

the Santa Maria Valley viticultural area that includes the expansion area.

### TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted supports the expansion of the Santa Maria Valley viticultural area. Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we expand the Santa Maria Valley American viticultural area in Santa Barbara and San Luis Obispo Counties, California, effective 30 days from the publication date of this document.

### Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

### Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

### Impact on Current Wine Labels

The expansion of the Santa Maria Valley viticultural area will not affect currently approved wine labels. The approval of this expansion may allow additional vintners to use "Santa Maria Valley" as an appellation of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

### Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no

regulatory flexibility analysis is required.

### Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

### Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

### List of Subjects in 27 CFR Part 9

Wine.

### The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter 1, part 9, as follows:

### PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

### Subpart C—Approved American Viticultural Areas

■ 2. Section 9.28 is revised to read as follows:

#### § 9.28 Santa Maria Valley.

(a) *Name.* The name of the viticultural area described in this section is "Santa Maria Valley". For purposes of part 4 of this chapter, "Santa Maria Valley" is a term of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey maps used to determine the boundary of the Santa Maria Valley viticultural area are titled:

(1) Orcutt Quadrangle, California-Santa Barbara Co., 7.5 minute series, 1959, photorevised 1967 and 1974, photoinspected 1978;

(2) Santa Maria Quadrangle, California, 7.5 minute series, 1959, photorevised 1982;

(3) "San Luis Obispo", N.I. 10-3, series V 502, scale 1: 250,000;

(4) "Santa Maria", N.I. 10-6, 9, series V 502, scale 1: 250,000;

(5) Foxen Canyon Quadrangle, California-Santa Barbara Co., 7.5-minute series, 1995; and

(6) Sisquoc Quadrangle, California-Santa Barbara Co., 7.5 minute series, 1959, photoinspected 1974.

(c) *Boundary.* The Santa Maria Valley viticultural area is located in Santa Barbara and San Luis Obispo Counties, California. The boundary of the Santa Maria Valley viticultural area is as follows:

(1) Begin on the Orcutt quadrangle map at the intersection of U.S. Route 101 and Clark Avenue, section 18 north

boundary line, T9N/R33W, then proceed generally north along U.S. Route 101 approximately 10 miles onto the Santa Maria quadrangle map to U.S. Route 101's intersection with State Route 166 (east), T10N/R34W; then

(2) Proceed generally northeast along State Route 166 (east) onto the San Luis Obispo N.I. 10-3 map to State Route 166's intersection with the section line southwest of Chimney Canyon, T11N/R32W; then

(3) Proceed south in a straight line onto the Santa Maria N.I. 10-6 map to the 3,016-foot summit of Los Coches Mountain; then

(4) Proceed southeast in a straight line onto the Foxen Canyon quadrangle map to the 2,822-foot summit of Bone Mountain, T9N/R32W; then

(5) Proceed south-southwest in a straight line approximately 6 miles to the line's intersection with secondary highways Foxen Canyon Road and Alisos Canyon Road and a marked 1,116-foot elevation point, T8N/R32W; then

(6) Proceed west-northwest in a straight line approximately 6 miles onto the Sisquoc quadrangle map to the southeast corner of section 4, T8N/R32W; then

(7) Proceed west-northwest in a straight line approximately 6.2 miles, crossing over the Solomon Hills, to the line's intersection with U.S. Route 101 and a private, unnamed light-duty road that meanders east into the Cat Canyon Oil Field, T9N/R33W; then

(8) Proceed north 3.75 miles along U.S. Route 101 onto the Orcutt quadrangle map and return to the point of beginning.

Signed: August 24, 2010.

**John J. Manfreda,**  
*Administrator.*

Approved: September 21, 2010.

**Timothy E. Skud,**  
*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

[FR Doc. 2010-32873 Filed 12-28-10; 8:45 am]

**BILLING CODE 4810-31-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 72

[Docket No. OAG 117; AG Order No. 3239-2010]

RIN 1105-AB22

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

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** By this rule, the Department of Justice is finalizing an interim rule specifying that the requirements of the Sex Offender Registration and Notification Act, title I of Public Law 109–248, apply to all sex offenders, including sex offenders convicted of the offense for which registration is required before the enactment of that Act.

