



(Docket No. 08-AWA-1)

NOT FOR NAVIGATION

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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

from the requirements of notice and comment and a delayed effective date, 5 U.S.C. 553(b), (d), and is made effective upon issuance; (2) the Department certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities and further that no Regulatory Flexibility Analysis was required to be prepared for this final rule since the Department was not required to publish a general notice of proposed rulemaking; and (3) this action is not a "regulation" or "rule" as defined by Executive Order 12866, "Regulatory Planning and Review," § 3(d) and, therefore, this action has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, "Federalism," it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in Executive Order 12988, "Civil Justice Reform." This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 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.

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Whistleblowing.

■ Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

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.

* * * * *

(v) Upon request, certification under 18 U.S.C. 249, relating to hate crimes, in cases involving extraterritorial crimes that also involve charges filed pursuant to the Military Extraterritorial Jurisdiction Act (18 U.S.C. 3261 *et seq.*), or pursuant to chapters of the Criminal Code prohibiting genocide (18 U.S.C. 1091), torture (18 U.S.C. 2340A), war crimes (18 U.S.C. 2441), or recruitment or use of child soldiers (18 U.S.C. 2442).

Dated: November 8, 2010.

Eric H. Holder, Jr.,

Attorney General.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 239

[DOD–2009–OS–0090; RIN 0790–AI58]

Homeowners Assistance Program—Application Processing

AGENCY: Under Secretary of Defense for Acquisition, Technology, and Logistics, Office of the Deputy Under Secretary of Defense (Installations and Environment), DoD.

ACTION: Final rule.

SUMMARY: This part continues to authorize the Homeowners Assistance Program (HAP) to financially compensate eligible military and civilian Federal employee homeowners when the real estate market is adversely affected directly related to the closure or reduction-in-scope of operations due to Base Realignment and Closure (BRAC).

The American Recovery and Reinvestment Act of 2009 (ARRA) expanded the HAP to provide assistance to: Wounded members of the Armed Forces (30 percent or greater disability), surviving spouses of fallen warriors, and wounded Department of Defense (DoD) civilian homeowners reassigned in furtherance of medical treatment or rehabilitation or due to medical retirement in connection with their disability; Base Realignment and Closure (BRAC) 2005 impacted homeowners relocating during the mortgage crisis; and Service member homeowners undergoing Permanent Change of Station (PCS) moves during the mortgage crisis.

DATES: *Effective Date:* January 18, 2011.

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(I&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 fair market value for Base Realignment and Closure (BRAC) 2005 and Permanent Change of Station (PCS)