



DEPARTMENT OF THE INTERIOR

Office of the Solicitor

Guidance on Referrals for Potential Criminal Enforcement

AGENCY: Office of the Solicitor, Interior

ACTION: Notice.

SUMMARY: This notice describes the Department of the Interior’s (“Department” or “DOI”) plans to address criminally liable regulatory offenses under the Executive Order 14294, “Fighting Overcriminalization in Federal Regulations.”

FOR FURTHER INFORMATION CONTACT: Kasie Durkit, Office of the Solicitor, 1849 C Street, NW, Washington DC 20240; telephone 202-208-4423.

SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order (“E.O.”) 14294, “Fighting Overcriminalization in Federal Regulations.” 90 FR 20363 (published May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan for how it will address its regulations that provide for criminal liability for regulatory offenses.

Consistent with that requirement, the Department advises the public that by May 9, 2026, the Department, in consultation with the Attorney General, will provide to the Director of the Office of Management and Budget (“OMB”) a report containing: (1) a list of all criminal regulatory offenses¹ in DOI’s regulations that are enforceable by DOI or the Department of Justice (“DOJ”); and (2) for each such criminal regulatory offense, the range of potential

¹ “Criminal regulatory offense” means a Federal regulation that is enforceable by a criminal penalty. E.O. 14294, sec. 3(b).

criminal penalties for a violation, and the applicable *mens rea* standard² for the criminal regulatory offense.

This notice also announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when the Department is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of the Department should consider, among other factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the rule or regulation at issue; and
- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his or her knowledge or lack thereof of the regulation at issue.

Department-Specific Implementation Plan

Consistent with E.O. 14294 and the general policy set forth above, the following actions will be undertaken:

a. The Department will review its regulations for all criminal regulatory offenses enforceable by the agency or the DOJ, including the applicable statutory authorities, the range of potential criminal penalties for a violation, and the applicable *mens rea* standard for each criminal regulatory offense.

b. The Department will review the identified regulatory offenses and associated processes for compliance with the principles articulated in E.O. 14294. The Department will evaluate whether regulatory or procedural changes are necessary to ensure the public has adequate notice of the offenses and that the *mens rea* identified for each regulatory offense is appropriate.

² "Mens rea" means the state of mind that by law must be proven to convict a particular defendant of a particular crime. E.O. 14294, sec. 3(c).

c. The Department will make recommendations to the Secretary on actions to further the principles articulated in E.O. 14294 and the general policy set forth above, as well as take all measures legally permissible and procedurally appropriate to implement such actions.

This general policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

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