financial instruments (including bonds, shares of stock and notes of indebtedness), jewelry, heirlooms and other articles of obvious sentimental value, to be held in trust for the legal claimant(s).

(c) After receipt of a personal estate, the Department may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

§ 72.26 Vesting of personal estate in United States.

(a) If no claimant with a legal right to the personal estate comes forward within the period of five fiscal years beginning on October 1 after the consular officer took possession of the personal estate, title to the personal estate shall be conveyed to the United States, the property in the estate shall be under the custody of the Department, and the Department may dispose of the estate under as if it were surplus United States Government-owned property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 4811 *et seq.* or by such means as may be appropriate as determined by Department in its discretion in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

(b) The net cash estate shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

§ 72.27 Export of cultural property; handling other property when export, possession, or import may be illegal.

(a) A consular officer should not ship, or assist in the shipping, of any archeological, ethnological, or cultural property, as defined in 19 U.S.C. 2601, that the consular officer is aware is part of the personal estate of a United States citizen or non-citizen national to the United States in order to avoid conflict with laws prohibiting or conditioning such export.

(b) A consular officer may refuse to ship, or assist in the shipping, of any property that is part of the personal estate of a United States citizen or non-citizen national if the consular officer has reason to believe that possession or shipment of the property would be illegal.

§ 72.28 Claims for lost, stolen, or destroyed personal estate.

(a) The legal representative of the estate of a decreased United States citizen or national may submit a claim to the Secretary of State for any personal property of the estate with respect to which a consular officer acted as provisional conservator, and that was lost, stolen, or destroyed while in the custody of officers or employees of the Department of State. Any such claim should be submitted to the Office of Legal Adviser, Department of State, in the manner prescribed by 28 CFR part 14 and will be processed in the same manner as claims made pursuant to 22 U.S.C. 2669–1 and 2669 (f).

(b) Any compensation paid to the estate shall be in lieu of the personal liability of officers or employees of the Department to the estate.

(c) The Department nonetheless may hold an officer or employee of the Department liability to the Department to the extent of any compensation provided to the estate. The liability of the officer or employee shall be determined pursuant to the Department's procedures for determining accountability for United States government property.

Real Property Overseas Belonging to a Decreased United States Citizen or National

§ 72.29 Real property overseas belonging to deceased United States citizen or national.

(a) If a consular officer becomes aware that the estate of a deceased United States citizen or national includes an interest in real property located within the consular officer's district that will not pass to any person or entity under the applicable local laws of intestate succession or testamentary disposition, and if local law provides that title may be conveyed to the Government of the United States, the consular officer should notify the Department.

(b) If the Department decides that it wishes to retain the property for its use, the Department will instruct the consular officer to take steps necessary to provide for title to the property to be conveyed to the Government of the United States.

(c) If title to the real estate is conveyed to the Government of the Unites States and the property is of use to the Department of State, the Department may treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 25 of the State Department Basic Authorities Act (22 U.S.C. 2697) and section 9(a)(3) of the Foreign Service Buildings Act of 1926 (22 U.S.C. 300(a)(3)).

(d) If the Department of State does not wish to retain such real property the Department may treat it as foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 511 *et seq.*).

§ 72.30 Provisions in a will or advanced directive regarding disposition of remains.

United States state law regarding advance directives, deaths and estates include provisions regarding a person's right to direct disposition of remains. Host country law may or may not accept such directions, particularly if the surviving spouse/next-of-kin disagree with the wishes of the testator/affiant.

Fees

§ 72.31 Fees for consular death and estates services.

(a) Fees for consular death and estates services are prescribed in the Schedule of Fees, 22 CFR 22.1.

(b) The personal estates of all officers and employees of the United States who die abroad while on official duty, including military and civilian personnel of the Department of Defense and the United States Coast Guard are exempt from the assessment of any fees proscribed by the Schedule of Fees.

Dated: January 26, 2007.

Maura A. Harty,

Assistant Secretary Consular Affairs, Department of State.

[FR Doc. 07–889 Filed 2–27–07; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF JUSTICE

28 CFR Part 72

[Docket No. OAG 117; A.G. Order No. 2868–2007]

RIN 1105–AB22

Office of the Attorney General; Applicability of the Sex Offender Registration and Notification Act

AGENCY: Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Justice is publishing this interim rule to specify that the requirements of the Sex Offender Registration and Notification Act, title I of Public Law 109–248, apply to sex offenders convicted of the offense for which registration is required before the enactment of that Act. These

requirements include registration by a sex offender in each jurisdiction in which the sex offender resides, is an employee, or is a student. The Attorney General has the authority to make this specification pursuant to sections 112(b) and 113(d) of the Sex Offender Registration and Notification Act.

DATES: *Effective Date:* This interim rule is effective February 28, 2007.

Comment Date: Comments must be received by April 30, 2007.

