FOR FURTHER INFORMATION CONTACT: Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov;* or fax: (202) 305–2589. You may also view information about the NAC on the Office on Violence Against Women Web site at: *http://www.ovw.usdoj.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. The National Advisory Committee on Violence Against Women (NAC) was re-chartered on March 3, 2010 by the Attorney General. The purpose of this Federal advisory committee is to provide advice and recommendations to the Department of Justice and the Department of Health and Human Services on how to improve the Nation's response to violence against women, with a specific focus on successful interventions with children and teens who witness and/or are victimized by domestic violence, dating violence, and sexual assault. The NAC will bring together experts, advocates, researchers, and criminal justice professionals for the exchange of innovative ideas and the development of practical solutions to help the Federal government address and prevent these serious problems. This Federal advisory committee will develop recommendations for successful interventions with children and teens who witness and/or are victimized by domestic violence, dating violence, and sexual assault. The NAC members will also examine the relationship between children and teens who are witnesses to or victims of such violence and the overall public safety of communities across the country.

This is the first meeting of the NAC and will include an introduction of Federal advisory committee members, presentations by Department of Justice staff on Federal efforts to address these problems, and a discussion of the goals for the NAC. The Director of the Office on Violence Against Women, the Honorable Susan B. Carbon, serves as the Designated Federal Official of the NAC.

The NAC is also welcoming public oral comment at this meeting and has reserved an estimated 30 minutes for this purpose. Time will be reserved for public comment on January 28, 2011 from 12:05 p.m. to 12:20 p.m. and from 4:30 p.m. to 4:45 p.m. See the section below for information on reserving time for public comment.

Access: This meeting will be open to the pubic but registration on a space available basis and for security reasons is required. All members of the public who wish to attend must register at least six (6) days in advance of the meeting by contacting Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov;* or fax: (202) 305–2589. All attendees will be required to sign in at the Department of Justice security entrance and at the meeting registration desk. Please bring photo identification and allow extra time prior to the start of the meeting.

The meeting site is accessible to individuals with disabilities. Individuals who require special accommodation in order to attend the meeting should notify Catherine Poston no later than January 21, 2011.

Written Comments: Interested parties are invited to submit written comments by January 21, 2011 to Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov;* or fax: (202) 305–2589.

Public Comment: Persons interested in participating during the public comment periods of the meeting are requested to reserve time on the agenda by contacting Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov*; or fax: (202) 305–2589. Requests must include the participant's name, organization represented, if appropriate, and a brief description of the subject of the comments. Each participant will be permitted approximately 3 to 5 minutes to present comments, depending on the number of individuals reserving time on the agenda. Participants are also encouraged to submit written copies of their comments. Comments that are submitted to Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov*; or fax: (202) 305–2589 will be circulated to NAC members prior to the meeting. Given the expected number of individuals interested in presenting comments at the meeting, reservations should be made as soon as possible. Persons unable to obtain reservations to speak during the meeting are encouraged to submit written comments, which will be accepted at the meeting location or may be mailed to the NAC, to the attention of Catherine Poston, Attorney Advisor, Office on Violence Against Women, United States Department of Justice, 145 N Street, NE., Suite 10W 121, Washington, DC 20530; by telephone at: (202) 514–5430; e-mail: *Catherine.poston@usdoj.gov;* or fax: (202) 305–2589.

Dated: January 5, 2010.

Susan B. Carbon,

Director, Office on Violence Against Women.

[FR Doc. 2011–365 Filed 1–10–11; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of the Attorney General

[Docket No. OAG 134; AG Order No. 3241–2011]

RIN 1105–AB36

Supplemental Guidelines for Sex Offender Registration and Notification

AGENCY: Department of Justice.

ACTION: Final guidelines.

SUMMARY: The Sex Offender Registration and Notification Act (SORNA), establishes minimum national standards for sex offender registration and notification. The Attorney General issued the *National Guidelines for Sex Offender Registration and Notification* ("SORNA Guidelines" or "Guidelines") on July 2, 2008, to provide guidance and assistance to jurisdictions in implementing the SORNA standards in their sex offender registration and notification programs. These supplemental guidelines augment or modify certain features of the SORNA Guidelines in order to make a change required by the KIDS Act and to address other issues arising in jurisdictions' implementation of the SORNA requirements. The matters addressed include certain aspects of public Web site posting of sex offender information, interjurisdictional tracking and information sharing regarding sex offenders, the review process concerning jurisdictions' SORNA implementation, the classes of sex offenders to be registered by jurisdictions retroactively, and the treatment of Indian tribes newly recognized by the Federal government subsequent to the enactment of SORNA.

DATES: *Effective Date:* January 11, 2011.

FOR FURTHER INFORMATION CONTACT: Linda M. Baldwin, Director, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking; Office of Justice Programs, United States Department of Justice, Washington, DC, 202 305–2463.

SUPPLEMENTARY INFORMATION:

Overview

The Sex Offender Registration and Notification Act, which is title I of the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109–248, was enacted on July 27, 2006. SORNA (42 U.S.C. 16901 *et seq.*) establishes minimum national standards for sex offender registration and notification in the jurisdictions to which it applies. "Jurisdictions" in the relevant sense are the 50 states, the District of Columbia, the five principal U.S. territories, and Indian tribes that satisfy certain criteria. 42 U.S.C. 16911(10). SORNA directs the Attorney General to issue guidelines and regulations to interpret and implement SORNA. *See id.* 16912(b).

To this end, the Attorney General issued the *National Guidelines for Sex Offender Registration and Notification,* 73 FR 38030, on July 2, 2008. The SORNA standards are administered by the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking ("SMART Office"), which assists all jurisdictions in their SORNA implementation efforts and determines whether jurisdictions have successfully completed these efforts. *See* 42 U.S.C. 16945; 73 FR at 38044, 38047–48.

Since the publication of the SORNA Guidelines, issues have arisen in SORNA implementation that require that some aspects of the Guidelines be augmented or modified. Consequently, the Department of Justice proposed and solicited public comment on supplemental guidelines addressing these issues, which were published in the **Federal Register** on May 14, 2010, at 75 FR 27362. The public comment period closed on July 13, 2010.

Following consideration of the public comments received, the Department of Justice is now finalizing the supplemental guidelines, which do the following:

(1) Allow jurisdictions, in their discretion, to exempt information concerning sex offenders required to register on the basis of juvenile delinquency adjudications from public Web site posting.

(2) Require jurisdictions to exempt sex offenders' e-mail addresses and other Internet identifiers from public Web site posting, pursuant to the KIDS Act, 42 U.S.C. 16915a.

(3) Require jurisdictions to have sex offenders report international travel 21 days in advance of such travel and to submit information concerning such travel to the appropriate Federal agencies and databases.

(4) Clarify the means to be utilized to ensure consistent interjurisdictional information sharing and tracking of sex offenders.

(5) Expand required registration information to include the forms signed by sex offenders acknowledging that they were advised of their registration obligations.

(6) Provide additional information concerning the review process for determining that jurisdictions have substantially implemented the SORNA requirements in their programs and continue to comply with these requirements.

