERS**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 27 CFR 478

**Completed:**

- **Reason:** Merged With 1140–AA10
  - **Date:** 03/02/05
  - **FR Cite:**
1791. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 21 USC 871(b)  
**CFR Citation:** 21 CFR 1301  
**Legal Deadline:** None  
**Abstract:** DEA is amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials.

**Timetable:**

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**Regulatory Flexibility Analysis**  
**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** DEA-142

**URL For Public Comments:** dea.diversion.policy@usdoj.gov

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537  
Phone: 202 307–7297

**RIN:** 1117–AA40

1792. ELECTRONIC PRESCRIPTIONS FOR CONTROLLED SUBSTANCES

**Priority:** Other Significant  
**Legal Authority:** 21 USC 821; 21 USC 829; 21 USC 871(b)  
**CFR Citation:** 21 CFR 1306  
**Legal Deadline:** None  
**Abstract:** DEA is proposing to revise its regulations to permit DEA-registered prescribers to electronically write, sign, and transmit prescriptions. These proposed regulations would be an addition to, not a replacement of, the existing rules. These regulations are needed to give pharmacies, hospitals, and practitioners the ability to use modern technology for controlled substance prescriptions, while maintaining the closed system of distribution of controlled substances dispensing. The proposed regulations would reduce paperwork and transaction times for DEA registrants who dispense or prescribe controlled substances. The proposed regulations would also reduce the number of prescription errors caused by illegible handwriting and misunderstood oral prescriptions. They would allow pharmacies and hospitals to integrate prescription records into other medical records more directly, increasing efficiency, and would reduce the time patients spend waiting to have prescriptions filled. These proposed regulations are consistent with paperwork reduction mandates. These proposed regulations also respond to the requirements of Public Law 106-229, the “Electronic Signatures in Global and National Commerce Act,” while ensuring security and authentication.

**Timetable:**

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**Regulatory Flexibility Analysis**  
**Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Additional Information:** DEA-214

**Related RIN:** In a separate related rulemaking (RIN 1117–AA60), DEA is proposing to revise its regulations to provide the option of ordering Schedule I and II controlled substances electronically in a manner consistent with the requirements of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.).

**URL For Public Comments:** dea.diversion.policy@usdoj.gov

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537  
Phone: 202 307–7297

**RIN:** 1117–AA63

1793. REORGANIZATION AND CLARIFICATION OF DEA REGULATIONS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 21 USC 871(b)  

**Legal Deadline:** None

**Abstract:** DEA is revising and reorganizing Title 21, Code of Federal Regulations, Chapter II. These regulations relate to the manufacture, distribution, dispensing, importation, and exportation of controlled substances and the manufacture, distribution, importation, and exportation of listed chemicals. This action is being taken to further clarify and reorganize the current regulations. The regulations will be drafted in plain language to make them easier to understand.

**Timetable:**

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**Regulatory Flexibility Analysis**  
**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** DEA-221

**URL For Public Comments:** dea.diversion.policy@usdoj.gov

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537  
Phone: 202 307–7297

**RIN:** 1117–AA63

1794. CHEMICAL MIXTURES CONTAINING GAMMA–BUTYROLACTONE

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 21 USC 802; 21 USC 830; 21 USC 871(b)  
**CFR Citation:** 21 CFR 1310  
**Legal Deadline:** None

**Abstract:** In previous rulemakings, DEA made gamma-butyrolactone (GBL)
a List I chemical and established thresholds for transactions involving this chemical. This rule establishes a concentration limit for chemical mixtures containing GBL. Currently, all chemical mixtures containing GBL are exempt from regulation. These mixtures will remain exempt until publication of a Final Rule. GBL is used in the illicit manufacture of gamma-hydroxybutyric acid (GHB), a Schedule I controlled substance.

Abstract: DEA is amending its regulations to acknowledge the use of the electronic equivalent to the DEA official paper registration application forms, which are legally required for every person who manufactures, distributes, dispenses, imports, or exports any controlled substance. The use of electronic application forms will reduce paperwork and transaction times for DEA registrants who choose to apply for controlled substances registration electronically. Electronic application for registration is in addition to, not a replacement of, the current paper-based application system.

1795. CHEMICAL MIXTURES CONTAINING LISTED FORMS OF PHOSPHORUS

Priority: Other Significant
Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)
CFR Citation: 21 CFR 1310
Legal Deadline: None
Abstract: In a previous rulemaking, [RIN 1117-AA57] DEA made red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) List I chemicals. By this rulemaking, DEA is planning to propose regulations governing chemical mixtures containing red phosphorus, white phosphorus, and hypophosphorous acid (and its salts). Currently, all chemical mixtures containing red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) are exempt from regulation. These mixtures will remain exempt until publication of rulemakings regarding chemical mixtures containing red phosphorus, white phosphorus, and hypophosphorous acid (and its salts), which should be exempt from the regulations governing listed chemicals.

1796. ELECTRONIC APPLICATION FOR CONTROLLED SUBSTANCES AND LISTED CHEMICAL REGISTRATION: TECHNICAL AMENDMENTS

Priority: Other Significant
Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958
CFR Citation: 21 CFR 1301; 21 CFR 1309
Legal Deadline: None
with the Drug Enforcement Administration.

This NPRM proposes regulatory controls that will apply to iodine crystals and iodine chemical mixtures which contain greater than 2.2 percent iodine. This regulation will therefore control iodine crystals and strong iodine tinctures/solutions (e.g., 7 percent iodine) that do not have common household uses and instead have limited application in livestock, horses and for disinfection of equipment. Household products, such as 2 percent iodine tincture/solution and household disinfectants containing iodine complexes, will not be adversely impacted by this regulation.

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### Regulatory Flexibility Analysis

Required: No

### Small Entities Affected

None

### Government Levels Affected

None

### Additional Information

DEA-255

### URL For Public Comments

dea.diversion.policy@usdoj.gov

### Agency Contact

Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7297

RIN: 1117–AA92

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1798. CHANGES IN THE REGULATION OF IODINE AND ITS CHEMICAL MIXTURES

### Priority

Substantive, Nonsignificant

### Legal Authority

21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 890

### CFR Citation

21 CFR 1310

### Legal Deadline: None

### Abstract

This Federal Register Notice proposes changes to the regulation of the listed chemical iodine. The proposed regulatory changes are to 1) move iodine from List II into List I, 2) remove the exemption for import and export transactions in iodine, 3) remove the threshold for iodine, and 4) establish a concentration limit of 2.2 percent for the automatic exemption of chemical mixtures containing iodine.

These proposed changes are expected to remove deficiencies in the current regulatory controls, which have been exploited by traffickers. If finalized, persons handling regulated transactions of iodine will need to be registered with the Drug Enforcement Administration.

The CSA states that the term “isomers” as it pertains to Schedule I hallucinogens shall include “optical, positional and geometric isomers.” This rule adds a specific, technical definition for the term “positional isomer” as it relates to Schedule I hallucinogens. The definition includes precise language that will allow for an unambiguous determination of which isomers of Schedule I hallucinogenic substances are considered to be "positional," and therefore subject to Schedule I control.

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### Regulatory Flexibility Analysis

Required: No

### Small Entities Affected

None

### Government Levels Affected

None

### Additional Information

DEA-257

### URL For Public Comments

dea.diversion.policy@usdoj.gov

### Agency Contact

Christine A. Sannerud Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307–7183

RIN: 1117–AA94

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1800. ● CONTROLLED SUBSTANCES AND LIST I CHEMICAL REGISTRATION AND REREGRISTRATION APPLICATION FEES

### Priority

Economically Significant. Major under 5 USC 801.

### Unfunded Mandates

This action may affect the private sector under PL 104-4.

### Legal Authority

USC 821; USC 822; USC 830; USC 871(f); USC 886a; USC 952; USC 953; USC 958(f)

### CFR Citation

CFR 1301; CFR 1309

### Legal Deadline: None

### Abstract

DEA is adjusting the fee schedule for DEA registration and reregistration application fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances and listed chemicals to appropriately reflect all costs associated with its Diversion Control Program as mandated by 21
U.S.C. 822. Specifically, DEA is revising the fee schedule for controlled substances and List I chemical handlers so that all manufacturers, distributors, importers, exporters, and dispensers of controlled substances and of List I chemicals pay an annual fee, by registrant category, irrespective of whether they handle controlled substances or List I chemicals. This action responds to recent amendments to the Diversion Control Fee Account provisions in the Controlled Substances Act (CSA) and will bring DEA’s fee collections into line with the new requirements.