ADDRESSES: Comments may be mailed to David J. Karp, Senior Counsel, Office of Legal Policy, Room 4509, Main Justice Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530. To ensure proper handling, please reference OAG Docket No. 117 on your correspondence. You may view an electronic version of this interim rule at *http://www.regulations.gov.* You may also comment via the Internet to the Justice Department's Office of Legal Policy (OLP) at *olpregs@usdoj.gov* or by using the www.regulations.gov comment form for this regulation. When submitting comments electronically you must include OAG Docket No. 117 in the subject box.

FOR FURTHER INFORMATION CONTACT: Laura L. Rogers, Director, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking; Office of Justice Programs, United States Department of Justice, Washington, DC, 202 514–4689.

SUPPLEMENTARY INFORMATION: Since the enactment of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071) in 1994, there have been national standards for sex offender registration and notification in the United States. All states currently have sex offender registration and notification programs and have endeavored to implement the Wetterling Act standards in their existing programs.

Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109–248), the Sex Offender Registration and Notification Act (SORNA), contains a comprehensive revision of the national standards for sex offender registration and notification. The SORNA reforms are generally designed to strengthen and increase the effectiveness of sex offender registration and notification for the protection of the public, and to eliminate potential gaps and loopholes under the pre-existing standards by means of which sex offenders could attempt to evade registration requirements or the consequences of registration violations. Broadly speaking, the SORNA requirements are of two sorts:

First, SORNA directly imposes registration obligations on sex offenders as a matter of federal law and provides for federal enforcement of these obligations under circumstances supporting federal jurisdiction. These obligations include registration, and keeping the registration current, in each jurisdiction in which a sex offender resides, is an employee, or is a student, with related provisions concerning such matters as the time for registration, the information to be provided by the registrant, and keeping the information up to date. *See* 42 U.S.C. 16913–16917, enacted by SORNA §§ 113–17.

The enforcement mechanisms for these registration obligations include requirements that the Federal Bureau of Prisons and federal probation offices inform offenders released from federal custody or sentenced to probation who are required to register under SORNA that they must comply with SORNA's requirements, as well as requirements that these federal agencies notify state and local authorities concerning the release of such offenders to their areas. *See* 18 U.S.C. 4042(c), as amended by SORNA § 141(f)–(h). Federal offenders subject to SORNA are also obligated to comply with its requirements as mandatory conditions of their supervision. *See* 18 U.S.C. 3563(a)(8), 3583(d), 4209(a), as amended by SORNA § 141(d)–(e), (j). More broadly, 18 U.S.C. 2250, enacted by section 141(a) of SORNA, creates federal criminal liability for any person required to register under SORNA if: (i) the registration requirement is based on a conviction under federal, District of Columbia, Indian tribal, or U.S. territorial law, or the person travels in interstate or foreign commerce or enters or leaves or resides in Indian country, and (ii) the person knowingly fails to register or update a registration as required under SORNA. Because circumstances supporting federal jurisdiction—such as conviction for a federal sex offense as the basis for registration, or interstate travel by a state sex offender who then fails to register in the destination state—are required predicates for federal enforcement of the SORNA registration requirements, creation of these requirements for sex offenders is within the constitutional authority of the Federal Government.

The second broad aspect of SORNA is incorporation by non-federal jurisdictions of the SORNA standards in their own sex offender registration and notification programs. The affected jurisdictions are the states, the District of Columbia, the principal territories, and Indian tribes to the extent provided in SORNA § 127. *See* 42 U.S.C. 16911(10), enacted by SORNA § 111(10). Section 124 of SORNA generally provides a three-year period for jurisdictions to implement SORNA, subject to possible extension by the Attorney General. *See* 42 U.S.C. 16924. Jurisdictions that fail to substantially implement SORNA within the applicable period are subject to a 10% reduction of federal justice assistance (Byrne Grant) funding. The SORNA provisions cast as directions to jurisdictions and their officials are, in relation to the states, only conditions required to avoid this funding reduction. *See* 42 U.S.C. 16925(d), enacted by SORNA § 125(d). Since the SORNA requirements are only partial funding eligibility conditions in relation to the states, and beyond that apply only to jurisdictions that are generally subject to federal legislative authority under the Constitution (D.C., Indian tribal, and U.S. territorial jurisdictions), creation of these requirements is also within the constitutional authority of the Federal Government.

In contrast to SORNA's provision of a three-year grace period for jurisdictions to implement its requirements, SORNA's direct federal law registration requirements for sex offenders are not subject to any deferral of effectiveness. They took effect when SORNA was enacted on July 27, 2006, and currently apply to all offenders in the categories for which SORNA requires registration.