(7) Afford jurisdictions greater latitude regarding the registration of sex offenders who have fully exited the justice system but later reenter through a new (non-sex-offense) criminal conviction by providing that jurisdictions may limit such registration to cases in which the new conviction is for a felony.

(8) Provide, for Indian tribes that are newly recognized by the Federal government following the enactment of SORNA, authorization and time frames for such tribes to elect whether to become SORNA registration jurisdictions and to implement SORNA.

Summary of Comments on the Proposed Supplemental Guidelines

About 280 separate comments were received from a wide variety of agencies, organizations, and individuals. Many of the comments were favorable to the supplemental guidelines, either generally or with respect to particular measures therein. The grounds of support included the value of the changes in the supplemental guidelines in facilitating jurisdictions' implementation of SORNA or enhancing the efficacy of sex offender registration and notification.

Some commenters criticized the supplemental guidelines as potentially resulting in greater disparity among jurisdictions in sex offender registration or notification standards by increasing jurisdictions' discretion in certain areas. SORNA, however, does not aim at complete uniformity among jurisdictions, but rather establishes a national baseline of sex offender registration and notification standards and generally leaves jurisdictions free to adopt different approaches and provisions beyond the required minimum. *See* 73 FR at 38032–35. The provisions in the supplemental guidelines that broaden jurisdictions' discretion affect limited areas, specifically, whether jurisdictions will publicly disclose information concerning sex offenders required to register on the basis of juvenile delinquency adjudications, and whether jurisdictions will require registration by sex offenders who have left the justice system but later reenter the system through subsequent non-felony, non-sex-offense convictions. By relaxing a couple of requirements that have been impediments to SORNA implementation in some jurisdictions, these changes further the nationwide implementation of the remainder of the SORNA requirements and hence are likely to promote greater overall uniformity among jurisdictions in sex offender registration and notification standards. Considering the foregoing, the public comments that criticized certain features of the supplemental guidelines as resulting in an undesirable loss of uniformity do not persuasively establish that there will be such an effect that outweighs the benefits of these changes.

Some commenters criticized changes made in these supplemental guidelines as an inappropriate or impermissible exercise of legislative power by the Attorney General, and urged that such changes could properly be made only by Congress. However, SORNA expressly affords the Attorney General authority to expand the range of required registration information and to create exceptions to the required disclosure of registration information. *See* 42 U.S.C. 16914(a)(7), (b)(8), 16918(b)(4), (c)(4), 16921(b). SORNA further charges the Attorney General with responsibility for issuing guidelines and regulations to interpret and implement SORNA and for determining whether jurisdictions have substantially implemented SORNA in their programs. *See* 42 U.S.C. 16912(b), 16925. These authorities adequately support the measures adopted in these supplemental guidelines.

Some of the comments received concerned matters outside the scope of these supplemental guidelines. Those comments, and the Department's responses thereto, include the following: (i) Some comments generally criticized SORNA, state sex offender registration and notification laws, or state laws imposing measures that SORNA does not require, such as residency restrictions on sex offenders, and explicitly or implicitly urged that such laws should be repealed or amended. The Attorney General has no authority to repeal or amend Federal or

State laws by issuing guidelines. (ii) Some comments criticized measures in the preexisting SORNA Guidelines that the proposed supplemental guidelines did not attempt to address. The final supplemental guidelines have not been changed on the basis of such comments because they did not concern matters within the scope of these supplemental guidelines. Moreover, these comments did not provide persuasive reasons for changing other requirements under SORNA or its implementing guidelines. (iii) Some comments raised questions regarding SORNA implementation by jurisdictions that did not specifically concern the measures adopted in these supplemental guidelines. Questions of this type should be addressed directly to the SMART Office. The SMART Office is available at all times to answer jurisdictions' questions regarding SORNA implementation and to assist them in such implementation.

Some commenters, on varying grounds, were critical of particular changes made by these supplemental guidelines or urged that the changes do not go far enough in qualifying or supplementing SORNA's requirements. The main substantive comments and criticisms are most conveniently discussed on a topic-by-topic basis:

Juvenile Delinquents

Many favorable comments were received concerning Part I.A of these supplemental guidelines, which provides that it is within jurisdictions' discretion whether they will publicly disclose information concerning juvenile delinquent sex offenders. Some commenters, however, urged that the Attorney General should go further in limiting public disclosure of such information, or that the Attorney General should also restrict or eliminate SORNA's registration requirements for juvenile delinquent sex offenders. The grounds urged for further changes included that, absent such changes, juvenile delinquent sex offenders would be improperly equated to adult sex offenders, stigmatized, unjustifiably subjected to lifetime registration, and not effectively rehabilitated in conformity with the objectives of juvenile justice systems.

In assessing these comments, it must be understood that, following the issuance of these supplemental guidelines, there is no remaining requirement under SORNA that jurisdictions publicly disclose information about sex offenders whose predicate sex offense "convictions" are juvenile delinquency adjudications. There are two provisions in SORNA that require public disclosure of certain information concerning sex offenders. One of these provisions is 42 U.S.C. 16918, which generally requires that jurisdictions make sex offender information available on publicly accessible Internet sites. The other is 42 U.S.C. 16921(b), which requires targeted disclosures of sex offender information, some aspects of which could be characterized as involving public disclosure. Specifically, the required disclosures under the latter provision include disclosure to certain school, public housing, social service, and volunteer entities, and to other organizations, companies, or individuals who request notification. As a practical matter, the public disclosures required under § 16921(b) may effectively merge with the Internet disclosure required under § 16918(b), because the SORNA Guidelines explain that jurisdictions may satisfy the public disclosure aspects of § 16921(b) by including functions on their public sex offender Web sites that enable members of the public to request automatic notification when sex offenders commence residence, employment, or school attendance in specified areas. *See* 73 FR at 38061.

Under both public disclosure provisions in SORNA, the Attorney General has express statutory authority to limit the required disclosure of information. See 42 U.S.C. 16918(c)(4) ("[a] jurisdiction may exempt from disclosure * * * any other information exempted from disclosure by the Attorney General"); id. § 16921(b) (registry information to be provided to specified entities "other than information exempted from disclosure by the Attorney General"). Moreover, under both of these provisions, the Attorney General has exercised his authority in these supplemental guidelines to provide that jurisdictions need not publicly disclose information concerning persons required to register on the basis of juvenile delinquency adjudications.

Given this change, the effect of the remaining registration requirements under SORNA for certain juvenile delinquent sex offenders is, in essence, to enable registration authorities to track such offenders following their release and to make information about them available to law enforcement agencies. *See* 73 FR at 38060; Part I.A of these supplemental guidelines. There is no remaining requirement under SORNA that jurisdictions engage in any form of public disclosure or notification regarding juvenile delinquent sex offenders. Jurisdictions are free to do so, but need not do so to any greater extent than they may wish.