**DATES:** *Effective Date:* This rule is effective January 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Almanza, Deputy Chief, Child Exploitation and Obscenity Section, Criminal Division, United States Department of Justice, Washington, DC, 202–514–5780.

**SUPPLEMENTARY INFORMATION:** The Department of Justice by this publication is finalizing an interim rule regarding the scope of application of the Sex Offender Registration and Notification Act (SORNA), title I of Public Law 109–248 (codified at 42 U.S.C. 16901 *et seq.*). The interim rule, *Applicability of the Sex Offender Registration and Notification Act*, was published on February 28, 2007, at 72 FR 8894. The interim rule solicited public comments and the comment period ended on April 30, 2007.

The preamble to the interim rule explained that SORNA establishes national standards for sex offender registration and notification. The preamble further explained that SORNA's 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 federal registration obligations on sex offenders have been in force since the enactment of SORNA. Second, SORNA establishes minimum national standards for non-federal jurisdictions to incorporate in their sex offender registration and notification programs. The relevant "jurisdictions" as defined by SORNA are the 50 States, the District of Columbia, the principal territories, and Indian tribes to the extent provided in 42 U.S.C. 16927. *See* 42 U.S.C. 16911(10). Jurisdictions that do not substantially implement SORNA's requirements in their programs within the time specified by SORNA are subject to a 10% reduction of certain justice assistance funding. SORNA affords jurisdictions a three-year period for substantial implementation of the SORNA standards, subject to extension for up to an additional two years in the Attorney General's discretion. *See* 42 U.S.C. 16924–25.

The preamble to the interim rule took the position that SORNA applies of its own force to all sex offenders regardless of when they were convicted of their sex offenses. It also stated that rulemaking was immediately necessary to "foreclos[e] any dispute as to whether SORNA is applicable where the conviction for the predicate sex offense occurred prior to the enactment of SORNA." 72 FR at 8896. The rule noted that this issue was "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." *Id.* In light of these considerations, the Attorney General exercised his rulemaking authority under SORNA, *see* 42 U.S.C. 16912(b), 16913(d); 28 CFR 72.1, to specify that "[t]he 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." 28 CFR 72.3; *see* 72 FR at 8896.

In issuing the interim rule, the Attorney General determined that there was good cause for receiving public comment after, rather than before, the rule's initial publication and for dispensing with the normal 30-day delay in effectiveness because of the urgency of eliminating any possible uncertainty regarding SORNA's applicability to sex offenders whose convictions predate SORNA's enactment. *See* 72 FR at 8896–97. Accordingly, the Attorney General issued the rule as an interim rule with immediate effectiveness. *See id.*

Following the publication of the interim rule, the Attorney General published proposed guidelines to provide guidance and assistance to the states and other jurisdictions in incorporating the SORNA requirements into their sex offender registration and notification programs. *See* 72 FR 30209 (May 30, 2007). The proposed guidelines solicited public comment and the comment period ended on August 1, 2007. Following consideration of the comments received, the Attorney General issued the final *National Guidelines for Sex Offender Registration and Notification* (hereafter, the "SORNA Guidelines" or "Guidelines") on July 2, 2008, appearing at 73 FR 38030. The Guidelines, like the interim rule, state that SORNA applies to all sex offenders regardless of when they were convicted, and they provide guidance to jurisdictions regarding the registration of sex offenders whose convictions

predate the enactment of SORNA. *See* 73 FR at 38031, 38035–36, 38046–47, 38063–64.

In *United States v. Utesch*, 596 F.3d 302, 310–11 (6th Cir. 2010), the United States Court of Appeals for the Sixth Circuit held that the SORNA Guidelines are, independently of the interim rule, a valid final rule providing that SORNA applies to all sex offenders, including those whose convictions predate SORNA. This rulemaking reflects no disagreement with that conclusion but rather aims to eliminate any possible uncertainty or dispute concerning the scope of SORNA's application by finalizing the interim rule. This publication does not reflect agreement with the conclusions of an earlier decision of the Sixth Circuit holding that the interim rule was invalid at the time of its publication and that SORNA does not apply retroactively of its own force. *See United States v. Cain*, 583 F.3d 408, 413–24 (6th Cir. 2009).

