

## Department of Justice

## § 72.1

§§ 71.48–71.50 [Reserved]

### Subpart B—Assignment of Responsibilities Regarding Actions by Other Agencies

#### § 71.51 Purpose.

This subpart further implements the Program Fraud Civil Remedies Act of 1986. The Act authorizes the Attorney General, or certain officials whom the Attorney General may designate, to make determinations or otherwise act with respect to another agency's exercise of the provisions of the Program Fraud Civil Remedies Act. See, *e.g.*, 31 U.S.C. 3803(a)(2), 3803(b), 3805. This subpart designates officials within the Department of Justice who are authorized to exercise the authorities conferred upon the Attorney General by the Program Fraud Civil Remedies Act with respect to cases brought or proposed to be brought under it.

#### § 71.52 Approval of Agency requests to initiate a proceeding.

(a) The Assistant Attorney General of the Civil Division is authorized to act on notices by an agency submitted to the Department of Justice pursuant to 31 U.S.C. 3803(a)(2) and, pursuant to the provisions of section 3803(b), to approve or disapprove the referral to an agency's presiding officer of the allegations of liability stated in such notice.

(b) The Assistant Attorney General of the Civil Division may

(1) Require additional information prior to acting as set forth above, in which case the 90 day period shall be extended by the time necessary to obtain such additional information; and

(2) Impose limitations and conditions upon such approval or disapproval as may be warranted in his or her judgment.

#### § 71.53 Stays of Agency proceedings at the request of the Department.

With respect to matters assigned to their divisions, the Assistant Attorneys General of the litigating divisions are authorized to determine that the continuation of any hearing under 31 U.S.C. 3803(b)(3) with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or state-

ment, and to so notify the authority head of this determination and thereafter to determine when such hearing may resume.

#### § 71.54 Collection and compromise of liabilities imposed by Agency.

The Assistant Attorney General of the Civil Division is authorized to initiate actions to collect assessments and civil penalties imposed under the Program Fraud Civil Remedies Act of 1986, and, subsequent to the filing of a petition for judicial review pursuant to section 3805 of the Act, to defend such actions and/or to approve settlements and compromises of such liability.

## PART 72—SEX OFFENDER REGISTRATION AND NOTIFICATION

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AUTHORITY: 34 U.S.C. 20901–45; Pub. L. 109–248, 120 Stat. 587; Pub. L. 114–119, 130 Stat. 15.

SOURCE: AG Order No. 5244–2021, 86 FR 69884, Dec. 8, 2021, unless otherwise noted.

#### § 72.1 Purpose.

(a) This part specifies the registration requirements of the Sex Offender Registration and Notification Act (SORNA), 34 U.S.C. 20901 *et seq.*, and the scope of those requirements' application. The Attorney General has the authority to specify the requirements of SORNA and their applicability as provided in this part pursuant to provisions of SORNA, including 34 U.S.C. 20912(b), 20913(d), and 20914(a)(8), (c).

(b) This part does not preempt or limit any obligations of or requirements relating to sex offenders under other Federal laws, rules, or policies, or under the laws, rules, or policies of registration jurisdictions or other entities. States and other governmental entities may prescribe registration requirements and other requirements, with which sex offenders must comply,

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that are more extensive or stringent than those prescribed by SORNA.

### § 72.2 Definitions.

All terms used in this part have the same meaning as in SORNA.

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

The requirements of SORNA apply to all sex offenders. All sex offenders must comply with all requirements of that Act, regardless of when the conviction of the offense for which registration is required occurred (including if the conviction occurred before the enactment of that Act), regardless of whether a jurisdiction in which registration is required has substantially implemented that Act's requirements or has implemented any particular requirement of that Act, and regardless of whether any particular requirement or class of sex offenders is mentioned in examples in this regulation or in other regulations or guidelines issued by the Attorney General.

*Example 1 to § 72.3.* A sex offender is federally convicted of aggravated sexual abuse under 18 U.S.C. 2241 in 1990 and is released following imprisonment in 2009. The sex offender is subject to the requirements of SORNA 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 to § 72.3.* 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 relocates to another state in 2009 and fails to register in the new state of residence. The sex offender has violated the requirement under SORNA to register in any jurisdiction 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.

### § 72.4 Where sex offenders must register.

A sex offender must register, and keep the registration current, in each jurisdiction in which the offender resides, is an employee, or is a student.

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For initial registration purposes only, a sex offender must also register in the jurisdiction in which convicted if that jurisdiction is different from the jurisdiction of residence.