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### 1801. Definition and Registration of Reverse Distributors

**Priority:** Other Significant

**Legal Authority:** 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

**CFR Citation:** 21 CFR 1301

**Legal Deadline:** None

**Abstract:** In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and State Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options that had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, DEA is establishing this essential link in the legitimate distribution chain.

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** DEA-108

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537

**Phone:** 202 307–7297

**RIN:** 1117–AA19

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### 1802. Exemption of Chemical Mixtures

**Priority:** Other Significant

**Legal Authority:** 21 USC 802; 21 USC 830; 21 USC 871(b)

**CFR Citation:** 21 CFR 1310

**Legal Deadline:** None

**Abstract:** The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA has published proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law. Comments received on the proposed regulations are currently being reviewed.

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Small Entities Affected:** None

**Related RIN:** Related to 1117–AA50

**RIN:** 1117–AA96
1803. CHEMICAL REGISTRATION WAIVERS; EXEMPTION FROM CHEMICAL REGISTRATION FEES FOR CERTAIN PERSONS

Priority: Other Significant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is amending its regulations to waive the requirement of registration for contract processors, medical/first aid kit providers, distributors of sample packages of drug products, and distributors of research/reference standards. These actions are being taken in response to industry comments and suggestions. DEA has determined that requiring registration for these activities is not necessary for effective enforcement under the Controlled Substances Act (CSA) and waiving the requirement of registration will ease regulatory burdens for the affected industries. DEA is also proposing exempting charitable organizations and governmental entities from initial and renewal registration fees. These fee exemptions will bring the chemical regulations into conformance with the controlled substances regulations.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, Local, State

Additional Information: DEA-189

URL For Public Comments: dea.diversion.policy@usdoj.gov

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7297
RIN: 1117–AA67

1804. AUTHORITY FOR PRACTITIONERS TO DISPENSE OR PRESCRIBE APPROVED NARCOTIC SUBSTANCES FOR MAINTENANCE OR DETOXIFICATION TREATMENT

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 829; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 956

CFR Citation: 21 CFR 1301; 21 CFR 1306

Legal Deadline: None

Abstract: DEA is amending its regulations to implement the Drug Addiction Treatment Act of 2000 (DATA). These amendments would allow qualified practitioners to dispense and prescribe narcotic controlled substances approved by the Food and Drug Administration (FDA) specifically for use in maintenance or detoxification treatment.

The Controlled Substances Act (CSA) and current regulations require that practitioners who want to conduct maintenance or detoxification treatment using narcotic controlled substances be registered with DEA as narcotic treatment programs (NTPs) in addition to the practitioners’ personal registrations. The separate NTP registrations authorize the practitioners to dispense or administer, but not prescribe, narcotic controlled substances.

These regulations establish an exemption from the separate registration requirement for qualified practitioners dispensing or prescribing Schedule III, IV, and V narcotic controlled substances approved by the FDA specifically for use in maintenance or detoxification treatment. This NPRM would allow “qualifying physicians,” whether they are already registered as NTPs or not, to dispense and prescribe Schedule III, IV, and V narcotic controlled substances or combinations of controlled substances approved by FDA specifically for use in maintenance or detoxification treatment.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-196

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7297
RIN: 1117–AA73

1805. REPORTS BY REGISTRANTS OF THEFT OR SIGNIFICANT LOSS OF CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877; …

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: This rule amends DEA’s regulations to clarify its policy regarding reports by registrants of theft or significant loss of controlled substances. There has been some confusion as to what constitutes a significant loss, and when and how initial notice of a theft or loss should be provided to DEA. This final rule clarifies DEA regulations and provides guidance to registrants regarding the theft, significant loss, and explained loss of controlled substances.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-196

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7297
RIN: 1117–AA73
1806. PREVENTING THE ACCUMULATION OF SURPLUS CONTROLLED SUBSTANCES AT LONG-TERM CARE FACILITIES

Priority: Other Significant
Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)
CFR Citation: 21 CFR 1300; 21 CFR 1301; 21 CFR 1304; 21 CFR 1307
Legal Deadline: None

Abstract: To address the accumulation of excess controlled substances at long-term care facilities (LTCFs), the Drug Enforcement Administration (DEA) is proposing to permit the use of automated dispensing systems operated by provider pharmacies. Specifically, this proposed rule would permit a DEA-registered pharmacy to register at a LTCF (without any additional registration fees) and to store controlled substances in the automated dispensing system at the LTCF. The use of automated dispensing systems would allow dispensing of single dosage units of prescribed controlled substances, provide electronic records of each dispensing, and mitigate the problem of excess stocks of controlled substances at the LTCF and the disposal of those stocks.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-224

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7297
RIN: 1117–AA75

1807. CLARIFICATION OF REGISTRATION REQUIREMENTS FOR INDIVIDUAL PRACTITIONERS

Priority: Substantive, Nonsignificant
Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871 (b); ...
CFR Citation: 21 CFR 1301
Legal Deadline: None

Abstract: DEA is publishing this rule to clarify its registration requirements regarding practitioners practicing in more than one State. There is confusion within the regulated industry regarding whether a practitioner who practices and is registered in one State and wishes to practice and prescribe in another State must register with DEA in the second State. To address the confusion caused by the regulation as currently written, DEA is proposing to amend its regulations to make it clear that when an individual practitioner who practices and is registered in one State seeks to practice and prescribe controlled substances in another State, he/she must obtain a separate DEA registration for the subsequent State.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA-224

URL For Public Comments: dea.diversion.policy@usdoj.gov

Agency Contact: Patricia M. Good, Chief, Liaison and Policy Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307–7183
RIN: 1117–AA90

1808. CONTROL OF SODIUM PERMANGANATE AS A LIST II CHEMICAL

Priority: Other Significant
Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 890
CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing the addition of sodium permanganate as a List II chemical because of its direct substitutability for the List II chemical potassium permanganate in the illicit production of cocaine. The rulemaking also proposes that a threshold of 55 kilograms and 500 kilograms be established for domestic and international transactions, respectively.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: None

Additional Information: DEA-254

URL For Public Comments: dea.diversion.policy@usdoj.gov

Agency Contact: Christine A. Sannerud Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537
Phone: 202 307–7183
RIN: 1117–AA90

1809. IMPLEMENTATION OF THE ANABOLIC STEROID CONTROL ACT OF 2004

Priority: Other Significant
Legal Authority: 21 USC 802; 21 USC 811; 21 USC 812; 21 USC 871(b); 21 USC 951; 21 USC 958(f)
CFR Citation: 21 CFR 1300; 21 CFR 1308

Legal Deadline: None

Abstract: This rulemaking codifies provisions of the Anabolic Steroid Control Act of 2004, which amends the Controlled Substances Act by replacing the existing definition of “anabolic steroid” with a new definition. This new definition alters the basis for all future administrative scheduling actions relating to the control of anabolic steroids as Schedule III controlled substances by eliminating the requirement to prove muscle growth. Additionally, the Act lists 59 specific substances as being anabolic steroids.
Federal Register / Vol. 70, No. 93 / Monday, May 16, 2005 / Unified Agenda

**DOJ—DEA**

(Some of these substances were contained in the previous definition of “anabolic steroid.”) As such, these substances and their salts, esters, and ethers are Schedule III controlled substances. In this regard, the statute is self-implementing; the changes became effective January 20, 2005.