#### Summary of Comments

The public comments on the interim rule were similar to comments received on the portions of the proposed SORNA Guidelines addressing SORNA's application to sex offenders with convictions predating SORNA's enactment. Accordingly, as discussed below, the preamble to the final SORNA Guidelines, *see* 73 FR at 38031, 38035–36, 38043, and various features of the Guidelines themselves, address the concerns raised by the comments on the interim rule.

Many of the commenters on the interim rule assumed that the Attorney General made a discretionary decision to apply SORNA to sex offenders with pre-SORNA convictions and argued in effect that the Attorney General should reverse the decision based on their policy objections. The Department of Justice does not agree that the criticisms raised in these comments are well-founded. By authorizing the Attorney General "to specify the applicability of the requirements of [SORNA] to sex offenders convicted before the enactment of [SORNA]," 42 U.S.C. 16913(d), Congress at the very least placed it within the Attorney General's discretion to apply SORNA's requirements to sex offenders with pre-SORNA convictions if he determines (as he has) that the public benefits of doing so outweigh any adverse effects. The preamble to the interim rule, 72 FR at 8895–97, and the remainder of this summary, explain the considerations justifying the Attorney General's conclusion on this point. Accordingly, the Attorney General's issuance and finalization of the interim rule have a

sound legal basis, regardless of whether (i) SORNA's requirements apply of their own force to sex offenders with pre-SORNA convictions, and the interim rule merely confirmed that fact, or (ii) the applicability of SORNA's requirements to sex offenders with pre-SORNA convictions depends on rulemaking by the Attorney General.

#### *Misunderstandings of SORNA*

Some of the comments on the interim rule reflected misunderstandings of SORNA's requirements. Many of these comments included assertions or assumptions that SORNA adopts a one-size-fits-all approach that treats all persons convicted of sexual offenses in the same way. However, SORNA's registration and notification requirements apply only to persons convicted of "sex offense[s]"—a defined term that does not include all crimes of a sexual nature. *See* 42 U.S.C. 16911(5)–(8); 73 FR at 38037, 38051–52. Within the class of "sex offender[s]" required to register under SORNA because of their conviction for "sex offense[s]," SORNA distinguishes three tiers of offenders based on the nature and seriousness of the predicate sex offense and the offender's history of recidivism. Offenders in different tiers are treated differently under SORNA's standards in relation to length of registration, frequency of required in-person appearances to verify registration information, and public notification. *See* 42 U.S.C. 16911(1)–(4), 16915–16, 16918(c)(1). Another common misconception in the comments was that SORNA restricts where sex offenders may live. However, SORNA is concerned with obtaining and disseminating information about sex offenders and does not prescribe limitations on sex offenders' places of residence, locations, or activities. *See* 42 U.S.C. 16913–21; 73 FR at 38032.

Some of the public comments reflected misconceptions about SORNA's provisions relating to juvenile sex offenders, stating or assuming that there is little or no difference between SORNA's treatment of adult and juvenile offenders. However, SORNA requires registration much more narrowly on the basis of juvenile delinquency adjudications than on the basis of adult convictions. Juvenile delinquency adjudications count as "convictions" that trigger SORNA's requirements only if the juvenile is at least 14 years old at the time of the offense and the offense is comparable to or more severe than aggravated sexual abuse as described in 18 U.S.C. 2241 (or an attempt or conspiracy to commit such an offense). *See* 42 U.S.C.

16911(8); 73 FR at 38030, 38032, 38040–41, 38050.

Hence, SORNA's registration requirements based on juvenile delinquency adjudications are limited to cases involving the commission of particularly serious sex offenses by juveniles who were at least 14 years old at the time of the offense. In addition, even for juveniles in this category, SORNA permits the reduction of their registration periods from life to 25 years if certain conditions are satisfied, a reduction that is not available to sex offenders with adult convictions for such crimes. *See* 42 U.S.C. 16915(b)(2)(B), (3)(B).