### § 72.5 How long sex offenders must register.

(a) *Duration.* A sex offender has a continuing obligation to register and keep the registration current (except when the sex offender is in custody or civilly committed) for the following periods of time:

(1) 15 years, if the offender is a tier I sex offender;

(2) 25 years, if the offender is a tier II sex offender; and

(3) The life of the offender, if the offender is a tier III sex offender.

(b) *Commencement.* The registration period begins to run:

(1) When a sex offender is released from imprisonment following conviction for the offense giving rise to the registration requirement, including in cases in which the term of imprisonment is based wholly or in part on the sex offender's conviction for another offense; or

(2) If the sex offender is not sentenced to imprisonment, when the sex offender is sentenced for the offense giving rise to the registration requirement.

(c) *Reduction.* If a tier I sex offender has maintained for 10 years a clean record, as described in 34 U.S.C. 20915(b)(1), the period for which the sex offender must register and keep the registration current under paragraph (a) of this section is reduced by 5 years. If a tier III sex offender required to register on the basis of a juvenile delinquency adjudication has maintained a clean record, as described in 34 U.S.C. 20915(b)(1), for 25 years, the period for which the sex offender must register and keep the registration current under paragraph (a) of this section is reduced to the period for which the clean record has been maintained.

### § 72.6 Information sex offenders must provide.

Sex offenders must provide the following information for inclusion in the

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sex offender registries of the jurisdictions in which they are required to register:

(a) *Name, date of birth, and Social Security number.* (1) The name of the sex offender, including any alias used by the sex offender.

(2) The sex offender's date of birth and any date that the sex offender uses as his purported date of birth.

(3) The Social Security number of the sex offender and any number that the sex offender uses as his purported Social Security number.

(b) *Remote communication identifiers.* All designations the sex offender uses for purposes of routing or self-identification in internet or telephonic communications or postings, including email addresses and telephone numbers.

(c) *Residence, temporary lodging, employment, and school attendance.* (1) The address of each residence at which the sex offender resides or will reside or, if the sex offender has no present or expected residence address, other information describing where the sex offender resides or will reside with whatever definiteness is possible under the circumstances.

(2) Information about any place in which the sex offender is staying when away from his residence for seven or more days, including the identity of the place and the period of time the sex offender is staying there.

(3) The name and address of any place where the sex offender is or will be an employee or, if the sex offender is or will be employed but with no fixed place of employment, other information describing where the sex offender works or will work with whatever definiteness is possible under the circumstances.

(4) The name and address of any place where the sex offender is a student or will be a student.

(d) *International travel.* Information relating to intended travel outside the United States, including any anticipated itinerary, dates and places of departure from, arrival in, or return to the United States and each country visited, carrier and flight numbers for air travel, destination country or countries and address or other contact in-

formation therein, and means and purpose of travel.

(e) *Passports and immigration documents.* Information about each passport the sex offender has and, if the sex offender is an alien, information about any document or documents establishing the sex offender's immigration status, including passport or immigration document type and number.

(f) *Vehicle information.* The license plate number and a description of any vehicle owned or operated by the sex offender, including watercraft and aircraft in addition to land vehicles. If a vehicle has no license plate but has some other type of registration number or identifier, then the registration number or identifier must be provided. Information must also be provided as to where any vehicle owned or operated by the sex offender is habitually parked, docked, or otherwise kept.

(g) *Professional licenses.* Information concerning all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

### § 72.7 How sex offenders must register and keep the registration current.

(a) *Initial registration.*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, a sex offender must register before release from imprisonment following conviction for the offense giving rise to the registration requirement, or, if the sex offender is not sentenced to imprisonment, within three business days after being sentenced for that offense.

(2) *Special rules for certain cases.* The following special requirements apply:

(i) *Federal and military offenders.* A sex offender who is released from Federal or military custody, or who is convicted for a Federal or military sex offense but not sentenced to imprisonment, must register within three business days of entering or remaining in a jurisdiction to reside following the release or sentencing.

(ii) *Foreign convictions.* A sex offender required to register on the basis of a conviction in a foreign country must register within three business days of entering any jurisdiction in the United States to reside, work, or attend school.

(b) *Periodic in-person verification.* A sex offender must appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which the offender is required to register. In carrying out the required verification of information in each registry, the sex offender must correct any information that has changed or is otherwise inaccurate and must report any new registration information. A sex offender must appear in person for these purposes not less frequently than—

(1) Each year, if the offender is a tier I sex offender;

(2) Every six months, if the offender is a tier II sex offender; and

(3) Every three months, if the offender is a tier III sex offender.

