DEPARTMENT OF JUSTICE

28 CFR Part 0

[Docket No. OAG 136; A.G. Order No. 3227–2010]

Delegation of Authority Under 18 U.S.C. 249

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends 28 CFR part 0 to delegate the Attorney General’s certification authority under 18 U.S.C. 249, relating to hate crimes, to the Assistant Attorney General for the Civil Rights Division, and, in limited circumstances, to the Assistant Attorney General for the Criminal Division.

DATES: Effective Date: November 16, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Moossy, Acting Section Chief, Civil Rights Division, Criminal Section, Patrick Henry Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530, (202) 305–2445.

SUPPLEMENTARY INFORMATION: On October 28, 2009, President Obama signed into law the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 (Shepard-Byrd Act). Among other things, the Shepard-Byrd Act created a new federal hate crime statute to be codified at 18 U.S.C. 249. The Shepard-Byrd Act expressly provides that no prosecution under section 249 may be undertaken without a written certification by the Attorney General (or a designee) that the State does not have jurisdiction; the State has requested that the federal government assume jurisdiction; the verdict or sentence obtained through State charges left demonstrably unvindicated the federal interest in eradicating bias-motivated violence; or a prosecution by the federal government is in the public interest and necessary to secure substantial justice. The statute expressly allows the Attorney General to delegate this certification authority to a designee, and this rule accordingly amends 28 CFR part 0 to delegate the Attorney General’s certification authority under 18 U.S.C. 249 to the Assistant Attorney General for the Civil Rights Division, and, in limited circumstances, to the Assistant Attorney General for the Criminal Division.

Regulatory Certifications

This rule is a rule of agency organization, procedure, and practice and is limited to matters of agency management and personnel. Accordingly: (1) This rule is exempt
PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority for citation for part 0 continues to read as follows:


Subpart J—Civil Rights Division

2. Section 0.50 is amended by adding a new paragraph (n) to read as follows:

   § 0.50 General functions.
   (n) Upon request, certification under 18 U.S.C. 249, relating to hate crimes.

Subpart K—Criminal Division

3. Section 0.55 is amended by adding a new paragraph (v) to read as follows:

   § 0.55 General functions.


Eric H. Holder, Jr.,
Attorney General.

FOR FURTHER INFORMATION CONTACT:
Deanna Buchner, (703) 602–4353.

SUPPLEMENTARY INFORMATION:
The prompt implementation of the Final Rule is of critical importance in meeting the goals of the Department of Defense to provide financial stability and increase quality of life for those impacted by the mortgage crisis. The Department of Defense will provide financial assistance to offset financial losses of homeowners who need to sell their homes in conjunction with PCS moves, base closures, combat injuries, or loss of spouse in the line of duty.

The Under Secretary of Defense for Acquisition, Technology, and Logistics has overall responsibility and provides oversight for this program through the Deputy Under Secretary of Defense for Installations and Environment (DUSD[E]). The Army, acting as the DoD Executive Agent for administering the HAP and Expanded HAP, uses the Headquarters, U.S. Army Corps of Engineers (HQUSACE), to implement the program.

Comments: The Interim Final Rule was published in the Federal Register on September 30, 2009 (74 FR 50109–50115). In response to the Interim Final Rule, the DoD received 56 comments during the 90-day comment period. While many comments crossed several subject areas, generally they can be placed into three categories: Benefits, eligibility, or general.

1. Benefit comments: There were 16 comments relating to benefits. These comments concern: benefit percentage, government acquisition, short sale, closing costs, and application processing.

   a. Benefit percentage. Three comments received concerning the restriction of 90 percent of the primary market value for Base Realignment and Closure (BRAC) 2005 and Permanent Change of Station (PCS)