#### *SORNA's Effect on Sex Offenders*

Some of the comments received criticized SORNA as lacking valid policy support or as being counterproductive. Some commenters raised such criticisms in relation to SORNA's effects on covered sex offenders generally, while other commenters focused their criticisms on SORNA's application to juvenile sex offenders. The commenters often expressed particular concerns about the adverse effects of registration and notification on sex offenders and their families in such areas as housing, employment, personal security, education, and social relations.

In raising these concerns, some commenters may have been under an exaggerated impression of what SORNA's application to sex offenders with pre-SORNA convictions entails. The consequences are not boundless or indiscriminate. SORNA reserves its requirement of lifetime registration for the most serious category of sex offenders ("tier III"), and even in this category the registration period may be reduced to 25 years in certain circumstances if the registration requirement is based on a juvenile delinquency adjudication. The registration period for tier II offenders is 25 years, and the registration period for tier I offenders is 15 years, which may be reduced to 10 years in certain circumstances. *See* 42 U.S.C. 16915. The registration period begins to run when a sex offender is released from imprisonment for the predicate sex offense, or at the time of sentencing in connection with a nonincarcerative sentence. *See* 73 FR at 38068. Hence, for example, if a person was released from imprisonment in 1980 for a sex offense that places him in tier II, his SORNA registration period based on that offense ended in 2005—whether or not he was ever actually registered for the offense—and he is subject to no present registration requirement based on

SORNA, absent conviction for other sex offenses. This limits the potential impact of SORNA's applicability to sex offenders with pre-SORNA convictions. *See* 73 FR at 38036, 38046–47, 38068–69 (discussing limits on duration of registration and other practical limitations on SORNA's effect on sex offenders with pre-SORNA convictions).

Turning to the underlying substantive issues, Congress's enactment of SORNA reflects a general legislative judgment that the public safety benefits of SORNA's requirements outweigh any adverse effects. The effects of SORNA's requirements on sex offenders, and the public safety concerns sex offenders present, are similar, whether a sex offender's conviction occurred before or after SORNA's enactment. Accordingly, the interests opposing and supporting registration—any adverse effect or burden of SORNA's requirements on sex offenders weighed against the public safety interests furthered by those requirements—are much the same whether the class of sex offenders with pre-SORNA convictions or the class of sex offenders with post-SORNA convictions is considered. *See* 72 FR at 8896–97 (noting frustration of SORNA's public safety objectives if sex offenders with pre-SORNA convictions were exempt from SORNA's requirements); 73 FR at 38035–36 (noting similarity of effects on sex offenders and public safety interests regardless of when the predicate sex offense convictions occurred). Hence, the Attorney General was and is justified in concluding that the balance comes out the same for the two classes and, accordingly, in exercising his authority to "specify the applicability of the requirements of [SORNA] to sex offenders convicted before the enactment" of SORNA, 42 U.S.C. 16913(d), to provide that SORNA applies to sex offenders with pre-SORNA convictions. 28 CFR 72.3.

Some commenters argued that the application of SORNA to sex offenders with pre-SORNA convictions would violate the Constitution's prohibition of ex post facto laws or other provisions of the Constitution. However, the SORNA requirements are non-punitive regulatory measures adopted for public safety purposes, and accordingly do not implicate the Constitution's prohibition of ex post facto laws. *See* 42 U.S.C. 16901; 72 FR at 8896; 73 FR at 38036, 38044–46. The comments received identified no persuasive distinction for ex post facto purposes between the SORNA requirements and the sex offender registration and notification measures upheld by the Supreme Court against ex post facto challenge in *Smith v. Doe*, 538 U.S. 84 (2003), and also did

not identify any persuasive reason to believe that either SORNA's requirements or their application to sex offenders with pre-SORNA convictions violates any other provision of the Constitution. This was so regardless of whether the general class of sex offenders or the limited class of juvenile delinquents qualifying as covered sex offenders under SORNA is considered.

