

notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the voluntary early retirement authority. Depending upon the circumstances involved, OPM will modify the authority as necessary to better suit the agency's needs.

(i) The agency may limit voluntary early retirement offers based on:

(1) An established opening and closing date that is announced to employees at the time of the offer; or

(2) The acceptance of a specified number of applications for voluntary early retirement, provided that, at the time of the offer, the agency notified employees that it retained the right to limit the number of voluntary early retirements.

(j) Within the timeframe specified for its approved VERA, the agency may subsequently establish a new or revised closing date, or reduce or increase the number of early retirement applications it will accept, if management's downsizing and/or reshaping needs change. If the agency issues a revised closing date, or a revised number of applications to be accepted, the new date or number of applications must be announced to the same group of employees included in the original announcement. If the agency issues a new window period with a new closing date, or a new instance of a specific number of applications to be accepted, the new window period or number of applications to be accepted may be announced to a different group of employees as long as they are covered by the approved VERA.

(k) An employee who separates from the service voluntarily after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(1) Is serving in a position covered by a voluntary early retirement offer; and

(2) Meets the conditions covered in 5 U.S.C. 8414(b)(1)(B).

(l) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion, it must take appropriate corrective action.

(m) An agency may not offer or process voluntary early retirements beyond the stated expiration date of a VERA or offer early retirements to employees who are not within the scope of the VERA approved by OPM.

(n) OPM may terminate a voluntary early retirement authority if it determines that the agency is no longer undergoing the condition(s) that formed the basis for its approval.

(o) OPM may amend, limit, or terminate a voluntary early retirement authority to ensure that voluntary early retirement authority regulations are being properly followed.

(p) Agencies must provide OPM with interim and final reports for each voluntary early retirement authority, as covered in OPM's approval letter to the agency. OPM may suspend or cancel a voluntary early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule specified in OPM's voluntary early retirement authority approval letter.

(q) The terms, conditions, and procedures in this section do not apply to the General Accounting Office.

(r) The authority to VERA to restructure the workforce terminates June 14, 2004.

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 1, 103, 239 and 287

[ICE No. 2274-03]

RIN 1653 AA26

Powers and Authority of Officers and Employees; Revisions to the Internal Review Process for Alleged Violations of the Standards for Enforcement Activities

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). Pursuant to the provisions of the HSA, DHS came into existence on January 24, 2003. 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). The transition and savings provisions of the HSA, including sections 1512(d) and 1517, provide that references relating to the Service in statutes, regulations, directives or delegations of authority shall be deemed to refer to the appropriate official or component of DHS. 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. This rule is not intended to and does not restrict or otherwise limit the authority of any DHS officer.

DATES: This final rule is effective June 13, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION

Explanation of Changes

First, the final rule expands the definitions of the terms "Service," "Commissioner," and "director" at 8 CFR 1.1. Definitions for the terms "Department," "Secretary," and "Bureau" have been added. Definitions have also been added for "BCIS," "CBP," and "ICE," which are the acronyms for the bureaus within DHS that have been delegated the authorities of the former Service. The definitions provide clarification that the functions of the legacy components of the Service continue under the Department. The definitions refer to the "Service" in recognition that the term "Service" continues to be used throughout Title 8 of the Code of Federal Regulations, and this final rule amends only limited portions of that title.

Second, the term "immigration enforcement agent" has been added to 8 CFR 103.1(b) in recognition of an ongoing modification to the field structure of the Bureau of Immigration and Customs Enforcement (ICE). As part of a position reclassification the immigration agent position (within the investigations program of ICE) and the detention enforcement officer position (within the detention and removal program of ICE) will be combined and reclassified into the immigration enforcement agent position. Immigration enforcement agents will have responsibilities that include the identification and processing of detained criminal aliens within the institutional removal program.

Third, the final rule revises the regulation at 8 CFR 239.1 that delegates authority to issue notices to appear. In his discretion, the Secretary of Homeland Security has published this delegation of authority to issue notices to appear in the Code of Federal Regulations, cross-referencing his general delegation authority under 8 CFR 2.1. The list of officers authorized