**Timetable:**

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**Agency Contact:** Christine A. Sannerud Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Department of Justice, Drug Enforcement Administration, Washington, DC 20537 Phone: 202 307–7183

RIN: 1117–AA95

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**Department of Justice (DOJ)**

**Drug Enforcement Administration (DEA)**

**1810. SECURITY REQUIREMENTS FOR HANDLERS OF PSEUDOEPHEDRINE, EPHEDRINE, AND PHENYLPROPANOLAMINE**

 Priority: Other Significant

 CFR Citation: 21 CFR 1309

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Patricia M. Good Phone: 202 307–7297

RIN: 1117–AA62

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**1811. CHEMICAL REGISTRATION AND REREGETISTRATION FEES**

 Priority: Other Significant

 CFR Citation: 21 CFR 1309

**Completed:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Patricia M. Good Phone: 202 307–7297

**Additional Information:** ANPRM: DEA-214

**Related RIN:** Related to 1117–AA72, Related to 1117–AA96

RIN: 1117–AA50

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**1812. ELECTRONIC ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES**

 Priority: Economically Significant. Major under 5 USC 801.

 Legal Authority: 21 USC 821; 21 USC 827; 21 USC 828; 21 USC 871(b); 21 USC 958; 21 USC 965

 CFR Citation: 21 CFR 1304; 21 CFR 1305

**Legal Deadline:** None

**Abstract:** DEA is revising its regulations to provide the option of ordering Schedule I and II controlled substances electronically in a manner consistent with the requirements of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). The regulations will also allow this electronic system to be used for controlled substances in Schedules III, IV, and V. These regulations will be in addition to, not a replacement of, the existing rules. These regulations are needed to give manufacturers, distributors, importers, exporters, pharmacies, and hospitals the option to use modern technology for controlled substance transactions. The regulations will reduce paperwork and transaction times for DEA registrants who distribute, purchase, or handle controlled substances. They are consistent with paperwork reduction mandates. These regulations also respond to the requirements of Public Law 106-229, the “Electronic Signatures in Global and National Commerce Act,” while maintaining a closed system of distribution of controlled substances and ensuring security and authentication.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Additional Information:** ANPRM: DEA-214

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section

**Related RIN:** In a separate related rulemaking (RIN 1117–AA61), DEA is proposing to revise its regulations to permit DEA-registered prescribers to electronically write, sign, and transmit prescriptions.

**Agency Contact:** Patricia M. Good, Chief, Liaison and Policy Section.
Deportation proceedings to apply for the relief of cancellation of removal or suspension of deportation under 240(c)(6)(C)(iv) of the Act (as amended by section 1506 of the Battered Immigrant Women Protection Act of 2000).

Additionally, this rule establishes procedures which must be followed by EOIR when an alien applies for a domestic violence victim waiver under section 237(a)(7) of the Act (as amended by section 1505(b) of the Battered Immigrant Women Protection Act of 2000).

### Regulatory Flexibility Analysis

**Required:** No

**Small Entities Affected:** None

**Government Levels Affected:** None

**Agency Contact:** Patricia M. Good

**Phone:** 202 307–7297

**RIN:** 1117–AA72

### Proposed Rule Stage

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### Regulatory Flexibility Analysis

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** No

**Agency Contact:** Patricia M. Good

**Phone:** 202 307–7297

**Related RIN:** Related to 1117–AA50

**RIN:** 1117–AA72
## 1817. IMPLEMENTATION OF THE NUMERICAL LIMIT ON ASYLUM GRANTS AND REFUGEE ADMISSION BASED ON RESISTANCE TO COERCIVE POPULATION CONTROL MEASURES

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 8 USC 1101, 1103, 1157, 1158, 1226, 1252, 1282  
**CFR Citation:** 8 CFR 1208  
**Legal Deadline:** None  
**Abstract:** Section 601(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provides that, for any fiscal year, not more than a total of 1,000 refugees may be admitted or granted asylum based solely on resistance to coercive population control measures. This rule authorizes the Department of Homeland Security and the Executive Office for Immigration Review to make conditional grants of asylum in those cases in which an applicant is found to merit asylum solely on the basis of resistance to coercive population control measures and establishes a mechanism for converting no more than 1,000 conditional grants per fiscal year to final asylum grants. The rule also establishes procedures for administering a waiting list in those years that the number of conditional grants exceeds the statutory limit for final grants, reserves a certain number of authorization numbers for purposes of refugee admission, and addresses procedures for administering derivative conditional grants, terminating conditional grants, and other procedures specific to this rule.

### Timetable:

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**Related RIN:** Split from 1615–AA37  
**RIN:** 1125–AA48

## 1818. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; RULES GOVERNING IMMIGRATION PROCEEDINGS

**Priority:** Other Significant  
**Legal Authority:** 5 USC 301; 8 USC 1101, note; 8 USC 1103; 8 USC 1229; 8 USC 1229a; 8 USC 1231; 8 USC 1231, note; 8 USC 1245; 8 USC 1324b; 8 USC 1362; 8 USC 509 to 519; 28 USC 1746; sec 2 Reorg Plan No 2 of 1950, 3 CFR 1949 to 1953 Comp, p 1002; PL 105–100, sec 203; PL 106–386, sec 1506; PL 106–386, sec 1510; PL 106–554, sec 1505; PL 106–554, sec 1510  
**CFR Citation:** 8 CFR 1003; 8 CFR 1161; 8 CFR 1240; 8 CFR 1282; 28 USC 509 to 519; 28 USC 1746; 8 CFR 1003; 8 CFR 1161; 8 CFR 1240; 8 CFR 1282; Note; 8 USC 1101, note; 8 USC 1103; 8 USC 1229; 8 USC 1229a; 8 USC 1231; 8 USC 1231, note; 8 USC 1245; 8 USC 1324b; 8 USC 1362; 28 USC 509 to 519; 28 USC 1746; 3 CFR 1949 to 1953 Comp; 8 USC 1103; 8 USC 1229; 8 USC 1229a; 8 USC 1231; 8 USC 1231, note; 8 USC 1245; 8 USC 1324b; 8 USC 1362; 28 USC 509 to 519; 28 USC 1746; sec 2 Reorg Plan No 2 of 1950, 3 CFR 1949 to 1953 Comp, p 1002; PL 105–100, sec 203; PL 106–386, sec 1506; PL 106–386, sec 1510; PL 106–554, sec 1505; PL 106–554, sec 1510  
**Legal Deadline:** None  
**Abstract:** This rule amends the regulations of the Executive Office for Immigration Review by eliminating the conditional grant process at 8 CFR 1240.21 and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

### Timetable:

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**Related RIN:** Split from 1615–AA37  
**RIN:** 1125–AA48

## Department of Justice (DOJ)  
Executive Office for Immigration Review (EOIR)

### 1819. SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105–100, sec 202  
**CFR Citation:** 8 CFR 1240  
**Legal Deadline:** None  
**Abstract:** This rule amends the regulations of the Executive Office for Immigration Review by eliminating the conditional grant process at 8 CFR 1240.21 and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

### Timetable:

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1820. AUTHORITIES DELEGATED TO THE DIRECTOR OF THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AND THE CHIEF IMMIGRATION JUDGE

Priority: Info./Admin./Other
Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509 to 510; 28 USC 1746
CFR Citation: 8 CFR 1003; 8 CFR 1240
Legal Deadline: None

Abstract: This rule outlines the authorities and powers (and limitations thereto) delegated by the Attorney General to the Director of the Executive Office for Immigration Review (EOIR) and the Chief Immigration Judge. These authorities include such managerial responsibilities as: issuing operational instructions, setting policies, providing for the training of staff, and ensuring the efficient disposition of cases. One of the limitations on the powers of the Director of EOIR and the Chief Immigration Judge is that they cannot direct the result of a case adjudication assigned to someone else.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Government Levels Affected: None

Agency Contact: Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov
RIN: 1125–AA25

1821. MOTIONS TO REOPEN FOR SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL PURSUANT TO SECTION 1505(C) OF THE LIFE ACT AMENDMENTS

Priority: Substantive, Nonsignificant
Legal Authority: 5 USC 301; 8 USC 1103, 1252 note, 1252b, 1234b, 1252; 28 USC 509 to 510; 28 USC 1746; sec 203 of PL 105–100; secs 1506 and 1510 of PL 106–386; sec 1505 of PL 106–554
CFR Citation: 8 CFR 1003
Legal Deadline: None

Abstract: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) by establishing a special procedure for the filing and adjudication of motions to reopen to apply for suspension of deportation and cancellation of removal pursuant to section 1505(c) of the Legal Immigration Family Equity Act Amendments of 2000 (LIFE Act Amendments). Motions to reopen under this rule must have been filed on or before October 16, 2001.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Government Levels Affected: None

Agency Contact: Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov
RIN: 1125–AA38

1822. PROTECTIVE ORDERS IN IMMIGRATION ADMINISTRATION PROCEEDINGS

Priority: Substantive, Nonsignificant
CFR Citation: 8 CFR 1003
Legal Deadline: None

Abstract: This rule concerns the Attorney General’s authority to authorize practitioners to represent aliens in immigration proceedings pursuant to statute. Under the pertinent statutory provision, aliens in immigration proceedings shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as he shall choose.” 8 U.S.C. 1362

The rule arises out of EOIR’s electronic government initiatives which, when
fully implemented, will enable electronic case access and filing for individuals in immigration proceedings before EOIR. In essence, the rule amends the current definitions of “attorney” and “representative,” the classes of individuals authorized to represent aliens, to include only those persons who have registered with EOIR. Additionally, the rule delegates authority to the Director to require such a registration, and to establish procedures for registration. In concert with that authority, the rule permits the Director to administratively suspend from practice before EOIR any practitioner who fails to comply with registration procedures and requirements.

