

Rules and Regulations

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 122

[ICE No. 2278-03]

RIN 1653 AA25

Authority of the Secretary of Homeland Security; Parole Authority

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107-296) (HSA), which created the new Department of Homeland Security (Department or DHS). The functions of the Immigration and Naturalization Service (Service) and all authorities with respect to those functions, transferred to DHS on March 1, 2003, and the Service was abolished on that date, pursuant to the HSA and the Department of Homeland Security Reorganization Plan, as modified (Reorganization Plan). DHS is promulgating this rule to continue the process of conforming the text of Title 8 of the Code of Federal Regulations to the governmental structures established in the HSA and Reorganization Plan. The rule addresses parole authority under section 212(d)(5) of the Immigration and Nationality Act. With regard to parole authority the rule implements changes in the field structures of the Bureau of Citizenship and Immigration Services (BCIS), the Bureau of Customs and Border Protection (CBP), and the Bureau of Immigration and Customs Enforcement (ICE) by amending the titles of officers given parole authority.

DATES: This final rule is effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Muhlethaler, Bureau of

Immigration and Customs Enforcement, Office of General Counsel, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514-2895.

SUPPLEMENTARY INFORMATION:

Explanation of Changes

This rule amends parole authority under 8 CFR 212.5 to reflect the new titles under the organizational structures of the BCIS, CBP, and ICE. The term "Commissioner" has been replaced with "Secretary" to reflect the transfer of authority over parole issues from the Service to DHS and the component organizations of the BCIS, CBP, and ICE. Component heads of the three bureaus are the Director of the BCIS, Commissioner of CBP and Assistant Secretary for ICE. The rule does not make any substantive changes to the standards for making determinations regarding requests for parole.

Procedural Requirements

Good Cause Exception

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking or delayed effective date is unnecessary as this rule relates to agency organization and management. Accordingly, it 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)), and the reporting requirement of 5 U.S.C. 801 does not apply.

Executive Order 12866

This rule is limited to agency organization, management or personnel matters, and therefore is not a regulation or rule as defined by Executive Order 12866. It has also been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of

1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal government, in the aggregate, or by the private sector of \$100 million 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.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Homeland Security has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104-13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.