The comments that proposed some further restriction or elimination of SORNA's registration requirements in relation to juveniles often appeared to reflect misunderstanding of the foregoing points or other misunderstandings regarding SORNA's provisions relating to juveniles. One possible misunderstanding concerns the Attorney General's legal authorities under SORNA. As noted above, the Attorney General has express statutory authority to create exceptions to the required public disclosure of registration information under SORNA. In contrast, SORNA affords the Attorney General no open-ended authority to restrict or eliminate registration (as opposed to information disclosure) requirements under SORNA. Hence, these comments misconceived the legal situation to the extent they assumed the Attorney General could simply eliminate registration requirements under SORNA in relation to juveniles or other classes of offenders, parallel to his authority to create exceptions to SORNA's information disclosure requirements.

Regarding other apparent misunderstandings that appeared in the comments, the following points may help to provide a clear picture of SORNA's registration requirements and their effects on juveniles:

First, SORNA's treatment of juvenile sex offenders is very different from its treatment of adult sex offenders. Registration is required on the basis of a juvenile delinquency adjudication only if the juvenile is at least 14 years old at the time of the offense and the adjudication is for an offense comparable to or more severe than aggravated sexual abuse as defined in Federal law or an attempt or conspiracy to commit such a crime. See 42 U.S.C. 16911(8). The SORNA Guidelines explain that it suffices for substantial implementation of SORNA if jurisdictions register individuals in this class who have been adjudicated delinquent for the most serious types of sexually assaultive crimes, which generally limits the required coverage to juveniles adjudicated delinquent for committing nonconsensual sex offenses involving penetration or related attempts or conspiracies. *See* 73 FR at 38030, 38040–41, 38050. There is no requirement that jurisdictions register juveniles adjudicated delinquent for lesser sexual assaults or for nonviolent sexual conduct whose criminality depends on the age of the victim. *See id.* Moreover, SORNA does not require lifetime registration without qualification even for juveniles adjudicated delinquent for the most

serious sexually assaultive crimes, but allows registration to be terminated after 25 years for those maintaining a clean record. *See* 42 U.S.C. 16915(b)(2)(B), (3)(B); 73 FR at 38068–69.

Second, SORNA does not bar taking account of differences between juveniles and adults in the manner in which registration is carried out. For example, SORNA requires in-person appearances to report certain important changes in registration information and for periodic verification, *see* 42 U.S.C. 16913(c), 16916, but this does not mean that juveniles must be required to appear at locations that will result in their being exposed to adult sex offenders or in public exposure of their status as sex offenders. Rather, jurisdictions have discretion as to how meetings between sex offenders and persons responsible for their registration will be carried out and may adopt different approaches for different classes of registrants. *See* 73 FR at 38065, 38067.

Third, following the adoption of these supplemental guidelines, there is no requirement that jurisdictions engage in any form of public disclosure or notification for juvenile delinquents subject to SORNA's requirements. Rather, as discussed above, the effect of the remaining registration requirements under SORNA is essentially to enable registration authorities to track such delinquents following their release and to make information about them available to law enforcement.

Internet Identifiers

Part I.B of these supplemental guidelines creates a mandatory exemption of sex offenders' e-mail addresses and other Internet identifiers from public Web site posting, a measure required by 42 U.S.C. 16915a(c). Some commenters urged that there should be further restriction of the disclosure of such information. Specifically, some argued that jurisdictions should also be restrained from disclosing sex offenders' Internet identifiers by means other than public Web site posting, and that entities other than registration jurisdictions should be prohibited or prevented from disclosing such information.

As noted, the measure concerning Internet identifiers included in these supplemental guidelines is required by 42 U.S.C. 16915a(c), which directs the Attorney General to utilize the authority provided in 42 U.S.C. 16918(b)(4) to exempt Internet identifier information from disclosure. Section 16918 is the statute that directs registration jurisdictions to establish Internet sites that disclose information on registered sex offenders to the public, and subsection (b)(4) in that section authorizes the Attorney General to create mandatory exemptions of information from such disclosure. There is no corresponding authorization in SORNA to prohibit jurisdictions from disseminating registration information by means other than public Web site posting, or to prohibit entities other than registration jurisdictions from disclosing information about sex offenders.

Looking beyond the question of legal authority, the comments received did not provide persuasive reasons for adopting new Federal restrictions on the disclosure of information about sex offenders' Internet identifiers, supplementary to the limitation required by 42 U.S.C. 16915a(c) and other existing legal restrictions. As a practical matter, there are legitimate reasons for disclosure of such information by means other than public Web site posting and by entities other than registration jurisdictions, such as disclosure by jurisdictions or private individuals or entities of information about sex offenders' Internet identifiers to law enforcement agencies investigating sex crimes involving solicitation of the victims through the Internet.

Some of the comments received included complaints or criticisms relating to 42 U.S.C. 16915b, which directs the Attorney General to establish a system enabling social networking Web sites to compare the Internet identifiers of their users to information in the National Sex Offender Registry. Section 16915b was separately enacted by the KIDS Act, Public Law 110–400. It is not part of SORNA. Any measures that may be needed in the implementation of § 16915b would not belong in these supplemental guidelines, which are concerned with the implementation of SORNA.

International Travel

Part II.A of these supplemental guidelines exercises "[t]he authority under 42 U.S.C. 16914(a)(7) to expand the range of required registration information * * * to provide that registrants must be required to inform their residence jurisdictions of intended travel outside of the United States at least 21 days in advance of such travel."

Some commenters objected to this requirement on the ground that it would prevent sex offenders from engaging in legitimate international travel, because it may be necessary for sex offenders to travel abroad for business, familial, or other reasons without being able to anticipate the need three weeks in advance. However, these supplemental guidelines recognize that there may be circumstances in which requiring 21 days advance notice would be unnecessary or inappropriate, and expressly allow jurisdictions to adopt policies accommodating such situations subject to approval by the SMART Office.

Some commenters claimed that there is no authority for the Attorney General to adopt notice requirements concerning sex offenders leaving the United States, or concerning domestic travel by sex offenders, because 42 U.S.C. 16928 only directs the Attorney General to establish a system for informing relevant jurisdictions about persons entering the United States who are required to register under SORNA. These commenters apparently did not understand the legal basis for the Attorney General's adoption of additional requirements relating to reporting of travel or intended travel by sex offenders. Such requirements are adequately supported by 42 U.S.C. 16914(a)(7), which provides general authority for the Attorney General to expand the information sex offenders are required to provide for inclusion in sex offender registries. The reporting requirement relating to intended international travel adopted in these supplemental guidelines is expressly premised on § 16914(a)(7), as are pre-existing reporting requirements adopted in the SORNA Guidelines relating to international and domestic travel that go beyond those expressly stated in SORNA itself, see 73 FR at 38056.

Some comments expressed concern or frustration that jurisdictions have been presented with a moving target in their SORNA implementation efforts, a concern apparently felt with particular force in relation to the new reporting requirement regarding international travel. Relatively little time remains until the end of the compliance periods allowed under 42 U.S.C. 16924, which can create a difficult situation for jurisdictions attempting to carry out new requirements.