Functionally, practitioners will be required to register with EOIR over a secure Internet connection, by providing name, address(es), date of birth, last four digits of social security number, and bar admission data. Registered practitioners will be assigned a unique User ID and password that will authorize them to conduct electronic transactions with EOIR from desktop personal computers. Registration of practitioners assures the functionality, security, and success of EOIR’s electronic government initiative, and as a prerequisite to electronic case access and filing by practitioners.

The proposed practitioner registration rule furnishes the Attorney General with the optimum measure of adaptability to establish the criteria and procedures for practitioner registration, while also preserving fairness for regulated parties and ensuring efficiency in government operations.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041
Phone: 703 305–0470

Email: eoir.regs@usdoj.gov

RIN: 1125–AA39

**1824. TRANSFER OF JURISDICTION OVER APPEALS OF FINES FROM THE BOARD OF IMMIGRATION APPEALS TO THE OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** Not Yet Determined

**CFR Citation:** 8 CFR 1003; 8 CFR 1103; 8 CFR 1280

**Legal Deadline:** None

**Abstract:** This final rule removes the Board of Immigration Appeals’ (Board) jurisdiction over appeals of Department of Homeland Security (DHS) decisions involving administrative fines under part 1280 of title 8 CFR, and transfers that authority to Office of the Chief Administrative Hearing Officer (OCAHO). Part 1280 governs the imposition and collection of fines under a variety of provisions of the Immigration and Nationality Act (INA), most of which pertain to common carriers. Most of the appeals are fines imposed under section 273 of the INA. The transfer is essentially a reallocation of agency resources within the Executive Office for Immigration Review to improve caseload management by substituting a different set of decision makers, the OCAHO for the Board, while preserving the same procedures for the adjudication of appeals.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov

Related RIN: Split from 1125–AA36

RIN: 1125–AA41

**1825. DEFINITIONS; FEES; POWERS AND AUTHORITY OF DHS OFFICERS IN REMOVAL PROCEEDINGS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 8 USC 1101, 1103, 1182, 1221, 1225, 1226, 1251, 1252, 1357, 1362, 1304, 13246, 1356; 28 USC 509, 510, 1746; 5 USC 301; . . .

**CFR Citation:** 8 CFR 1003; 8 CFR 1103

**Legal Deadline:** None

**Abstract:** This rule amends regulations relating to the Executive Office for Immigration Review to conform with certain regulatory changes made by the Department of Homeland Security (DHS) for consistency and for the ease of the reader. This rule makes no substantive changes in the Department of Justice regulations, but makes appropriate revisions to the definitions and fee provisions and the regulations relating to issuance of notices to appear and subpoenas in the EOIR regulations, in order to avoid confusing and unnecessary duplication of provisions already set forth in the DHS regulations.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov

RIN: 1125–AA43

**1826. BACKGROUND AND SECURITY INVESTIGATION CHECKS IN PROCEEDINGS BEFORE IMMIGRATION JUDGES AND THE BOARD OF IMMIGRATION APPEALS**

**Priority:** Other Significant

**Legal Authority:** 5 USC 301; 8 USC 1101 note, 1103, 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note,
Entrepreneur immigrant classification. This rule will be published in conjunction with a corresponding rule of the Department of Homeland Security (DHS) that addresses changes to their part of the adjudication. The Department rule provides in section 1216 for certain aliens, who are seeking immigrant status as alien entrepreneurs, the right to challenge in EOIR proceedings adverse determinations on the removal of the condition on permanent resident status made by United States Citizenship and Immigration Services (CIS), a component of DHS. In addition to proceedings on adverse determinations, this rule also establishes procedures for aliens who have received favorable determinations on the removal of the condition on permanent resident status and who have final orders of deportation or removal or who have cases that are pending or administratively closed before EOIR.

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

Phone: 703 305–0470

Email: eoir.regs@usdoj.gov

**RIN:** 1125–AA47

### 1828. REOPENED PROCEEDINGS ON PETITIONS FOR ALIEN ENTREPRENEUR IMMIGRANT CLASSIFICATION (EB–5 VISAS)

**Priority:** Other Significant

**Legal Authority:** 8 USC 11866

**CFR Citation:** 8 CFR 1003; 8 CFR 1216; 8 CFR 1240

**Legal Deadline:** None

**Abstract:** This rule amends the regulations of the Executive Office for Immigration Review (EOIR) of the Department of Justice (Department) to implement time sensitive changes made by the 21st Century Department of Justice Appropriations Authorization Act of 2001, Public Law 107–273 (November 2, 2002) to the EB-5 Alien Entrepreneur immigrant classification. This rule will be published in conjunction with a corresponding rule of the Department of Homeland Security (DHS) that addresses changes to their part of the adjudication. The Department rule provides in section 1216 for certain aliens, who are seeking immigrant status as alien entrepreneurs, the right to challenge in EOIR proceedings adverse determinations on the removal of the condition on permanent resident status made by United States Citizenship and Immigration Services (CIS), a component of DHS. In addition to proceedings on adverse determinations, this rule also establishes procedures for aliens who have received favorable determinations on the removal of the condition on permanent resident status and who have final orders of deportation or removal or who have cases that are pending or administratively closed before EOIR.

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** None

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

Phone: 703 305–0470

Email: eoir.regs@usdoj.gov

**RIN:** 1125–AA49

### 1829. INFORMATION RELATING TO ALIENS’ DUTY TO SURRENDER WHEN ORDERED REMOVED FROM THE UNITED STATES

**Priority:** Other Significant

**Legal Authority:** 8 USC 1103

**CFR Citation:** 8 CFR 1240; 8 CFR 1241

**Legal Deadline:** None

**Abstract:** The Department of Justice published an NPRM in 1998 and a supplemental NPRM in 2002 (RIN 1115-AE82) to establish that aliens who become subject to a final order of
removal have a legal obligation to surrender for removal.

This rule amends the regulations of the Department of Justice to provide that immigration judges and the Board of Immigration Appeals will inform aliens in removal proceedings that they have an affirmative obligation to surrender to Department of Homeland Security (DHS) upon the issuance of a final order of removal by an immigration judge or the Board. Aliens will be informed that the failure to surrender to DHS as required under the DHS rule will result in the denial of any forms of discretionary relief from removal while the alien remains in the United States and for a period of 10 years after the alien’s departure from the United States. This rule is being published jointly with DHS.

**Timetable:**

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<td>63 FR 47205</td>
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<td>05/09/02</td>
<td>67 FR 31157</td>
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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** This rule will finalize those portions of the rulemaking action formerly listed as RIN 1115–AE82 in so far as it relates to the regulations of the Department of Justice. The DHS rule is now RIN 1653-AA05.

