

**Department of Justice****§26.4**

reports so that the vehicle's true history can be documented.

(b) To avoid the possibility of fraud, the operator may not allow any entity to delete a prior report of junk or salvage status.

**PART 26—DEATH SENTENCES PROCEDURES**

Sec.

**Subpart A—Implementation of Death Sentences in Federal Cases**

- 26.1 Applicability.
- 26.2 [Reserved]
- 26.3 Date, time, place, and manner of execution.
- 26.4 Other execution procedures.
- 26.5 Attendance at or participation in executions by Department of Justice personnel.

**Subpart B—Certification Process for State Capital Counsel Systems**

- 26.20 Purpose.
- 26.21 Definitions.
- 26.22 Requirements.
- 26.23 Certification process.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001(b), 4002, 3596, 3597; 28 U.S.C. 509, 510, 2261, 2265.

SOURCE: Order No. 1655-93, 57 FR 4901, Jan. 19, 1993, unless otherwise noted.

**Subpart A—Implementation of Death Sentences in Federal Cases****§26.1 Applicability.**

(a) The regulations of this part apply whenever a sentencing hearing conducted in a United States District Court has resulted in a recommendation or determination that a criminal defendant be sentenced to death for commission of an offense described in any federal statute.

(b) Where applicable law conflicts with any provision of this part, the Attorney General may vary from that provision to the extent necessary to comply with the applicable law.

(c) Any task or duty assigned to any officer or employee of the Department of Justice by this part may be delegated by the Attorney General to any

other officer or employee of the Department of Justice.

[57 FR 4901, Jan. 19, 1993, as amended by Order No. 4911-2020, 85 FR 75854, Nov. 27, 2020]

**§26.2 [Reserved]****§26.3 Date, time, place, and manner of execution.**

(a) Except to the extent a court orders otherwise, a sentence of death shall be executed:

(1) On a date and at a time designated by the Director of the Federal Bureau of Prisons, which date shall be no sooner than 60 days from the entry of the judgment of death. If the date designated for execution passes by reason of a stay of execution, then a new date shall be designated promptly by the Director of the Federal Bureau of Prisons when the stay is lifted;

(2) At a penal or correctional institution designated by the Director of the Federal Bureau of Prisons;

(3) Under the supervision of a United States Marshal (Marshal) designated by the Director of the United States Marshals Service, assisted by additional qualified personnel selected by the Director of the United States Marshals Service and the Director of the Federal Bureau of Prisons, or their designees, and acting at the direction of the Marshal; and

(4) By intravenous injection of a lethal substance or substances in a quantity sufficient to cause death, such substance or substances to be determined by the Director of the Federal Bureau of Prisons, or by any other manner prescribed by the law of the State in which the sentence was imposed or which has been designated by a court in accordance with 18 U.S.C. 3596(a).

(b) Unless the President interposes, the United States Marshal shall not stay execution of the sentence on the basis that the prisoner has filed a petition for executive clemency.

[57 FR 4901, Jan. 19, 1993, as amended by Order No. 4911-2020, 85 FR 75854, Nov. 27, 2020]

**§26.4 Other execution procedures.**

Except to the extent a court orders otherwise:

(a) The Director of the Federal Bureau of Prisons or his designee shall notify the prisoner under sentence of

## § 26.5

death of the manner of execution and the date designated for execution at least 20 days in advance, except when the date follows a postponement of fewer than 20 days of a previously scheduled and noticed execution, in which case the Director of the Federal Bureau of Prisons or his designee shall notify the prisoner as soon as possible. If applicable law provides that the prisoner may choose among multiple manners of execution, the Director or his designee shall notify the prisoner of that option.

(b) Beginning seven days before the designated date of execution, the prisoner shall have access only to his spiritual advisers (not to exceed two), his defense attorneys, members of his family, and the officers and employees of the institution designated in § 26.3(a)(2). Upon approval of the Director of the Federal Bureau of Prisons or his designee, the prisoner may be granted access to such other persons as the prisoner may request.

(c) In addition to the Marshal, the following persons shall be present at the execution:

(1) Necessary personnel selected by the Marshal and the Director of the Federal Bureau of Prisons or his designee;

(2) Those attorneys of the Department of Justice whom the Deputy Attorney General determines are necessary;

(3) Not more than the following numbers of persons selected by the prisoner:

(i) One spiritual adviser;  
(ii) Two defense attorneys; and  
(iii) Three adult friends or relatives; and

(4) Not more than the following numbers of persons selected by the Director of the Federal Bureau of Prisons or his designee:

(i) Eight citizens; and  
(ii) Ten representatives of the press.  
(d) No other person shall be present at the execution, unless leave for such person's presence is granted by the Director of the Federal Bureau of Prisons. No person younger than 18 years of age shall witness the execution.

(e) The Director of the Federal Bureau of Prisons or his designee should notify those individuals described in

## 28 CFR Ch. I (7-1-24 Edition)

paragraph (c) of this section as soon as practicable before the designated time of execution.

(f) No photographic or other visual or audio recording of the execution shall be permitted.

(g) After the execution has been carried out, qualified personnel selected by the Director of the Federal Bureau of Prisons or his designee shall conduct an examination of the body of the prisoner to determine that death has occurred and shall inform the Marshal and the Director of the Federal Bureau of Prisons or his designee of his determination. Upon notification of the prisoner's death, the Marshal shall ensure that appropriate notice of the sentence's implementation is filed with the sentencing court.

(h) The remains of the prisoner shall be disposed of according to procedures established by the Director of the Federal Bureau of Prisons.

[57 FR 4901, Jan. 19, 1993, as amended by Order No. 4911-2020, 85 FR 75854, Nov. 27, 2020]

## § 26.5 Attendance at or participation in executions by Department of Justice personnel.

No officer or employee of the Department of Justice or a State department of corrections, or any employee providing services to those departments under contract, shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution if such attendance or participation is contrary to the moral or religious convictions of the officer or employee, or, if the employee is a medical professional, if the employee considers such participation or attendance contrary to medical ethics. For purposes of this section, the term "participation" includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

[57 FR 4901, Jan. 19, 1993, as amended by Order No. 4911-2020, 85 FR 75854, Nov. 27, 2020]