Some commenters argued that applying SORNA's requirements to sex offenders with pre-SORNA convictions (or with pre-SORNA juvenile adjudications counting as "convictions" for SORNA purposes) would be unfair because the applicability of those requirements could not have been anticipated at the time of the offender's conviction for the predicate sex offense. However, fairness does not require that, when an offender's case is adjudicated, it must be possible to anticipate future regulatory measures that may be adopted in relation to persons like him to protect public safety. See 73 FR at 38036. The government may not yet have developed effective regulatory measures to address the public safety concerns presented by certain types of offenders at the time of their offenses or convictions. That does not constitute a commitment to those offenders by the government that it will not develop such measures and apply them to the offenders at a later time, *cf., e.g., Smith v. Doe*, 538 U.S. at 89–91 (registration requirements applied to sex offenders with convictions predating enactment of the registration law), and does not constitute a commitment to those offenders by the government that it will refrain from later strengthening or improving existing regulatory measures in light of lessons learned from experience. Moreover, on the other side of the balance, fairness is also due to persons who may be victimized by sex offenses that could be prevented by applying SORNA's requirements to sex offenders with pre-SORNA convictions. See 73 FR at 38044–45 (discussing role of registration and notification measures in solving and preventing sex offenses). If such crimes occur, the harm to the victims is no less because the offender's previous sex offense conviction or convictions occurred before SORNA's enactment rather than after.

The conclusion does not differ when the treatment of juvenile delinquent sex offenders under SORNA is considered specifically. Both for sex offenders with adult convictions and for those adjudicated delinquent, the effects of registration requirements on the offenders and the public safety concerns the offenders present are similar regardless of whether their case

dispositions occurred before or after the enactment of SORNA. Hence, as with adult sex offenders, the Attorney General was and is justified in concluding that the balance of interests does not differ materially depending on the timing of the adjudication in relation to SORNA's enactment and that SORNA's requirements should apply to juvenile delinquent sex offenders with pre-SORNA adjudications as well as to those with post-SORNA adjudications.

In relation to juvenile delinquent sex offenders, the operation of registration systems may entail a relaxation of confidentiality requirements that might otherwise apply in juvenile proceedings, but that is the case whether the delinquency adjudications occur before or after SORNA's enactment. The confidentiality of juvenile proceedings is generally a matter of legislative discretion. With respect to juveniles at least 14 years old adjudicated delinquent for particularly serious sex offenses, Congress has made a policy judgment that the public safety interests warrant a departure from strict juvenile confidentiality policies. See 42 U.S.C. 16911(8); H.R. Rep. No. 218, 109th Cong., 1st Sess. Pt. 1, at 25 (2005) ("While the Committee recognizes that States typically protect the identity of a juvenile who commits criminal acts, in the case of sexual offenses, the balance needs to change; no longer should the rights of the juvenile offender outweigh the rights of the community and victims to be free from additional sexual crimes.").

Thus, as reflected in the interim rule and this finalizing rulemaking, it is the Attorney General's view that applying SORNA's requirements to sex offenders with pre-SORNA convictions, including sex offenders required to register on the basis of juvenile delinquency adjudications, appropriately effectuates Congress's purposes in enacting SORNA. See 72 FR at 8895–97; 73 FR at 38031–32, 38035–36, 38038, 38040.

#### *SORNA's Effects on Jurisdictions*

The scope of SORNA's application to sex offenders has implications for jurisdictions because the states and other covered jurisdictions are generally expected to incorporate offenders to whom SORNA applies into their sex offender registration programs. See 42 U.S.C. 16911(9), 16912(a), 16924–25; 72 FR at 8895; 73 FR at 38048. In light of this consequence, some of the public comments on the interim rule objected that jurisdictions would have difficulty in identifying, locating, notifying, and registering sex offenders required to register under SORNA who were convicted many years ago and who have

since merged into the general population. These concerns about potential burdens on jurisdictions, however, were considered in the development of the SORNA Guidelines and are addressed through various features of the Guidelines.

The Guidelines recognize that it may not be feasible for a jurisdiction to identify and register all sex offenders with pre-SORNA convictions who are required to register under the SORNA standards. The Guidelines accordingly provide that jurisdictions will be considered to have substantially implemented the SORNA requirements if they register such offenders who remain in the justice system as prisoners, supervisees, or registrants, and such offenders who have passed out of the system but later re-enter it because of a subsequent criminal conviction. See 73 FR at 38046, 38063–64.