These comments are well taken. Congress in SORNA has authorized the Attorney General to augment or modify SORNA's express requirements in certain areas, including authority to expand the range of required registration information and authority to create discretionary or mandatory exceptions to disclosure of such information. See 42 U.S.C. 16914(a)(7), (b)(8), 16918(b)(4), (c)(4), 16921(b). These authorities could be exercised by the Attorney General at any time during the periods afforded for SORNA implementation under 42 U.S.C. 16924 or thereafter. Given the inclusion in

SORNA of these express authorities to augment or modify certain SORNA requirements, SORNA is reasonably read so as not to require that jurisdictions be regarded as falling short of substantial implementation based on new requirements without time afforded to correct the deficiency. Accordingly, the SMART Office will take account of the novelty of requirements and the time that has been available to carry them out in determining whether jurisdictions have substantially implemented SORNA, and will afford jurisdictions a reasonable amount of time to implement new requirements, which may extend beyond the implementation deadlines otherwise applicable under SORNA. *Cf. Chicago & Alton R.R. Co.* v. *Tranbarger,* 238 U.S. 67, 73–74 (1915) (statute may be construed to allow a reasonable amount of time to take an action where the normal statutory time limit for taking such actions cannot sensibly be applied).

The comments received included a concern that the new requirement relating to international travel reporting will unduly burden jurisdictions. This concern appears to reflect an exaggerated impression of the nature of the requirement and its impact on jurisdictions. Under pre-existing requirements of SORNA and the SORNA Guidelines, jurisdictions are required to obtain a range of information from sex offenders and to make that information available to other registration jurisdictions and appropriate Federal agencies, including information regarding domestic and international travel by sex offenders. *See* 42 U.S.C. 16913(c), 16919(b), 16921; 73 FR at 38055–56, 38065–67. The requirement under these supplemental guidelines to obtain information concerning international travel by sex offenders more consistently does not differ fundamentally in character from these pre-existing requirements and the mechanisms utilized in carrying out the pre-existing requirements can be extended and adapted to encompass this additional information. To the extent the concern about a resulting burden on jurisdictions reflects the novelty of this requirement and the apprehension that inadequate time will be afforded to implement it, the information in the preceding paragraph about how implementation of new requirements will be treated is responsive to the concern.

While the comments received did not provide persuasive reasons to abrogate or restrict the international travel reporting requirements as set forth in Part II.A of the proposed supplemental guidelines, in one respect the provisions regarding this requirement are modified in the final supplemental guidelines. The proposed supplemental guidelines noted that, as the international tracking system continues to develop, the SMART Office may issue additional directions to jurisdictions to notify certain agencies concerning international travel by sex offenders. Additional direction may also be needed concerning the specific information sex offenders should be required to provide in notifying their residence jurisdictions about intended international travel. This is so because obtaining the bare information that a registrant will be going somewhere outside of the United States at some time three weeks or more in the future may not be sufficient to achieve the objectives of the international tracking system—objectives that include reliably tracking sex offenders as they leave and return to the United States, and notifying as appropriate U.S. or foreign authorities in foreign countries to which sex offenders travel. *See* 73 FR at 38066–67. More specific information may be needed to realize these objectives, such as information concerning expected itinerary, departure and return dates, and means and purpose of travel.

The final supplemental guidelines accordingly state that the SMART Office may issue additional directions concerning the information to be required in international travel notifications by sex offenders. To the extent that the SMART Office's exercise of the authority to flesh out the international tracking system results in new, more specific requirements relating to international travel reporting, the novelty of these requirements will be taken into account, as with other new requirements under SORNA as discussed above. The amount of time that has been available to carry out such requirements will be considered by the SMART Office in assessing substantial implementation and jurisdictions will be afforded a reasonable amount of time to carry them out.

Domestic Interjurisdictional Tracking

Part II.B of the supplemental guidelines, relating to use of the SORNA Exchange Portal in domestic interjurisdictional sex offender tracking, was commented on favorably as improving and facilitating such tracking. There were also some general questions in the comments relating to use of the SORNA Exchange Portal and interjurisdictional notifications. As noted above, the SMART Office is available at all times to answer questions from jurisdictions regarding SORNA implementation and such questions should be addressed directly to the SMART Office.

The second paragraph in Part II.B explains that regular use of the SORNA Exchange Portal is essential to effective interjurisdictional information sharing and sex offender tracking. In relation to these objectives, the wording of the final sentence in this paragraph in the proposed supplemental guidelines was unduly narrow, referring to use of the Portal to access messages from other jurisdictions but not to use of the Portal for other information sharing purposes required under SORNA. The sentence accordingly has been modified in the final supplemental guidelines to reference more generally use of the Portal in information sharing in conformity with guidance issued by the SMART Office.

Acknowledgment Forms

Part II.C of these supplemental guidelines expands the range of required registration information to include the acknowledgment forms used to inform sex offenders of their registration obligations. Favorable comment was received on this change as facilitating the prosecution of sex offenders who violate those obligations.

Other commenters were critical of this change on the ground that acknowledgment forms should be utilized to inform sex offenders of their registration obligations, rather than to prosecute them if they violate those obligations. However, there is no inconsistency in using the acknowledgment forms for both purposes. The forms both advise sex offenders of the registration requirements to which they are subject and can help to show that they were aware of those requirements in prosecutions for violations.

Some commenters complained that the acknowledgment forms do not provide sufficient information, for example, because they only advise sex offenders of their registration obligations under state law and do not advise them of their registration obligations under SORNA. However, the SORNA standards require that sex offenders be informed of their duties under SORNA and that sex offenders be required to sign a form stating that the duty to register has been explained and understood. See 42 U.S.C. 16917(a); 73 FR at 38063. In jurisdictions that have implemented SORNA in their registration programs, the jurisdictions' registration laws and policies will encompass the SORNA requirements and sex offenders will be informed

concerning these requirements. In any event, regardless of what limitations there may be in the information currently provided in particular jurisdictions' acknowledgment forms, that does not weigh against requiring the inclusion of these forms in sex offenders' registration information. The forms do provide sex offenders with information concerning their registration obligations and may be useful in the prosecution of violations of those obligations by helping to establish that sex offenders were aware of the requirement to register.

Ongoing Implementation Assurance

Some comments objected to the requirements of Part III of the supplemental guidelines, relating to "ongoing implementation assurance," on the ground that they would unduly burden jurisdictions and would inappropriately require the state administering agencies for the Byrne Justice Assistance Grant program to certify the state's SORNA implementation status, though these agencies are not generally responsible for sex offender registration matters. These comments reflect misunderstandings of this part of the supplemental guidelines. The supplemental guidelines state that Byrne grantees will need to establish that their systems continue to meet the SORNA standards in connection with the annual grant application process because such continuing compliance is a condition of full Byrne Grant eligibility in each program year. *See* 42 U.S.C. 16925. This does not mean that the state agencies responsible for Byrne Grant matters must verify the status of SORNA implementation. Rather, states (and other jurisdictions that apply for Byrne Grants) may obtain information concerning ongoing implementation from their agencies that generally deal with the SMART Office on SORNA implementation matters and include the information with their Byrne Grant applications.

