

to issue notices to appear is amended to reflect the ongoing reorganization of functions of the former Service among the Bureau of Citizenship and Immigration Services, the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement. Removed from the list of those authorized to issue a notice to appear is the Director of Juvenile Affairs, based on the transfer of functions with respect to the care of unaccompanied alien children to the Department of Health and Human Services pursuant to section 462 of the Homeland Security Act of 2002, as amended, 6 U.S.C. 279.

Fourth, the final rule revises 8 CFR 287 part 1 with respect to the powers and authority of officers and employees of these three bureaus. Deportation officers have been provided the authority to execute search warrants under 8 CFR 287.5(e)(1).

In recognition of the position reclassification of detention enforcement officers to immigration enforcement agents, the term "immigration enforcement agent" is added to the existing term of "detention enforcement officer" in 8 CFR 103.1(b), 287.5(c)(6), 287.5(e)(3), 287.5(f), 287.8(a)(1)(iv) and 287.8(a)(2)(iii). Pursuant to their duties and responsibilities within the institutional removal program, immigration enforcement agents are delegated the authority to make arrests under 8 CFR 287.5(c)(1), and 8 CFR 287.5(c)(2), to conduct searches under 8 CFR 287.5(d), to execute search warrants under 287.5(e)(1), to serve warrants of arrest for non-immigration violations under 287.5(e)(4), and to issue detainers under 8 CFR 287.7(b).

Fifth, the final rule revises the regulation at 8 CFR 287.10 regarding the internal review process for alleged violations of the standards for enforcement activities to replace the references to offices within the Department of Justice that had been responsible for reviewing such allegations with the appropriate offices within DHS.

Sixth, the final rule revises or removes several paragraphs in 8 CFR 239.2 (cancellation of notices to appear), 8 CFR 287.3 (aliens arrested without warrant), and 8 CFR 287.4 (subpoenas), to reflect the recodification of regulations governing immigration proceedings. Under the HSA, the Executive Office for Immigration Review (EOIR), including the immigration judges and the Board of Immigration Appeals, remain in the Department of Justice, and the regulations pertaining to proceedings

before EOIR have been codified in Chapter V of 8 CFR. Accordingly, this final rule makes conforming changes to 8 CFR 239.2, 287.3, and 287.4 in recognition that the regulations governing immigration proceedings before the immigration judges and the Board are now codified at 8 CFR 1003 *et seq.* (including with reference to this rule, 8 CFR 1003.14, 1239.2, 1287.4, and 1292.2).

Finally, the rule revises the regulation at 8 CFR 287.8 by adding a new subsection (g) which states that the criminal law enforcement activities authorized under this rule will be exercised in a manner consistent with all applicable DHS and Department of Justice guidelines and policies.

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 making 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

8 CFR Part 1

Administrative practice and procedure, Immigration.

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 239

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

8 CFR Part 287

Administrative practice and procedure, Aliens, Immigration,