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

| Phone: 703 305-0470 Email: eoir.regs@usdoj.gov |

**RIN:** 1125–AA51

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**1830. VENUE IN REMOVAL PROCEEDINGS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 301; 8 USC 1101 note; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1324b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg Plan No 2 of 1950, sec 2, 3 CFR, 1949 to 1953 Comp, p 1002; PL 100–105 sec 203; 111 Stat 2196–200; PL 106–386 sec 1506; PL 106–386, sec 1510; 114 Stat 1527–29, 1531 to 1532; PL 106–554, sec 1505; 114 Stat 2763A, 326 to 328

**CFR Citation:** 8 CFR 1003.20(a)

**Legal Deadline:** None

**Abstract:** This interim rule amends the Department of Justice regulation addressing venue in removal proceedings. This regulatory change is necessary due to the increasing number of removal hearings being conducted by telephone or video conference, and will clarify the issue of venue for cases involving multiple geographic locations.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

| Phone: 703 305-0470 Email: eoir.regs@usdoj.gov |

**RIN:** 1125–AA52

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**1831. AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a; 8 USC 1252b; 8 USC 1362; PL 105–110, sec 202; PL 105–277, sec 902; PL 105–100, sec 203; PL 105–277, sec 902

**CFR Citation:** 8 CFR 1205; 8 CFR 1240

**Legal Deadline:** None

**Abstract:** Under section 212(a)(4) of the Immigration and Nationality Act (Act), as amended by section 531(a) of the Immigration Reform and Immigrant Responsibility Act, an alien may be deemed inadmissible, as likely to become a public charge, unless the alien is the beneficiary of an affidavit of support under section 213A of the Act. On October 20, 1997, the former Immigration and Naturalization Service published an interim rule implementing the requirements of section 213A of the Act with respect to affidavits of support. The interim rule, however, did not address the authority of an immigration judge to adjudicate the sufficiency of an affidavit of support executed on behalf of an applicant for admission or adjustment of status. This rule amends the Department’s regulations by expressly authorizing immigration judges to adjudicate the sufficiency of such affidavits in removal proceedings. This rule is being published as a joint rule with the Department of Homeland Security.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mary Beth Keller, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike Ste. 2600, Falls Church, VA 22041

| Phone: 703 305-0470 Email: eoir.regs@usdoj.gov |

**RIN:** 1125–AA54
Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

1832. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant
CFR Citation: 8 CFR 1003

Timetable:

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Government Levels Affected: None
Agency Contact: Mary Beth Keller
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov
RIN: 1125–AA18

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

1833. ASYLUM CLAIMS MADE BY ALIENS ARRIVING FROM CANADA AT LAND–BORDER PORTS–OF–ENTRY

Priority: Other Significant
CFR Citation: 8 CFR 1003; 8 CFR 1208; 8 CFR 1212; 8 CFR 1240

Completed:

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Government Levels Affected: None
Agency Contact: Mary Beth Keller
Phone: 703 305–0470
Email: eoir.regs@usdoj.gov
Related RIN: Related to 1615–AA91
RIN: 1125–AA46

1834. EXECUTION OF REMOVAL ORDERS; COUNTRIES TO WHICH ALIENS MAY BE REMOVED

Priority: Other Significant
CFR Citation: 8 CFR 1240; 8 CFR 1241

Completed:

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Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

1835. ENHANCED EXCHANGE OF CRIMINAL HISTORY RECORD AND NONSERIOUS OFFENSE IDENTIFICATION RECORDS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.
Legal Authority: 28 USC 534; 42 USC 14614(c); 42 USC 14615; PL 92–544; PL 99–169; PL 99–569; PL 101–410
CFR Citation: 28 CFR 20

Abstract: This rule (1) clarifies that the FBI’s authority to exchange Criminal History Record Information (CHRI) with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions includes the exchange of CHRI on individuals other than banking institution employees when the purpose of the background check is reasonably related to maintaining or promoting the security of federally chartered or insured banking institutions and (2) permits the retention and exchange of information on nonserious offenses (NSOs) if provided to the FBI for retention by the submitting jurisdiction.

These changes are being made because of modern business practices in the financial services industry. The FBI now concludes that the security of federally chartered or insured banking institutions implicates employees of other entities closely related to or intimately involved in banking, such as, bank subsidiaries, parent or sister companies, and bank holding companies.

Timetable:

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Government Levels Affected: None
Agency Contact: Harold M. Sklar, Attorney–Advisor, Department of Justice, Federal Bureau of Investigation, CJIS Division Module E–3, 1000 Custer Hollow Road, Module E–3, Clarksburg, WV 26306
Phone: 304 625–2000
Fax: 304 625–3944
Email: enexreg@leo.gov
RIN: 1110–AA20
1836. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Other Significant
Legal Authority: 49 USC 33109 to 33111
CFR Citation: 28 CFR 89
Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System (NSPMVIS) pursuant to the Anti Car Theft Act of 1992 (49 U.S.C. 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts and junk or salvage vehicles. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses. In order to verify the theft status of a part or junk or salvage vehicle, an identification number will have to be obtained from the part or vehicle.

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Criminal Info Coordination, Department of Justice, Federal Bureau of Investigation, CJIS Division Module C–3, Clarksburg, WV 26306
Phone: 304 625–2000
Fax: 304 625–3875
FIN: 1110–AA01

Legal Deadline: None

1837. REGULATIONS UNDER THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant
Unfunded Mandates: Undetermined
Legal Authority: PL 104–236, sec 9
CFR Citation: None

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the national sex offender registry established by the FBI and the notice to be provided to the FBI in the event a registered sex offender moves interstate.

Timetable:

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Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State, Tribal

Additional Information: Transferred from RIN 1105-AA56.

Agency Contact: Venetia A. King, Management Analyst, Department of Justice, Federal Bureau of Investigation, CJIS Division MOD C3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625–2000
Fax: 304 625–3875
FIN: 1110–AA04

Legal Deadline: None

1838. FINAL NOTICE OF CAPACITY; SUPPLEMENT TO RESPOND TO REMAND

Priority: Substantive, Nonsignificant
Legal Authority: 47 USC 1003(a)(1)
CFR Citation: None

Legal Deadline: None

Abstract: As required by section 104 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI published a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement’s future simultaneous electronic surveillance requirements. The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218).

This Notice provided numerical requirements for the “actual” and “maximum” numbers of surveillance that wired and wireless telephone networks should be able to accommodate, broken down by geographic region. The numbers were derived from a survey and analysis of the numbers of surveillance historically conducted at the same time in every region throughout the country.

After its issuance, telecommunications carriers and trade associations challenged the Final Notice on a number of grounds, primarily alleging that the numbers of surveillance stated therein were too high. To summarize, the FBI was directed by the Court of Appeals to provide further explanation on two issues: (1) The decision to treat as “simultaneous” any two or more historical surveillance on the same day and, (2) the decision to set forth only one “actual” and one “maximum” capacity requirement number per region, rather than separate requirements for each type of surveillance.

The Supplemental Notice, published on 12/05/03, provided further explanation for the FBI’s interpretation of the term “simultaneously,” and set forth a new method of interpreting the existing capacity requirements that will allow carriers to break out the number of communications interceptions from the total requirement. The Supplement also set forth new guidance to reduce the requirements for simultaneous communications interceptions applicable to carriers operating in regions with high capacity requirements. This was done to reduce the concerns raised by the Court of Appeals. The FBI will finalize the Supplement and issue a new Notice for the purpose of responding to the remand of the Court of Appeals.
DOJ—FBI

1840. MARRIAGE OF CONCEALED WEAPONS PURSUANT TO PUBLIC LAW 108–277, THE LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2004

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 108–277

CFR Citation: 20 CFR 20

Legal Deadline: None

Abstract: The Law Enforcement Officers Safety Act of 2004, Public Law 108-277, (the Act) exempts qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns. This rule implements the Act by amending 28 CFR 20.2 (b) to add “the issuing of identification documents to current and retired law enforcement officers pursuant to Public Law 108-277” to the definition of administration of criminal justice. This change will authorize access to FBI-maintained criminal justice information systems to support performing criminal background checks on current and retired law enforcement officers seeking identification documents to carry a concealed firearm pursuant to Public Law 108-277.

Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: Federal, Local, State, Tribal

Agency Contact: Harold M. Sklar, Attorney–Advisor, Department of Justice, Federal Bureau of Investigation, CJIS Division Module E–3, 1000 Custer Hollow Road, Module E–3, Clarksburg, WV 26306

Phone: 304 625–2000
Fax: 304 625–3944
Email: enexreg@leo.gov

RIN: 1110–AA24

1841. COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT: DEFINITIONS OF “REPLACED” AND “SIGNIFICANTLY UPGRADED OR OTHERWISE UNDERGONE MAJOR MODIFICATION”

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 28 CFR 100

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses
### 1842. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT—NOTICE OF ACTUAL AND MAXIMUM CAPACITY: PAGING, MSS, SMR, AND ESMR

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**CFR Citation:** 28 CFR 100

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Yes

**Small Entities Affected:** Businesses

**Agency Contact:** Eric Mason
Phone: 703 814–4791
Fax: 703 814–4750

**RIN:** 1110–AA21

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### 1843. REPORTING UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT AS AMENDED

**Priority:** Other Significant

**Legal Authority:** 42 USC 13032

**CFR Citation:** 28 CFR 81

**Legal Deadline:** None

**Abstract:** On October 30, 1998, Congress passed the Protection of Children From Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the Attorney General to “designate an agency” to receive and investigate such reports of child pornography.

As amended by the Consolidated Appropriations Act, 2000, Public Law No. 106-113, the PCSPA requires providers to report such incidents to the Cyber Tipline at the National Center for Missing and Exploited Children (NCMEC), which shall forward that report to a law enforcement agency or agencies designated by the Attorney General. As amended by the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, Public Law No. 108-066, the PCSPA also requires providers to report incidents of child pornography involving violations of section 2252B of title 18, United States Code, and incidents of violations of section 1466A, title 18, United States Code, and permits NCMEC to forward reports to State and local law enforcement agencies where appropriate. A notice of proposed rulemaking is being prepared that will provide guidance to the providers, NCMEC, and the designated law enforcement agencies on the content of such reports and how the reports will be processed.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Undetermined

**Agency Contact:** Andrew Oosterbaan, Chief, Child Exploitation and Obscenity Section, Department of Justice, 1400 New York Avenue NW, Suite 600, Washington, DC 20530
Phone: 202 514–5780
Fax: 202 514–1793

**RIN:** 1105–AB06

---

### 1844. DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 13032

**CFR Citation:** 28 CFR 81

**Legal Deadline:** NPRM, Statutory, April 28, 1999.

**Abstract:** On October 30, 1998, Congress passed the Protection of Children From Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code.

In a related matter, RIN 1105-AA65, “Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children from Sexual Predators Act,” interim final rule published November 4, 2003, 68 FR 62370, the Department designated four law enforcement agencies to receive and investigate such reports.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** Undetermined

**Agency Contact:** Andrew Oosterbaan, Chief, Child Exploitation and Obscenity Section, Department of Justice, 1400 New York Avenue NW, Suite 600, Washington, DC 20530
Phone: 202 514–5780
Fax: 202 514–1793

**RIN:** 1105–AB06
Interim Final Rule 11/04/03 68 FR 62370

In a related matter, RIN 1105–AA06, the U.S. Secret Service, the U.S. Postal Inspection Service, and Immigration and Customs Enforcement, Bureau of Investigation, the Bureau of

13032. These include the Federal

law enforcement agencies that will

was published designating four Federal

agencies where appropriate. On

to State and local law enforcement

1466A, title 18, United States Code,

incidents of violations of section

reporting, the PCSPA requires the

National Center for Missing and

incidents to the Cyber Tipline at the

require providers to report such

PCSPA also requires providers to report

involving violations of section 2252B of

title 18, United States Code, and

incidents of violations of section

1466A, title 18, United States Code,

permits NCMEC to forward reports to

State and local law enforcement

attorneys where appropriate. On

November 4, 2003, an interim final rule

was published designating four Federal

law enforcement agencies that will

receive reports pursuant to 42 U.S.C.

13032. These include the Federal

Bureau of Investigation, the Bureau of

Immigration and Customs Enforcement,

the U.S. Postal Inspection Service, and

the U.S. Secret Service.

In a related matter, RIN 1105-AB06,
"Reporting Under the Protection of

Children From Sexual Predators Act, as

Amended,” the Department is

preparing a notice of proposed

rulemaking to provide guidance to

those law enforcement agencies and to

the providers making the reports.

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<td>04/19/99</td>
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### Regulatory Flexibility Analysis

**Required:** No

**Government Levels Affected:** Federal

**Agency Contact:** Claudia J. Flynn,
Director, Professional Responsibility
Advisory Office, Department of Justice,
Suites 500, National Theatre Building,
1325 Pennsylvania Avenue NW,
Washington, DC 20530
Phone: 202 514–0458
Fax: 202 514–7941

**RIN:** 1105–AA65

### 1846. MINIMUM QUALIFICATIONS FOR ANNUITY BROKERS IN CONNECTION WITH STRUCTURED SETTLEMENTS ENTERED INTO BY THE UNITED STATES

**Priority:** Other Significant

**Legal Authority:** PL 107–273, sec 11015

**CFR Citation:** 28 CFR 50

**Legal Deadline:** Final, Statutory, May 2, 2003.

**Abstract:** This rule implements section 11015(a) of Public Law 107-273, the 21st Century Department of Justice Appropriations Authorization Act, which was enacted on November 2, 2002. Section 11015(a) provides: “Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit such list, and any updates to such list, to all United States Attorneys.” The rule sets forth the minimum qualifications for an annuity broker to be included on the list and the procedures to be followed by individual annuity brokers who desire to be listed.

To be considered for inclusion on the initial list to be transmitted to all United States Attorneys, annuity brokers must submit the Declaration set forth on the Civil Division website to the Department of Justice’s Torts Branch. (A copy of the Declaration is also included as an appendix to this rule, but will not be included in the Code of Federal Regulations, as it may be revised later. The most current version of the Declaration will be available for download on the Civil Division’s website.) The list will be revised periodically, but not more than twice every calendar year, beginning with calendar year 2004. Each calendar year, a new list will be

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### Regulatory Flexibility Analysis

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Claudia J. Flynn,
Director, Professional Responsibility
Advisory Office, Department of Justice,
Suites 500, National Theatre Building,
1325 Pennsylvania Avenue NW,
Washington, DC 20530
Phone: 202 514–0458
Fax: 202 514–7941

**RIN:** 1105–AA67
transmitted. For each calendar year, a broker must submit a new declaration to be included on the list.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Kenneth L. Zwick, Director, Office of Management Programs, Department of Justice, Civil Division, Room 3140, 950 Pennsylvania Avenue NW, Washington, DC 20530

Phone: 202 514–4552

Email: ken.zwick@usdoj.gov

**RIN:** 1105–AA82

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### 1847. INSPECTION OF RECORDS RELATING TO DEPICTION OF SEXUALLY EXPLICIT PERFORMANCES

**Priority:** Other Significant

**Legal Authority:** 18 USC 2257

**CFR Citation:** 28 CFR 75

**Legal Deadline:** None


Section 2257 of title 18, United States Code, specifies steps that must be taken by persons who produce materials depicting sexually explicit conduct to determine the names and dates of birth of persons depicted in those materials, lists records that must be kept by persons who produce those materials, and requires that notices as to the location of those records be affixed to those materials.

28 CFR part 75 currently contains recordkeeping and inspection requirements implementing section 2257, title 18, United States Code. This rule amends these requirements to bring the regulations up to date with current law and will make the inspection process effective for the purposes set by Congress in enacting section 2257.

The Department is currently reviewing public comments received on the proposed rule and drafting a final rule.

**Timetable:**

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### 1848. STOP VIOLENCE AGAINST WOMEN FORMULA GRANT PROGRAM AND STOP VIOLENCE AGAINST INDIAN WOMEN DISCRETIONARY GRANT PROGRAM: CLARIFICATION OF MATCH REQUIREMENT

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 3796gg–1(f)

**CFR Citation:** 28 CFR 90

**Legal Deadline:** None

**Abstract:** The Office on Violence Against Women is amending the regulations for the STOP (Services; Training; Officers; Prosecutors) Violence Against Women Formula Grant Program and the STOP Violence Against Indian Women (VAIW) Discretionary Grant Program in 28 CFR sections 90.17 and 90.55, respectively, to reflect the statutory provision in 42 U.S.C. section 3796gg–1(f) requiring that each STOP fund grantee provide non-Federal matching funds in an amount equal to 25 percent of the total costs of the projects described in the application for funds. This amendment is necessary to make the regulations consistent with the statute.