As in the Wetterling Act provisions (42 U.S.C. 14071) that preceded SORNA, Congress recognized in SORNA that supplementation of the statutory text by administrative guidance and rules would be helpful, and in some contexts necessary, to fully realize the legislation's objectives. Section 112(b) of SORNA accordingly directs the Attorney General to issue guidelines and regulations to interpret and implement SORNA. In addition, there are provisions in SORNA that identify specific contexts in which clarification or supplementation of the statutory provisions by the Attorney General is contemplated.

One of these specific contexts appears in section 113(d) of SORNA, which states that ''[t]he Attorney General shall have the authority to specify the applicability of the requirements of this title to sex offenders convicted before the enactment of this Act or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply

with subsection (b).'' 42 U.S.C. 16913(d). (The cross-referenced ''subsection (b)'' states the normal timing rules for initial registration by sex offenders—before release for imprisoned offenders, and within three business days of sentencing for offenders not sentenced to imprisonment.) Section 113(d) ensures that there will be a means to resolve issues about the scope of SORNA's applicability, including any questions that may arise concerning the retroactive applicability of its requirements to sex offenders convicted prior to its enactment, and a means to fill any gaps there may be concerning registration procedures or requirements for sex offenders to whom the Act's normal procedures cannot be applied.

For example, consider the case of an offender who was convicted of, and sentenced to probation for, a sex offense within the categories for which SORNA requires registration prior to the enactment of SORNA, but who did not register near the time of his sentencing because the offense in question was not subject to a registration requirement under federal law or applicable state law at the time. Following the enactment of SORNA, registration by the sex offender within the normal time period specified in SORNA § 113(b)(2)—not later than three business days after sentencing—is not possible, because that time is past. Under section 113(d), the Attorney General has the authority to specify alternative timing rules for registration of offenders of this type.

The purpose of this interim rule is not to address the full range of matters that are within the Attorney General's authority under section 113(d), much less to carry out the direction to the Attorney General in section 112(b) to issue guidelines and regulations to interpret and implement SORNA as a whole. The Attorney General will hereafter issue general guidelines to provide guidance and assistance to the states and other covered jurisdictions in implementing SORNA, as was done under the Wetterling Act, *see* 64 FR 572 (Jan. 5, 1999), and may also issue additional regulations as warranted.

The current rulemaking serves the narrower, immediately necessary purpose of foreclosing any dispute as to whether SORNA is applicable where the conviction for the predicate sex offense occurred prior to the enactment of SORNA. This issue is of fundamental importance to the initial operation of SORNA, and to its practical scope for many years, since it determines the applicability of SORNA's requirements to virtually the entire existing sex offender population.

Considered facially, SORNA requires all sex offenders who were convicted of sex offenses in its registration categories to register in relevant jurisdictions, with no exception for sex offenders whose convictions predate the enactment of SORNA. *See* SORNA §§ 111(1), (5)–(8), 113(a). Nor is there any *ex post facto* problem in applying the SORNA requirements to such offenders because the SORNA sex offender registration and notification requirements are intended to be non-punitive, regulatory measures adopted for public safety purposes, and hence may validly be applied (and enforced by criminal sanctions) against sex offenders whose predicate convictions occurred prior to the creation of these requirements. *See Smith* v. *Doe,* 538 U.S. 84 (2003). Likewise, in terms of underlying policy, the general purpose of SORNA is to ''protect the public from sex offenders and offenders against children'' by establishing ''a comprehensive national system for the registration of those offenders.'' 42 U.S.C. 16901, enacted by SORNA § 102. If SORNA were deemed inapplicable to sex offenders convicted prior to its enactment, then the resulting system for registration of sex offenders would be far from ''comprehensive,'' and would not be effective in protecting the public from sex offenders because most sex offenders who are being released into the community or are now at large would be outside of its scope for years to come. For example, it would not apply to a sex offender convicted of a rape or child molestation offense in 2005, who is sentenced to imprisonment and released in 2020.

Nevertheless, sex offenders with predicate convictions predating SORNA who do not wish to be subject to the SORNA registration requirements, or who wish to avoid being held to account for having violated those requirements, have not been barred from attempting to devise arguments that SORNA is inapplicable to them, e.g., because a rule confirming SORNA's applicability has not been issued. This rule forecloses such claims by making it indisputably clear that SORNA applies to all sex offenders (as the Act defines that term) regardless of when they were convicted. The Attorney General exercises his authority under section 113(d) of SORNA to specify this scope of application for SORNA, regardless of whether SORNA would apply with such scope absent this rule, in order to ensure the effective protection of the public from sex offenders through a comprehensive national system for the registration of such offenders.

The rule adds a new Part 72 to 28 CFR with three sections. Section 72.1 explains that the purpose of this rule is to specify the applicability of the SORNA requirements to sex offenders convicted prior to the Act's enactment. Section 72.2 states that terms used in the regulations have the same meaning as in SORNA § 111. Thus, the statutory definitions may be consulted as to the meaning of such terms as ''sex offender,'' ''convicted,'' and ''jurisdiction.'' Section 72.3 states that the SORNA requirements apply to all sex offenders, including sex offenders convicted of their registration offenses before the enactment of SORNA, and provides illustrations.

