



BILLING CODE: 4410-29

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

OAG Docket No. 143; AG Order No. 3464-2014

Office of the Pardon Attorney

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule revises certain regulations of the Department of Justice (the “Department”) that govern the Pardon Attorney. The rule conforms the regulations to current practice, under which the Pardon Attorney is subject to the direction of, and submits recommendations in clemency cases through, the Deputy Attorney General.

DATE: The rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Deborah Leff, United States Department of Justice, Suite 11000, 1425 New York Avenue, NW, Washington DC 20530, or by telephone at (202) 616-6070.

SUUPLEMENTARY INFORMATION: Present regulations of the Department of Justice provide that the Pardon Attorney is subject to the direction of the Associate Attorney General, and that the Pardon Attorney shall submit all recommendations in clemency cases through the Associate Attorney General, who in turn shall exercise such discretion and authority as is appropriate and necessary for the handling and transmittal of such recommendations to the

President. *See* 28 CFR 0.35-0.36.

However, it has long been the internal practice of the Department for the Pardon Attorney to be subject to the direction of the Deputy Attorney General, and to submit clemency recommendations through the Deputy Attorney General for handling and transmittal, rather than through the Associate Attorney General.

This rule conforms Department regulations to current practice.

Administrative Procedure Act

This rule is a rule of agency organization, procedure, and practice and is therefore exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date.

See 5 U.S.C. 553(b). This rule is effective upon publication.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it applies only to agency organization, procedure, and practice. Further, a Regulatory Flexibility Analysis was not required to be prepared for this rule because the Department was not required to publish a general notice of proposed rulemaking.

Executive Orders 12866 and 13563 - Regulatory Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, “Regulatory Planning and Review,” section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” section 1(b), General Principles of Regulation.

The Department has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, “Regulatory Planning and Review,” and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132 - Federalism

This rule does not have federalism implications warranting the preparation of a Federalism Assessment under section 6 of Executive Order 13132 because it is a rule of agency organization, procedure, and practice.

Executive Order 12988 - Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.”

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 \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management 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). Therefore, the reports to Congress and the General Accounting Office specified by 5 U.S.C. 801 are not required.

List of Subjects in 28 CFR Part 0

Administrative practice and procedure, 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, Chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 0 - ORGANIZATION OF THE DEPARTMENT OF JUSTICE

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

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

Subpart G -- Office of the Pardon Attorney

□ 0.35 [Amended]

2. In § 0.35, remove the words “Associate Attorney General” each place they appear and add in their place the words “Deputy Attorney General”.

§ 0.36 [Amended]

3. In § 0.36, remove the words “Associate Attorney General” each place they appear and add in their place the words “Deputy Attorney General”.

____September 5, 2014____
Date

Eric H. Holder, Jr.
Attorney General

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