The STOP grants are awarded to States and territories to develop and strengthen the criminal justice system’s response to violence against women and to support and enhance services for victims. The STOP VAIW grants are intended to develop and strengthen tribal law enforcement and prosecution efforts to combat violence against Indian women and to develop and enhance services for victims of such crimes.

The STOP statute, 42 U.S.C. section 3796gg–1(f), provides: “The Federal share of a grant made under [these grant programs] may not exceed 75 percent of the total costs of the projects described in the application submitted.” In accordance with the statutory matching funds requirement, States and Indian tribal governments receiving funds under these two programs must ensure that only 75 percent of their total budget for the grant project comes from STOP grant funds. The purpose of requiring STOP formula fund grantees to provide a 25 percent match is to augment the resources available to the project from grant funds and to foster the dedication of State, local, and community resources to the purposes of the project.

Currently, 28 CFR section 90.17(c) and section 90.55(c) prohibit State and Indian tribal government grantees from passing on any portion of the 25 percent match requirement to any subgrantees who are nonprofit, nongovernmental victim services programs, even though the statute contains no such prohibition. Because there is no statutory support for these provisions, the Office of Violence Against Women is removing them from the regulations.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** State, Tribal

**Additional Information:** This rulemaking continues the action previously reported under RIN 1121-AA67. It was assigned a new RIN to reflect the establishment of the Office on Violence Against Women as a component of the Department separate from the Office of Justice Programs.
1849. ● GUIDELINES FOR THE PROTECT ACT AMENDMENTS TO THE JACOB WETERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT

Priority: Info./Admin./Other
Legal Authority: 42 USC 14071; PL 108–21

Legal Deadline: None
Legal Authority: 42 USC 14071; PL 108–21

CFR Citation: None

Abstract: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law No. 103-322, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071) contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the “Wetterling Act”). The Wetterling Act sets minimum national standards for state sex offender registration and community notification programs, and directs the Attorney General to issue guidelines for such programs. The main set of current Wetterling Act guidelines was published on January 5, 1999, in the Federal Register (64 FR 572, with corrections at 64 FR 3590), and a supplementary set of guidelines for the Campus Sex Crimes Prevention Act amendment to the Wetterling Act was published on October 25, 2002, in the Federal Register (67 FR 65598). States that fail to comply with the Wetterling Act’s requirements (as implemented and explained in the Attorney General’s guidelines) are subject to a mandatory 10% reduction of the formula grant funding available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (42 U.S.C. 3756), which is administered by the Bureau of Justice Assistance of the Department of Justice. Subsequent to the publication of the current Wetterling Act guidelines, the Wetterling Act was amended by sections 604 and 605 of the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, or PROTECT Act, Public Law 108-21, 117 Stat. 650, 688 (2003). These amendments provide that the means by which a state provides information to the public concerning registered sex offenders must include an Internet site, and add child pornography production and distribution offenses to the list of crimes against children for which registration is required under the Wetterling Act’s standards. Supplementary guidelines are necessary to take account of the PROTECT Act amendments to the Wetterling Act. The deadline for state compliance with the amendment in section 604 of the PROTECT Act, relating to Internet sites for sex offender information, is 3 years after the date of enactment—i.e., April 29, 2006—subject to a possible 2-year extension that the Attorney General may grant to states that are making good-faith efforts to come into compliance. The amendment in section 605 of the PROTECT Act, relating to registration for child pornography production and distribution offenses, took effect at the time of its enactment; i.e., on April 30, 2003.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: David J. Karp, Senior Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue NW, Room 4503, Washington, DC 20530

Phone: 202 514–3273

RIN: 1105–AB09

1850. ● DNA SAMPLE COLLECTION FROM FEDERAL OFFENDERS UNDER THE JUSTICE FOR ALL ACT OF 2004

Priority: Other Significant
Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; PL 108–405

CFR Citation: 28 CFR 28

Legal Deadline: None

Abstract: The Department of Justice is publishing this rule to implement section 203(b) of Public Law 108-405, the Justice for All Act of 2004. The Justice for All Act of 2004 authorizes the Department of Justice to treat offenses in certain specified categories as qualifying Federal offenses for purposes of DNA sample collection. This rule amends regulations to reflect new categories of Federal offenses subject to DNA sample collection. The Justice for All Act amendment added “[a]ny felony” as a specified offense category in 42 U.S.C. 14135a(d)—thereby permitting the collection of DNA samples from all convicted Federal felons. This rule includes the new “any felony” category and does not change the coverage of misdemeanors in certain categories already included under prior law.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David J. Karp, Senior Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue NW, Room 4503, Washington, DC 20530

Phone: 202 514–3273

RIN: 1105–AB09

1850. ● DNA SAMPLE COLLECTION FROM FEDERAL OFFENDERS UNDER THE JUSTICE FOR ALL ACT OF 2004

Priority: Other Significant
Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; PL 108–405

CFR Citation: 28 CFR 28

Legal Deadline: Other, Statutory, April 25, 2005, Implementing regulations required within 180 days of enactment.

Abstract: The Department of Justice is publishing this rule to implement 18 U.S.C. 3600A. That statute requires the Federal Government to preserve biological evidence in Federal criminal cases in which defendants are under sentences of imprisonment, subject to certain limitations and exceptions. Subsection (e) of the statute requires the Attorney General to promulgate...
Federal Register / Vol. 70, No. 93 / Monday, May 16, 2005 / Unified Agenda 27157

**DOJ—LA**

regulations to implement and enforce the statute. This rule adds a new subchapter C to 28 CFR part 28 to effect the required implementation and enforcement of 18 U.S.C. 3600A. The new provisions added by this rule explain and interpret the evidence preservation requirement of 18 U.S.C. 3600A, and include provisions concerning sanctions for violations of that requirement.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:**

David J. Karp, Senior Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue NW, Room 4503, Washington, DC 20530

Phone: 202 514–3273

RIN: 1105–AB10

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**Department of Justice (DOJ)**

**Legal Activities (LA)**

1852. NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM (NMVTIS) REPORTING REGULATIONS

**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.

**CFR Citation:** Not Yet Determined

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:** Businesses

**Government Levels Affected:** None

**Agency Contact:** Deborah Sorkin

Phone: 202 305–4023

Fax: 202 305–0562

RIN: 1105–AA71

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1853. ENHANCED NOTICE AND RELEASE PROCEDURES FOR OWNERS OF SEIZED PROPERTY PURSUANT TO THE CAFRA OF 2000; DISPOSITION OF SEIZED PROPERTY TOO COSTLY TO MAINTAIN; CONSOLIDATION OF DEPARTMENT REGULATIONS

**Priority:** Other Significant

**CFR Citation:** 8 CFR 274; 21 CFR 1316; 28 CFR 8 (Revision); 28 CFR 9 (Revision)

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:** None

**Agency Contact:**

John Hieronymus

Phone: 202 307–7636

Maury V. Taylor

Phone: 202 324–9700

RIN: 1105–AA74

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Department of Justice (DOJ)

**Office of Justice Programs (OJP)**

1854. PUBLIC SAFETY OFFICERS’ BENEFITS PROGRAM

**Priority:** Other Significant

**Legal Authority:** 42 USC 3711 et seq

**CFR Citation:** 28 CFR 32

**Legal Deadline:** None

**Abstract:** The Bureau of Justice Assistance will be proposing a major, substantive revision of the existing regulations (28 CFR part 32) that govern the Public Safety Officers’ Benefits (PSOB) Program to streamline all aspects of the program and relieve claimants of administrative burdens no longer deemed necessary. Further, the program will need to change as BJA moves into a paperless, electronic, Web-based application/review/payment program. The proposed revised regulations will affect all components of the program: Death benefits, disability benefits, education benefits, and the related administrative components governing hearing officers and independent medical examinations.