The requirement appearing in Part III of the supplemental guidelines is not new in principle. SORNA was preceded by the original Federal law setting national standards for sex offender registration and notification, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. The Attorney General's guidelines under the Wetterling Act similarly required an annual determination of continuing compliance with the national standards. *See, e.g.,* 64 FR 572, 587 (1999) ("After the reviewing authority has determined that a state is in compliance with the [Wetterling] Act, the state will be required as part of the Byrne Formula Grant application process in subsequent program years to certify that the state remains in compliance with the Act."). Given the connection to eligibility for full Byrne Grant funding under both Acts, annual determinations of continuing compliance are as necessary under SORNA as they were under the predecessor law, and in neither case should this requirement be unduly burdensome for jurisdictions.

Retroactive Classes

Many commenters approved of the change in Part IV of these supplemental guidelines. Part IV provides that it suffices for substantial implementation of SORNA, with respect to sex offenders reentering the justice system through subsequent (non-sex offense) criminal convictions, if registration of such offenders by jurisdictions is limited to cases in which the subsequent conviction is for a felony. However, some commenters proposed that the requirement to register sex offenders whose convictions predate SORNA or SORNA's implementation in particular jurisdictions should be further restricted or eliminated. The grounds urged for such further limitation included the following:

Some commenters argued that requiring sex offenders who reenter the justice system through subsequent (non-sex offense) criminal convictions to register discriminates against sex offenders because non-sex offenders who reenter the justice system through subsequent (non-sex offense) criminal convictions are not subject to such a requirement. However, differences in the treatment of different classes of offenders are not intrinsically unfair and such differences are not unconstitutionally discriminatory where there is a rational basis for the distinction. See *Chapman* v. *United States,* 500 U.S. 453, 465 (1991). Sex offender registration by its nature involves imposing certain requirements on sex offenders that are not applied to non-sex offenders. This is so regardless of whether registration requirements are imposed on sex offenders whose convictions occur after SORNA's enactment or its implementation or on sex offenders whose convictions occurred at earlier times.

Some commenters claimed that the remaining retroactivity requirements under SORNA would, absent further changes, have anomalous and unwarranted effects on juvenile delinquent sex offenders. For example, some comments asserted that juveniles adjudicated delinquent for sex offenses committed when they were below the age of 14 will have to be registered if they have subsequent adult convictions for (non-sex offense) felonies, and some claimed that public notification will be required concerning persons qualifying as sex offenders on the basis of juvenile delinquency adjudications if they have subsequent adult convictions for (non-sex offense) felonies. These comments reflect misunderstandings of SORNA and its implementing guidelines. SORNA and the guidelines never require registration on the basis of juvenile delinquency adjudications except for adjudications for offenses comparable to aggravated sexual abuse (or related attempt or conspiracy) committed when the juvenile was at least 14 years old. Persons with juvenile adjudications not satisfying these criteria are not "sex offenders" as defined in SORNA and are not subject to SORNA's requirements at all. See 42 U.S.C. 16911(1), (8). Likewise, following the adoption of these supplemental guidelines, public disclosure or notification is never required under SORNA regarding persons whose predicate sex offense convictions are juvenile delinquency adjudications.

Some comments pointed in this connection to the decision in *United States* v. *Juvenile Male,* 590 F.3d 924 (9th Cir. 2010), which held that SORNA cannot constitutionally be applied to a sex offender on the basis of a Federal juvenile delinquency adjudication predating SORNA's enactment. However, *Juvenile Male* is not binding precedent for Federal courts outside of the Ninth Circuit and not binding precedent for state courts anywhere. Considered on its own terms, the decision has no bearing on SORNA's application to sex offenders with adult convictions. The Department of Justice has sought review of the *Juvenile Male* decision by the U.S. Supreme Court and, as a result, further proceedings in the case are pending before the U.S. Supreme Court and the Montana Supreme Court. *See United States* v. *Juvenile Male,* 130 S.Ct. 2518 (2010). Considering the foregoing, there is no basis at this time for making changes in the implementing guidelines or rules for SORNA on the basis of the *Juvenile Male* decision.

Some commenters expressed the concern that the remaining retroactivity requirements under SORNA will unduly burden jurisdictions. However, under the SORNA Guidelines, it suffices for substantial implementation of SORNA if a jurisdiction registers sex offenders who remain in the justice system as prisoners, supervisees, or registrants, or who reenter the justice system through

a subsequent criminal conviction. The Guidelines note that such offenders are within the cognizance of the jurisdiction, 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. This point applies with greater force now that the covered class of "reentrants" who must be registered is limited to those with subsequent felony convictions, as provided in these supplemental guidelines.

Various other features of SORNA and the SORNA Guidelines limit any resulting burden on jurisdictions. Jurisdictions are not required to register sex offenders in the retroactive classes whose SORNA registration periods have already run, and jurisdictions may credit such sex offenders with the time that has elapsed from their release (or from sentencing in case of a nonincarcerative sentence) in determining what, if any, remaining registration time is required, even if they have never actually been registered. *See* 73 FR at 38035–36, 38046–47. Jurisdictions may rely on their normal methods and standards for obtaining and reviewing criminal history information, and on the information available in the records obtained by such means, in ascertaining SORNA registration requirements for sex offenders in the retroactive classes. This point applies both in determining whether such sex offenders need to be registered at all and in determining the sex offender's "tier" for SORNA purposes. *See* 73 FR at 38043, 38064. In relation to sex offenders in the retroactive classes, there is no requirement that jurisdictions make special efforts to obtain records or information that would not turn up through the normal type of criminal history searches they conduct.

In light of these considerations, the comments received do not persuasively establish that the public safety benefits of registering in conformity with SORNA sex offenders who remain in the justice system as prisoners, supervisees, or registrants, or who reenter through subsequent felony convictions, are outweighed by a resulting burden on jurisdictions.

Newly Recognized Tribes

A number of favorable comments were received about affording newly recognized Indian tribes the option of becoming SORNA registration jurisdictions, as provided in Part V of these supplemental guidelines.

Tribal commenters urged that additional matters under SORNA affecting the tribes should be addressed, including particularly the possibility of involuntary delegation of tribal registration functions to the states pursuant to 42 U.S.C. 16927(a)(2)(C), which permits such delegation if the Attorney General determines that a tribal jurisdiction has not substantially implemented SORNA and is not likely to become capable of doing so within a reasonable amount of time. The comments urged that such involuntary delegations should occur only as an absolute last resort and through a transparent process. Comments submitted on behalf of state jurisdictions also expressed concern about the resulting burden on states if they were required to assume responsibility for tribal registration functions based on the failure of a tribe or tribes to substantially implement SORNA.

The Department of Justice and the SMART Office fully agree that involuntary delegation of tribal registration functions to the states should occur only as a last resort, if at all. The SORNA Guidelines state: "The Department of Justice hopes and expects * * * that the occurrence of such an involuntary delegation will never be necessary, given the strong interest of the tribes in effective registration and notification for sex offenders subject to their jurisdictions, and the priority that the SMART Office gives to working with all tribes and other jurisdictions to facilitate the implementation of SORNA's requirements in relation to tribal areas." 73 FR at 38039. This matter is not addressed in these supplemental guidelines because the Department did not solicit public comment about it in the proposed supplemental guidelines and further input from the affected jurisdictions would be desirable prior to any articulation of more detailed standards or procedures for such delegations.