(c) *Reporting of initiation and changes concerning name, residence, employment, and school attendance.* A sex offender who enters a jurisdiction to reside, or who resides in a jurisdiction and changes his name or his place of residence in the jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days. A sex offender who commences employment or school attendance in a jurisdiction, or who changes employer, school attended, or place of employment or school attendance in a jurisdiction, must appear in person in that jurisdiction and register or update the registration within three business days.

(d) *Reporting of departure and termination concerning residence, employment, and school attendance.* (1) A sex offender residing in a jurisdiction must inform that jurisdiction (by whatever means the jurisdiction allows) if the sex offender will be commencing residence, employment, or school attendance in another jurisdiction or outside of the United States. The sex offender must so inform the jurisdiction in which he is residing prior to any termination of residence in that jurisdiction and prior to commencing residence, employment, or school attendance in the other jurisdiction or outside of the United States.

(2) A sex offender who will be terminating residence, employment, or school attendance in a jurisdiction must so inform that jurisdiction (by whatever means the jurisdiction al-

lows) prior to the termination of residence, employment, or school attendance in the jurisdiction.

(e) *Reporting of changes in information relating to remote communication identifiers, temporary lodging, and vehicles.* A sex offender must report within three business days to his residence jurisdiction (by whatever means the jurisdiction allows) any change in remote communication identifier information, as described in § 72.6(b), temporary lodging information, as described in § 72.6(c)(2), and any change in vehicle information, as described in § 72.6(f).

(f) *Reporting of international travel.* A sex offender must report intended travel outside the United States, including the information described in § 72.6(d), to his residence jurisdiction (by whatever means the jurisdiction allows). The sex offender must report the travel information to the jurisdiction at least 21 days in advance of the intended travel and, if the sex offender is terminating his residence in the jurisdiction, prior to his termination of residence in the jurisdiction.

(g) *Compliance with jurisdictions' requirements for registering and keeping the registration current.* (1) A sex offender who does not comply with a requirement of SORNA in conformity with the time and manner specifications of paragraphs (a) through (f) of this section must comply with the requirement in conformity with any applicable time and manner specifications of a jurisdiction in which the offender is required to register.

*Example 1 to paragraph (g)(1).* A sex offender convicted in a state does not initially register before release from imprisonment, as required by 34 U.S.C. 20913(b)(1) and paragraph (a)(1) of this section, because the state has no procedure for pre-release registration of sex offenders. Instead, the state informs sex offenders that they must go to a local police station within seven days of release to register. The sex offender must comply with the state's requirements for initial registration, i.e., the offender must report to the police station to register within seven days of release.

*Example 2 to paragraph (g)(1).* A sex offender does not register when he is

released from custody, or does not register upon entering a jurisdiction to reside as required by 34 U.S.C. 20913(c) and paragraph (c) of this section, because the jurisdiction, at the time, does not register sex offenders based on the offense for which he was convicted. The jurisdiction later sends the sex offender a notice advising that it has extended its registration requirements to include sex offenders like him and directing him to report to a specified agency within 90 days to register. The sex offender must report to the agency to register within the specified time-frame.

*Example 3 to paragraph (g)(1).* A sex offender registers as required when released from imprisonment or upon entering a jurisdiction to reside, but the jurisdiction has no procedure for sex offenders to appear periodically in person to update and verify the registration information as required by 34 U.S.C. 20918 and paragraph (b) of this section. The jurisdiction later sends the sex offender a notice advising that it has adopted a periodic verification requirement and directing the sex offender to appear at a designated time and place for an initial update meeting. The sex offender must appear and update the registration as directed.

*Example 4 to paragraph (g)(1).* A sex offender does not report his email address to the jurisdiction in which he resides when he initially registers, or within three business days of a change as required by paragraph (e) of this section, because email addresses are not among the information the jurisdiction accepts for inclusion in its registry. The jurisdiction later notifies the sex offender that it has extended the registration information it collects to include email addresses and directs him to send a reply within a specified time that provides his current email address. The sex offender must comply with this direction.

(2) In a prosecution under 18 U.S.C. 2250, paragraph (g)(1) of this section does not in any case relieve a sex offender of the need to establish as an affirmative defense an inability to comply with SORNA because of circumstances beyond his control as provided in 18 U.S.C. 2250(c) and § 72.8(a)(2).