As the Guidelines note, sex offenders in these classes are within the cognizance of the jurisdiction in any event and the jurisdiction will often have independent reasons to review their criminal histories for penal, correctional, or registration/notification purposes. See 73 FR at 38046. In addition, the Guidelines provide that, in attempting to identify individuals who may be required to register under SORNA, jurisdictions may rely on their normal methods and standards in searching criminal histories, and need not undertake extraordinary efforts to identify individuals with old sex offense convictions that may be difficult to find. The Guidelines also provide guidance to jurisdictions about notifying such sex offenders concerning their registration obligations under SORNA and incorporating such offenders into their registration systems. See 73 FR at 38043, 38063–64.

In sum, the comments received provide no persuasive reason to change the rule.

However, this final rule makes one clarifying change in the interim rule in light of the Supreme Court's decision in *Carr v. United States*, 560 U.S. \_\_\_, 2010 WL 2160783 (2010). *Carr* held that sex offenders cannot be criminally liable under 18 U.S.C. 2250 for failing to register as required by SORNA where federal jurisdiction is premised on interstate travel by the offender occurring before the enactment of SORNA. Example 2 in 28 CFR 72.3, which is part of the regulations added by the interim rule, describes a situation involving potential liability under 18 U.S.C. 2250 for a sex offender with a pre-SORNA sex offense conviction based on interstate travel. While the

example is not specific about the timing of the interstate travel in relation to the enactment of SORNA, it could be understood as referring to a situation in which the travel occurred before the enactment of SORNA. Accordingly, this final rule makes minor changes in the language of Example 2 so as to avoid any arguable inconsistency with the Supreme Court's holding in *Carr* regarding the scope of criminal liability under 18 U.S.C. 2250.

#### 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. By way of explanation, this rule finalizes an interim rule concerning the applicability of SORNA's registration requirements to sex offenders, including those whose sex offense convictions occurred before SORNA's enactment. The rule facilitates federal prosecution of sex offenders in the affected classes who fail to register as required, see 18 U.S.C. 2250, but it does not directly require expenditures by state, local, or tribal governments. The interim rule was issued prior to the publication by the Attorney General of the SORNA Guidelines, appearing at 73 FR 38029 et seq., which determine what state, local, and tribal jurisdictions must do to achieve substantial implementation of the SORNA standards in their registration programs. The SORNA Guidelines include instructions to jurisdictions concerning the classes of sex offenders with pre-existing convictions whom the jurisdictions must register, and the costs of doing so will not be affected or increased by the finalization of the interim rule. Based on the known costs in jurisdictions that have implemented SORNA to date, it is not anticipated that the cost of implementing this aspect of the SORNA standards will exceed \$100 million annually.

#### Executive Order 13175—Consultation and Coordination with Indian Tribal Governments

This rule comports with Executive Order 13175. The Department of Justice has carried out previous tribal consultations regarding actions under SORNA affecting Indian tribes. The Department engaged in a voluntary consultation on this rule with tribal officials in Spokane, Washington, on October 4, 2010.

#### 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.

■ Accordingly, for the reasons stated in the interim rule adding 28 CFR part 72, which was published at 72 FR 8894 on February 28, 2007, and for the reasons stated in the supplementary information to this rule, the interim rule is adopted as a final rule with one change as follows:

#### PART 72—SEX OFFENDER REGISTRATION AND NOTIFICATION

■ 1. The authority citation continues to read as follows:

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

■ 2. In § 72.3, Example 2 is revised to read as follows:

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

\* \* \* \* \*

*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 relocates to another state in 2009 and fails to register in the new state of residence. The sex offender has violated the requirement under the Sex Offender Registration and Notification Act 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.

Dated: December 21, 2010.

**Eric H. Holder, Jr.,**

*Attorney General.*

[FR Doc. 2010–32719 Filed 12–28–10; 8:45 am]

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#### DEPARTMENT OF JUSTICE

#### Bureau of Prisons

#### 28 CFR Part 541

[Docket No. BOP–1118–F]

RIN 1120–AB18

#### Inmate Discipline Program/Special Housing Units: Subpart Revision and Clarification

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Final rule; correction.

**SUMMARY:** The Bureau of Prisons (Bureau) is correcting a final rule that appeared in the **Federal Register** of December 8, 2010 (75 FR 76263). The document issued a final rule amending