Some additional tribal issues were raised in the comments, including the need for cooperative activities between the tribes that are not SORNA registration jurisdictions and the states in order to effect the registration of sex offenders within the jurisdiction of such tribes, and concern that law enforcement agencies in such tribes will not be adequately notified or informed concerning sex offenders in their territories. These issues were previously raised by tribal commenters in the public comments on the SORNA Guidelines and they are addressed at some length in those Guidelines. See 73 FR at 38039, 38049, 38060. The measures relating to these matters outlined in the Guidelines are integral elements of SORNA's implementation in relation to tribal areas and the SMART Office will continue to work with all tribes and state jurisdictions to ensure that they are effectively carried out.

The Department of Justice and the SMART Office seek and welcome the counsel and views of Indian tribal governments and communities at all times and will continue to consult with them on SORNA implementation matters affecting the tribes in conformity with Executive Order 13175.

Supplemental Guidelines for Sex Offender Registration and Notification

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I. Public Notification

A. Juvenile Delinquents

SORNA includes as covered "sex offender[s]" juveniles at least 14 years old who are adjudicated delinquent for particularly serious sex offenses. *See* 42 U.S.C. 16911(1), (8). While the SORNA Guidelines endeavored to facilitate jurisdictions' compliance with this aspect of SORNA, *see* 73 FR at 38030, 38040–41, 38050, resistance by some jurisdictions to public disclosure of information about sex offenders in this class has continued to be one of the largest impediments to SORNA implementation.

Hence, the Attorney General is exercising his authority under 42 U.S.C. 16918(c)(4) to create additional discretionary exemptions from public Web site disclosure to allow jurisdictions to exempt from public Web site disclosure information concerning sex offenders required to register on the basis of juvenile delinquency adjudications. This change creates a new discretionary, not mandatory, exemption from public Web site disclosure. It does not limit the discretion of jurisdictions to include information concerning sex offenders required to register on the basis of juvenile delinquency adjudications on their public Web sites if they so wish.

The change regarding public Web site disclosure does not authorize treating sex offenders required to register on the basis of juvenile delinquency adjudications differently from sex

offenders with adult convictions in other respects. Whether a case involves a juvenile delinquency adjudication in the category covered by SORNA or an adult conviction, SORNA's registration requirements remain applicable, *see* 42 U.S.C. 16913–16, as do the requirements to transmit or make available registration information to the national (non-public) databases of sex offender information, to law enforcement and supervision agencies, and to registration authorities in other jurisdictions, *see* 73 FR at 38060.

Jurisdictions are not required to provide registration information concerning sex offenders required to register on the basis of juvenile delinquency adjudications to the entities described in the SORNA Guidelines at 73 FR 38061, *i.e.,* certain school, public housing, social service, and volunteer entities, and other organizations, companies, or individuals who request notification. This reflects an exercise of the Attorney General's authority to create exceptions to required information disclosure under 42 U.S.C. 16921(b). Accordingly, if a jurisdiction decides not to include information on a juvenile delinquent sex offender on its public Web site, as is allowed by these supplemental guidelines, information on the sex offender does not have to be disclosed to these entities.

B. Internet Identifiers

The KIDS Act, which was enacted in 2008, directed the Attorney General to utilize pre-existing legal authorities under SORNA to adopt certain measures relating to sex offenders' "Internet identifiers," defined to mean e-mail addresses and other designations used for self-identification or routing in Internet communication or posting. The KIDS Act requires the Attorney General to (i) include appropriate Internet identifier information in the registration information sex offenders are required to provide, (ii) specify the time and manner for keeping that information current, (iii) exempt such information from public Web site posting, and (iv) ensure that procedures are in place to notify sex offenders of resulting obligations. *See* 42 U.S.C. 16915a.

The SORNA Guidelines incorporate requirements (i)–(ii) and (iv), as described above. *See* 73 FR at 38055 (Internet identifiers to be included in registration information), 38066 (reporting of changes in Internet identifiers), 38063–65 (notifying sex offenders of SORNA requirements). However, while the Guidelines discouraged the inclusion of sex offenders' Internet identifiers on the public Web sites, they did not adopt a mandatory exclusion of this information from public Web site posting, which the KIDS Act now requires. *See* 42 U.S.C. 16915a(c); 73 FR at 38059–60.

The authority under 42 U.S.C. 16918(b)(4) to create additional mandatory exemptions from public Web site disclosure is accordingly exercised to exempt sex offenders' Internet identifiers from public Web site posting. This means that jurisdictions cannot, consistent with SORNA, include sex offenders' Internet identifiers (such as e-mail addresses) in the sex offenders' public Web site postings or otherwise list or post sex offenders' Internet identifiers on the public sex offender Web sites.

This change does not limit jurisdictions' retention and use of sex offenders' Internet identifier information for purposes other than public disclosure, including submission of the information to the national (non-public) databases of sex offender information, sharing of the information with law enforcement and supervision agencies, and sharing of the information with registration authorities in other jurisdictions. *See* 73 FR at 38060. The change also does not limit the discretion of jurisdictions to include on their public Web sites functions by which members of the public can ascertain whether a specified e-mail address or other Internet identifier is reported as that of a registered sex offender, *see id.* at 38059–60, or to disclose Internet identifier information to any one by means other than public Web site posting.

The exemption of sex offenders' Internet identifiers from public Web site disclosure does not override or limit the requirement that sex offenders' names, including any aliases, be included in their public Web site postings. *See* 73 FR at 38059. A sex offender's use of his name or an alias to identify himself or for other purposes in Internet communications or postings does not exempt the name or alias from public Web site disclosure.

II. Interjurisdictional Tracking and Information Sharing

A. International Travel

Certain features of SORNA and the SORNA Guidelines require the Department of Justice, in conjunction with other Federal agencies, to develop reliable means for identifying and tracking sex offenders who enter or leave the United States. *See* 42 U.S.C. 16928; 73 FR at 38066–67. To that end, the Guidelines provide that sex offenders must be required to inform their residence jurisdictions if they intend to commence residence, employment, or school attendance outside of the United States, and that jurisdictions that are so informed must notify the U.S. Marshals Service and update the sex offender's registration information in the national databases. *See* 73 FR at 38067. (Regarding the general requirement to provide registration information for inclusion in the National Sex Offender Registry and other appropriate databases at the national level, *see* 42 U.S.C. 16921(b)(1); 73 FR at 38060.) In addition, the Guidelines provide that sex offenders must be required to inform their residence jurisdictions about lodging at places away from their residences for seven days or more, regardless of whether that results from domestic or international travel. See 73 FR at 38056, 38066.

Since the issuance of the Guidelines, the SMART Office has continued to work with other agencies of the Department of Justice, the Department of Homeland Security, the Department of State, and the Department of Defense on the development of a system for consistently identifying and tracking sex offenders who engage in international travel. Although, as noted, the current Guidelines require reporting of international travel information in certain circumstances, the existing requirements are not sufficient to provide the information needed for tracking such travel consistently.