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**Regulatory Flexibility Analysis**

Required: No

**Government Levels Affected:** None

**Agency Contact:** Hope Janke, Counsel to the Director, BJA, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531

Phone: 202 307–2858

Email: hope.janke@usdoj.gov

RIN: 1121–AA56

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1855. CRIMINAL INTELLIGENCE SYSTEMS OPERATING POLICIES

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 42 USC 3711

**CFR Citation:** 28 CFR 23

**Legal Deadline:** None

**Abstract:** The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968 are used as authorized by law. This revision of 28 CFR part 23 updates the regulation for modern technological advances, and extends the use of criminal intelligence systems for public safety purposes.

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**Government Levels Affected:** Federal

**Agency Contact:**

David J. Karp, Senior Counsel, Department of Justice, Office of Legal Policy, 950 Pennsylvania Avenue NW, Room 4503, Washington, DC 20530

Phone: 202 514–3273

RIN: 1105–AB10

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1857. VICTIMS OF CRIME ACT (VOCA) CRIME VICTIM COMPENSATION PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 10602

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Victims of Crime Act (VOCA) Crime Victim Compensation Program regulations provide the parameters under which state agencies may use these funds to reimburse crime victims directly for expenses related to crime. Expenses that must be covered are lost wages, medical and mental health costs, and funeral and burial costs. States, at their discretion, may cover loss of support, crime scene cleanup, and other such expenses.

VOCA funds are obtained from the Crime Victims Fund in the U.S. Treasury, which consists of fines, fees, and bond forfeitures from federal offenders.

Costs to States are limited, as the VOCA grant provides for administrative costs for these programs.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Barbara Johnson, Program Manager, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531

Phone: 202 307–5983

Email: barbara.johnson@usdoj.gov

RIN: 1121–AA68

1858. VICTIM OF CRIME ACT (VOCA) VICTIM ASSISTANCE PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 10604, sec 1407(a), Victims of Crime Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Victim Assistance Program Regulations provide the parameters under which State agencies may use these funds to award grants to government and nonprofit organizations to provide direct services to crime victims. Local programs include child abuse, homicide survivor, drunk driving, sexual assault, and domestic violence. More than three million crime victims are served through these grants.

Victims of Crime Act (VOCA) funds are obtained from the Crime Victims Fund in the U.S. Treasury, which consists of fines, fees, and bond forfeitures from Federal offenders.

Costs to States are limited, as the VOCA grant provides for administrative costs for these programs.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: TRANSFERRED RIN: This rulemaking continues the rulemaking previously listed as “child” RIN 1121-AA68 under “parent” RIN 1121-AA67.

This rulemaking has been transferred to RIN 1121-AA68 because the computer system used by the Regulatory Information Service Center (RISC) to compile the Unified Agenda no longer supports “parent” and “child” RINs. This rulemaking is not a new action. (For another VOCA-related rulemaking, see RIN 1121-AA69)

Agency Contact: Marie Burke, Chief of Staff, OVC, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531

Phone: 202 514–5952

Email: marie.burke@usdoj.gov

RIN: 1121–AA69
### 1859. CORRECTIONAL FACILITIES ON TRIBAL LANDS GRANT PROGRAM

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 42 USC 13701 et seq  
**CFR Citation:** 28 CFR 91  
**Legal Deadline:** None

**Abstract:** The Office of Justice Programs is issuing this rulemaking to amend the title and the definitions of “Indian tribe” and “construction” within 28 CFR part 91, subpart C (which outlines the requirements and procedures to award grants to Indian tribes for constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction). Congress has mandated a new definition of “Indian tribe,” and with this broader definition, Federal funds through the Office of Justice Programs are now available to a larger universe of tribal entities. The amendment to the definition of “construction” is simply to expand and clarify the existing definition to assist applicants and grantees in better understanding the allowable scope a project may take.

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**Regulatory Flexibility Analysis**  
**Required:** No  
**Small Entities Affected:** Governmental Jurisdictions

**Government Levels Affected:** Tribal

**Agency Contact:** Maria Pressley, Special Projects Manager, BJA, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531  
Phone: 202 353–8643  
Fax: 2023544126  
Email: maria.pressley@usdoj.gov  
RIN: 1121–AA41

### 1860. BULLETPROOF VEST PARTNERSHIP GRANT ACTS OF 1998 AND 2000

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 42 USC 3796ll  
**CFR Citation:** 28 CFR 33  
**Legal Deadline:** NPRM, Statutory, September 14, 1998.

**Abstract:** The Bureau of Justice Assistance (BJA) is publishing final regulations implementing the Bulletproof Vest Partnership Grant Acts of 1998 and 2000, which authorize BJA funds to eligible States, units of local government, and Indian tribes to purchase armored vests for use by law enforcement officers. This final rule reflects the revised process by which eligible jurisdictions may register, apply, and request funding under BJA’s Internet-Based Bulletproof Vest Partnership Grant Program.

On September 23, 1998, BJA published an interim final rule, with a request for comments (63 FR 50759). The interim final rule established the process by which BJA would implement the Bulletproof Vest Partnership Grant Act of 1998. BJA did not receive any comments (63 FR 50759). The interim rule reflects the revised process by which eligible jurisdictions may register, apply, and request funding under BJA’s Internet-Based Bulletproof Vest Partnership Grant Program.

On September 23, 1998, BJA published an interim final rule, with a request for comments (63 FR 50759). The interim final rule established the process by which BJA would implement the Bulletproof Vest Partnership Grant Act of 1998. BJA did not receive any comments (63 FR 50759). The interim rule reflects the revised process by which eligible jurisdictions may register, apply, and request funding under BJA’s Internet-Based Bulletproof Vest Partnership Grant Program.

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**Regulatory Flexibility Analysis**  
**Required:** No  
**Government Levels Affected:** Federal, Local, State, Tribal

**Agency Contact:** Steve Antkowiak, Special Projects Manager, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531  
Phone: 202 514–7663  
Email: steve.antkowiak@usdoj.gov  
RIN: 1121–AA52

### 1861. ENVIRONMENTAL IMPACT REVIEW PROCEDURES FOR THE VOITIS GRANT PROGRAM

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 42 USC 13701 et seq, as amended by PL 104–134; 42 USC 4321 et seq; 40 CFR 1500 to 1506  
**CFR Citation:** 28 CFR 91  
**Legal Deadline:** None

**Abstract:** The Office of Justice Programs is issuing this final rule to set forth the procedures that it and the States that are awarded Federal funds under the Violent Offender Incarceration/Truth-in-Sentencing Grants Program must follow in order to comply with the environmental impact review procedures mandated by the National Environmental Policy Act, the Council on Environmental Quality’s implementing regulations, and other related Federal environmental impact review requirements.

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**Regulatory Flexibility Analysis**  
**Required:** No  
**Government Levels Affected:** Federal, Local, State, Tribal

**Agency Contact:** Steve Antkowiak, Special Projects Manager, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531  
Phone: 202 514–7663  
Email: steve.antkowiak@usdoj.gov  
RIN: 1121–AA52

### 1862. FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS

**Priority:** Info./Admin./Other  
**Legal Authority:** 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 300v–1(b)  
**CFR Citation:** 28 CFR 46  
**Legal Deadline:** None

**Abstract:** The Department of Justice is participating with other Federal agencies to amend the Federal Policy for the Protection of Human Subjects, which was published in the Federal Register on June 18, 1991, to change
all references to the Office for Protection from Research Risks (OPRR) to the Office for Human Research Protections (OHRP); revise the footnote found at the end of § 111.101(i) by deleting references to research involving fetuses, pregnant women, or human in vitro fertilization and subpart B of 45 CFR part 46; and update the Control Number for the approval by the Office of Management and Budget (OMB) of the information collection requirements of this Federal Policy.

**Timetable:**

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**Government Levels Affected:** None

**Agency Contact:** Philip Merkle, Special Advisor to the Director, Corrections Program Office, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531 Phone: 202 305–2550 RIN: 1121–AA70

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### Department of Justice (DOJ)

**Office of Justice Programs (OJP)**

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**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** Federal, State

**Agency Contact:** Linda Fallowfield

Phone: 202 305–2534

RIN: 1121–AA57

[FR Doc. 05–7661 Filed 05–13–05; 8:45 am]

BILLING CODE 4410–BP–S