#### § 72.8 Liability for violations.

(a) *Criminal liability*—(1) *Offense.* (i) A sex offender may be liable to criminal penalties under 18 U.S.C. 2250(a) if the sex offender—

(A) Is required to register under SORNA;

(B)(I) Is a sex offender as defined for the purposes of SORNA by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(2) Travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

(C) Knowingly fails to register or update a registration as required by SORNA.

(ii) A sex offender may be liable to criminal penalties under 18 U.S.C. 2250(b) if the sex offender—

(A) Is required to register under SORNA;

(B) Knowingly fails to provide information required by SORNA relating to intended travel in foreign commerce; and

(C) Engages or attempts to engage in the intended travel in foreign commerce.

(iii) As a condition of liability under 18 U.S.C. 2250(a)–(b) for failing to comply with a requirement of SORNA, a sex offender must have been aware of the requirement he is charged with violating, but need not have been aware that the requirement is imposed by SORNA.

(2) *Defense.* A sex offender may have an affirmative defense to liability, as provided in 18 U.S.C. 2250(c), if uncontrollable circumstances prevented the sex offender from complying with SORNA, where the sex offender did not contribute to the creation of those circumstances in reckless disregard of the requirement to comply and complied as soon as the circumstances preventing compliance ceased to exist.

*Example 1 to paragraph (a)(2).* A sex offender changes residence from one jurisdiction to another, bringing into play SORNA's requirement to register in each jurisdiction where the sex offender resides and SORNA's requirement to appear in person and report

changes of residence within three business days. *See* 34 U.S.C. 20913(a), (c). The sex offender attempts to comply with these requirements by contacting the local sheriff's office, which is responsible for sex offender registration in the destination jurisdiction. The sheriff's office advises that it cannot schedule an appointment for him to register within three business days but that he should come by in a week. The sex offender would have a defense to liability if he appeared at the sheriff's office at the appointed time and registered as required. The sex offender's temporary inability to register and inability to report the change of residence within three business days in the new residence jurisdiction was due to a circumstance beyond his control—the sheriff's office's refusal to meet with him until a week had passed—and he complied with the requirement to register as soon as the circumstance preventing compliance ceased to exist.

*Example 2 to paragraph (a)(2).* A sex offender cannot register in a state in which he resides because its registration authorities will not register offenders on the basis of the offense for which the sex offender was convicted. The sex offender would have a defense to liability because the state's unwillingness to register sex offenders like him is a circumstance beyond his control. However, if the sex offender failed to register after becoming aware of a change in state policy or practice allowing his registration, the 18 U.S.C. 2250(c) defense would no longer apply, because in such a case the circumstance preventing compliance with the registration requirement would no longer exist.

*Example 3 to paragraph (a)(2).* A sex offender needs to travel to a foreign country on short notice—less than 21 days—because of an unforeseeable family or work emergency. The sex offender would have a defense to liability for failing to report the intended travel 21 days in advance, as required by §72.7(f), because it is impossible to report an intention to travel outside the United States before the intention exists. However, if the sex offender failed to inform the registration jurisdiction (albeit on short notice) once he intended to travel, 18 U.S.C. 2250(c) would

not excuse that failure, because the preventing circumstance—absence of an intent to travel abroad—would no longer exist.

(b) *Supervision condition.* For a sex offender convicted of a Federal offense, compliance with SORNA is a mandatory condition of probation, supervised release, and parole. The release of such an offender who does not comply with SORNA may be revoked.

## PART 73—NOTIFICATIONS TO THE ATTORNEY GENERAL BY AGENTS OF FOREIGN GOVERNMENTS

### Sec.

73.1 Definition of terms.

73.2 Exceptions.

73.3 Form of notification.

73.4 Partial compliance not deemed compliance.

73.5 Termination of notification.

73.6 Relation to other statutes.

AUTHORITY: 18 U.S.C. 951, 28 U.S.C. 509, 510.

SOURCE: Order No. 1373–89, 54 FR 46608, Nov. 6, 1989, unless otherwise noted.

### §73.1 Definition of terms.

(a) The term *agent* means all individuals acting as representatives of, or on behalf of, a foreign government or official, who are subject to the direction or control of that foreign government or official, and who are not specifically excluded by the terms of the Act or the regulations thereunder.

(b) The term *foreign government* includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been regarded by the United States as a governing authority.