The authority under 42 U.S.C. 16914(a)(7) to expand the range of required registration information is accordingly exercised to provide that registrants must be required to inform their residence jurisdictions of intended travel outside of the United States at least 21 days in advance of such travel. Pursuant to 42 U.S.C. 16921(b), jurisdictions so informed must provide the international travel information to the U.S. Marshals Service, and must transmit or make available that information to national databases, law enforcement and supervision agencies, and other jurisdictions as provided in the Guidelines. *See* 73 FR at 38060. Jurisdictions need not disclose international travel information to the entities described in the SORNA Guidelines at 73 FR 38061—*i.e.,* certain school, public housing, social service, and volunteer entities, and other organizations, companies, or individuals who request notification. *See* 42 U.S.C. 16921(b). As the international tracking system continues to develop, the SMART Office may issue additional directions to jurisdictions to provide notification concerning

international travel by sex offenders, such as notice to Interpol, or notice to Department of Defense agencies concerning sex offenders who may live on U.S. military bases abroad. Likewise, the SMART Office may issue additional directions to jurisdictions concerning the information to be required in sex offenders' reports of intended international travel, such as information concerning expected itinerary, departure and return dates, and means and purpose of travel.

While notice of international travel will generally be required as described above, it is recognized that requiring 21 days advance notice may occasionally be unnecessary or inappropriate. For example, a sex offender may need to travel abroad unexpectedly because of a family or work emergency. Or separate advance notice of intended international trips may be unworkable and pointlessly burdensome for a sex offender who lives in a northern border state and commutes to Canada for work on a daily basis. Jurisdictions that wish to accommodate such situations should include information about their policies or practices in this area in their submissions to the SMART Office and the SMART Office will determine whether they adequately serve SORNA's international tracking objectives.

B. Domestic Interjurisdictional Tracking

SORNA and the SORNA Guidelines require interjurisdictional sharing of registration information in various contexts and SORNA directs the Attorney General, in consultation with the jurisdictions, to develop and support software facilitating the immediate exchange of information among jurisdictions. *See* 42 U.S.C. 16913(c), 16919(b), 16921(b)(3), 16923; 73 FR at 38047, 38062–68. The SMART Office accordingly has created and maintains the SORNA Exchange Portal, which enables the immediate exchange of information about registered sex offenders among the jurisdictions.

Regular use of this tool is essential to ensuring that information is reliably shared among jurisdictions and that interjurisdictional tracking of sex offenders occurs consistently and effectively as SORNA contemplates. For example, if a jurisdiction sends notice that a sex offender has reported an intention to change his residence to another jurisdiction, but the destination jurisdiction fails to access the notice promptly, the sex offender's failure to appear or register in the destination jurisdiction may go unnoticed or detection of the violation may be delayed. Accordingly, as a necessary part of SORNA implementation, jurisdictions must use the SORNA Exchange Portal in their information sharing regarding sex offenders in conformity with any guidance issued by the SMART Office on use of the Portal.

Technological improvements may facilitate the creation of new tools that may eventually replace the existing SORNA Exchange Portal. If that occurs, the SMART Office may issue directions to jurisdictions concerning the use of these new tools that jurisdictions will need to follow to be approved as substantially implementing SORNA.

C. Acknowledgment Forms

SORNA provides that sex offenders are to be informed of their registration obligations and required to sign acknowledgments that this information has been provided upon their initial registration. *See* 42 U.S.C. 16917. Even before the enactment of SORNA, similar requirements were included in the predecessor national standards for sex offender registration and notification of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(b)(1)(A), prior to its repeal by SORNA).

SORNA requires jurisdictions to provide criminal penalties for sex offenders who fail to comply with SORNA's requirements, *see* 42 U.S.C. 16913(e), and Federal criminal liability is authorized for sex offenders who knowingly fail to register or update a registration as required by SORNA under circumstances supporting Federal jurisdiction, see 18 U.S.C. 2250. Successful prosecution of sex offenders for registration violations under these provisions may require proof that they were aware of a requirement to register.

The acknowledgment forms signed by sex offenders regarding their registration obligations are likely to be the most consistently available and definitive proof of such knowledge. Including these forms in registration information will make them readily available in the jurisdictions in which sex offenders are initially registered, and will make them available to other jurisdictions pursuant to the provisions of SORNA and the Guidelines for transmission of registration information to other jurisdictions. See 42 U.S.C. 16921(b)(3); 73 FR at 38060.

The authority under 42 U.S.C. 16914(b)(8) to expand the range of required registration information is accordingly exercised to require that sex offenders' signed acknowledgment forms be included in their registration information. The existing Guidelines already provide that acknowledgment forms covering the SORNA requirements are to be obtained from registrants as part of the SORNA implementation process and thereafter. *See* 73 FR at 38063–65. As with other forms of documentary registration information, the inclusion of these forms in registration information can be effected by scanning the forms and including the resulting electronic documents in the registry databases or by including links or information that provides access to other databases in which the signed acknowledgments are available in electronic form. *See* 73 FR at 38055.

III. Ongoing Implementation Assurance

The SORNA Guidelines explain that the SMART Office will determine whether jurisdictions have substantially implemented the SORNA requirements in their programs and that jurisdictions are to provide submissions to the SMART Office to facilitate this determination. *See* 42 U.S.C. 16924–25; 73 FR at 38047–48.

SORNA itself and the Guidelines assume throughout that jurisdictions must implement SORNA in practice, not just on paper, and the Guidelines provide many directions and suggestions for putting the SORNA standards into effect. *See, e.g.,* 42 U.S.C. 16911(9), 16912(a), 16913(c), 16914(b), 16917, 16918, 16921(b), 16922; 73 FR at 38059–61, 38063–70. The Department of Justice and the SMART Office are making available to jurisdictions a wide range of practical aids to SORNA implementation, including software and communication systems to facilitate the exchange of sex offender information among jurisdictions and other technology and documentary tools. *See* 42 U.S.C. 16923; 73 FR at 38031–32, 38047.

Hence, implementation of SORNA is not just a matter of adopting laws or rules that facially direct the performance of the measures required by SORNA. It entails actually carrying out those measures and, as noted, various forms of guidance and assistance have been provided to that end. Accordingly, in reviewing jurisdictions' requests for approval as having substantially implemented SORNA, the SMART Office will not be limited to facial examination of registration laws and policies, but rather will undertake such inquiry as is needed to ensure that jurisdictions are substantially implementing SORNA's requirements in practice. Jurisdictions can facilitate approval of their systems by including in their submissions to the SMART Office information concerning practical implementation measures and mechanisms, in addition to relevant

laws and rules, such as policy and procedure manuals, description of infrastructure and technology resources, and information about personnel and budgetary measures relating to the operation of the jurisdiction's registration and notification system. The SMART Office may require jurisdictions to provide additional information, beyond that proffered in their submissions, as needed for a determination.

Jurisdictions that have substantially implemented SORNA have a continuing obligation to maintain their system's consistency with current SORNA standards. Those that are grantees under the Byrne Justice Assistance Grant program will be required in connection with the annual grant application process to establish that their systems continue to meet SORNA standards. This will entail providing information as directed by the SMART Office, in addition to the information otherwise included in Byrne Grant applications, so that the SMART Office can verify continuing implementation. Jurisdictions that do not apply for Byrne Grants will also be required to demonstrate periodically that their systems continue to meet SORNA standards as directed by the SMART Office, and to provide such information as the SMART Office may require to make this determination.