Administrative Procedure Act

The implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(3)(B) and (d)(3), for circumstances in which ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B).

The rule specifies that the requirements of the Sex Offender Registration and Notification Act apply to all sex offenders (as defined in that Act), including those convicted of the offense for which registration is required prior to the enactment of the Act. The applicability of the Act's requirements promotes the effective tracking of sex offenders following their release, by means described in sections 112–17 and 119 of the Act, and the availability of information concerning their identities and locations to law enforcement and members of the public, by means described in sections 118 and 121 of the Act.

The immediate effectiveness of this rule is necessary to eliminate any possible uncertainty about the applicability of the Act's requirements—and related means of enforcement, including criminal liability under 18 U.S.C. 2250 for sex offenders who knowingly fail to register as required—to sex offenders whose predicate convictions predate the enactment of SORNA. Delay in the implementation of this rule would impede the effective registration of such sex offenders and would impair immediate efforts to protect the public from sex offenders who fail to register through prosecution and the imposition of criminal sanctions. The resulting practical dangers include the commission of additional sexual assaults and child sexual abuse or exploitation offenses by sex offenders that could have been prevented had local authorities and the community been aware of their

presence, in addition to greater difficulty in apprehending perpetrators who have not been registered and tracked as provided by SORNA. This would thwart the legislative objective of ''protect[ing] the public from sex offenders and offenders against children'' by establishing ''a comprehensive national system for the registration of those offenders,'' SORNA § 102, because a substantial class of sex offenders could evade the Act's registration requirements and enforcement mechanisms during the pendency of a proposed rule and delay in the effectiveness of a final rule.

It would accordingly be contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b) or with the delayed effective date normally required under 5 U.S.C. 553(d).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities for the purposes of that Act because the regulation concerns the application of the requirements of the Sex Offender Registration and Notification Act to certain offenders.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. There has been substantial consultation with state officials regarding the interpretation and implementation of the Sex Offender Registration and Notification Act. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 72

Crime, Information, Law enforcement, Prisons, Prisoners, Records, Probation and parole.

■ For the reasons stated in the preamble, part 72 of chapter I of Title 28 of the Code of Federal Regulations is added to read as follows:

PART 72—SEX OFFENDER REGISTRATION AND NOTIFICATION

Sec.
72.1 Purpose.
72.2 Definitions.
72.3 Applicability of the Sex Offender Registration and Notification Act.

Authority: Pub. L. 109–248, 120 Stat. 587.

§ 72.1 Purpose.

This part specifies the applicability of the requirements of the Sex Offender Registration and Notification Act to sex offenders convicted prior to the enactment of that Act. These requirements include registering and keeping the registration current in each jurisdiction in which a sex offender resides, is an employee, or is a student. The Attorney General has the authority to specify the applicability of the Act's requirements to sex offenders convicted prior to its enactment under sections 112(b) and 113(d) of the Act.

§ 72.2 Definitions.

All terms used in this part that are defined in section 111 of the Sex Offender Registration and Notification Act (title 1 of Pub. L. 109–248) shall have the same definitions in this part.

§ 72.3 Applicability of the Sex Offender Registration and Notification Act.

The requirements of the Sex Offender Registration and Notification Act apply to all sex offenders, including sex offenders convicted of the offense for which registration is required prior to the enactment of that Act.

Example 1. A sex offender is federally convicted of aggravated sexual abuse under 18 U.S.C. 2241 in 1990 and is released following imprisonment in 2007. The sex offender is subject to the requirements of the Sex Offender Registration and Notification Act and could be held criminally liable under 18 U.S.C. 2250 for failing to register or keep the registration current in any jurisdiction in which the sex offender resides, is an employee, or is a student.

Example 2. A sex offender is convicted by a state jurisdiction in 1997 for molesting a child and is released following imprisonment in 2000. The sex offender initially registers as required, but disappears after a couple of years and does not register in any other jurisdiction. Following the enactment of the Sex Offender Registration and Notification Act, the sex offender is found to be living in another state and is arrested there. The sex offender has violated the requirement under the Sex Offender Registration and Notification Act to register in each state in which he resides, and could be held criminally liable under 18 U.S.C. 2250 for the violation because he traveled in interstate commerce.

Dated: February 16, 2007.

Alberto R. Gonzales,

Attorney General.

[FR Doc. E7–3063 Filed 2–27–07; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 253

RIN 1010–AD39

Oil and Gas and Sulphur Operations in the Outer Continental Shelf and Oil Spill Financial Responsibility for Offshore Facilities—Civil Penalties

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The MMS is required to review the maximum daily civil penalty