



Guidance on Referrals for Potential Criminal Enforcement

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This notice describes the Department of Veterans Affairs' plans to address criminally liable regulatory offenses under the recent executive order on Fighting Overcriminalization in Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Frederick R. Jackson, Executive Director, Office of Security and Law Enforcement, (202) 461-5544.

SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order (EO) 14294, Fighting Overcriminalization in Federal Regulations. 90 FR 20363 (published May 14, 2025). Section 7 of EO 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 to address criminally liable regulatory offenses.

Consistent with that requirement, the Department of Veterans Affairs (VA) advises the public that by May 9, 2026, VA, 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 enforceable by VA or the Department of Justice (DOJ); and (2) for each such criminal regulatory offense, the range of potential criminal penalties for a violation and the applicable mens rea standard² for the criminal regulatory offense.

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

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).

This notice also announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when VA is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of VA 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 knowledge or lack thereof of the regulation at issue.

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.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on July 24, 2025, and authorized its submission to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.