If a jurisdiction's Byrne Justice Assistance Grant funding is reduced because of non-implementation of SORNA, it may regain eligibility for full funding in later program years by substantially implementing SORNA in such later years. The SMART Office will continue to work with all jurisdictions to ensure substantial implementation of SORNA and verify that they continue to meet the requirements of SORNA on an ongoing basis.

IV. Retroactive Classes

SORNA's requirements apply to all sex offenders, regardless of when they were convicted. *See* 28 CFR 72.3. However, the SORNA Guidelines state that it will be deemed sufficient for substantial implementation if jurisdictions register sex offenders with pre-SORNA or pre-SORNA-implementation sex offense convictions who remain in the system as prisoners, supervisees, or registrants, or who reenter the system through a subsequent criminal conviction. *See* 73 FR at 38035–36, 38043, 38046–47, 38063–64. This feature of the Guidelines reflects an assumption that it may not be possible for jurisdictions to identify and register all sex offenders who fall within the SORNA registration categories, particularly where they have left the justice system and merged into the general population long ago, but that it will be feasible for jurisdictions to do so in relation to sex offenders who remain in the justice system or reenter it through a subsequent criminal conviction. *See* 73 FR at 38046.

Experience supports a qualification of this assumption in relation to sex offenders who have fully exited the justice system but later reenter it through a subsequent criminal conviction for a non-sex offense that is relatively minor in character. (Where the subsequent conviction is for a sex offense it independently requires registration under SORNA.) In many jurisdictions the volume of misdemeanor prosecutions is large and most such cases may need to be disposed of in a manner that leaves little time or opportunity for examining the defendant's criminal history and ascertaining whether it contains some past sex offense conviction that would entail a present registration requirement under SORNA. In contrast, where the subsequent offense is a serious crime, ordinary practice is likely to involve closer scrutiny of the defendant's past criminal conduct, and ascertaining whether it includes a prior conviction requiring registration under SORNA should not entail an onerous new burden on jurisdictions.

These supplemental guidelines accordingly are modifying the requirements for substantial implementation of SORNA in relation to sex offenders who have fully exited the justice system, i.e., those who are no longer prisoners, supervisees, or registrants. It will be sufficient if a jurisdiction registers such offenders who reenter the system through a subsequent criminal conviction in cases in which the subsequent criminal conviction is for a felony, i.e., for an offense for which the statutory maximum penalty exceeds a year of imprisonment. This allowance is limited to cases in which the subsequent conviction is for a non-sex offense. As noted above, a later conviction for a sex offense independently requires registration under SORNA, regardless of whether it is a felony or a misdemeanor.

This allowance only establishes the minimum required for substantial implementation of SORNA in this context. Jurisdictions remain free to look more broadly and to establish systems to identify and register sex offenders who reenter the justice system through misdemeanor convictions, or even those who do not reenter the system through later criminal convictions but fall within the registration categories of SORNA or the jurisdiction's registration law.

V. Newly Recognized Tribes

SORNA affords eligible federally-recognized Indian tribes a one-year period, running from the date of SORNA's enactment on July 27, 2006, to elect whether to become SORNA registration jurisdictions or to delegate their registration functions to the states within which they are located. *See* 42 U.S.C. 16927(a)(1), (2)(B); 73 FR at 38049–50. In principle there is no reason why an Indian tribe that initially receives recognition by the Federal government following the enactment of SORNA should be treated differently for SORNA purposes from other federally recognized tribes. But if such a tribe is initially recognized more than a year after the enactment of SORNA, then the limitation period of § 16927 will have passed before the tribe became the kind of entity (a federally recognized tribe) that may be eligible to become a SORNA registration jurisdiction.

Where the normal starting point of a statutory time limit for taking an action cannot sensibly be applied to a certain entity, statutes have been construed in some circumstances to allow the entity a reasonable amount of time to take the action. *See Chicago & Alton R.R. Co.* v. *Tranbarger,* 238 U.S. 67, 73–74 (1915).

This principle will be applied to 42 U.S.C. 16927 to allow Indian tribes that receive Federal recognition following the enactment of SORNA a reasonable amount of time to elect whether to become SORNA registration jurisdictions as provided in that section, and to allow such tribes a reasonable amount of time for substantial implementation of SORNA if they elect to be SORNA registration jurisdictions. In assessing what constitutes a reasonable amount of time for these purposes, the Department of Justice will look to the amount of time SORNA generally affords for tribal elections and for jurisdictions' implementation of the SORNA requirements. Hence, a tribe receiving Federal recognition after SORNA's enactment that otherwise qualifies to make the election under § 16927(a) will be afforded a period of one year to make the election, running from the date of the tribe's recognition or the date of publication of these supplemental guidelines, whichever is later. Likewise, such a tribe will be afforded a period of three years for SORNA implementation, running from the same starting point, subject to up to two possible one-year extensions. *See* 42 U.S.C. 16924.

Dated: January 7, 2011.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2011–505 Filed 1–10–11; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0098]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Prevent All Cigarette Trafficking (PACT) Act Registration Form.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 210, page 67119 on November 1, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 10, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* DOJ Desk Officer, *Fax:* 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number [1140–XXXX]. Also include the DOJ docket number found in brackets in the heading of this document.

Comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Prevent All Cigarette Trafficking (PACT) Act Registration Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5070.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or For-Profit. *Other:* None. *Abstract:* The purpose of this information collection is to register delivery sellers of cigarettes and/or smokeless tobacco products with the Attorney General in order to continue to sell and/or advertise these tobacco products. Respondents will register the information on ATF F 5070.1.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 3,000 respondents, who will take 1 hour to complete the form.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 3,000 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, Room 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: January 6, 2011.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–388 Filed 1–10–11; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1542]

Establishment of the Office of Justice Programs' Science Advisory Board

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of establishment of federal advisory committee.

SUMMARY: The OJP Science Advisory Board is being established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2. The OJP Science Advisory Board will provide OJP, a component of the Department of Justice, with valuable advice in the areas of social science and statistics for the purpose of enhancing the overall impact and performance of its programs and activities in criminal and juvenile justice. The Board will provide input into developing long-range plans, advise on program development, and provide guidance to ensure adherence to the highest levels of scientific rigor, as appropriate. The Board will provide an important base of contact with the criminal justice academic and practitioner communities, and is necessary and in the public interest. The Board's Charter is subject to renewal and will expire two years from its filing. The OJP Science Advisory Board is continuing in nature, to remain functional until the Attorney General determines that all necessary duties have been performed.

FOR FURTHER INFORMATION CONTACT: Marlene Beckman, Designated Federal Officer (DFO), Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street Northwest, Washington, DC 20531; Phone: (202) 616–3562 [**Note:** this is not a toll-free number]; E-mail: *marlene.beckman@usdoj.gov.*

Dated: January 5, 2011.

Marlene Beckman,

Counsel and SAB DFO, Office of the Assistant Attorney General, Office of Justice Programs.

[FR Doc. 2011–290 Filed 1–10–11; 8:45 am]

BILLING CODE 4410–18–P