

marketing and promotion programs. Prior to arriving at this budget, the committee considered alternative expenditure levels and alternative assessment levels. The committee agreed that the increased assessment rate was appropriate to cover expenses and build up its operating reserve to a satisfactory level (\$14,303). The assessment rate of \$0.95 per hundredweight of assessable dates was then determined by applying the following formula where:

A = 2004–05 reserve on 10/1/05 (\$1,000).

B = 2005–06 reserve on 9/30/06 (\$14,303).

C = 2005–06 expenses (\$169,197).

D = Cull Surplus Fund (\$2,000).

E = 2005–06 expected shipments (190,000 hundredweight).

$(B - A + C - D) \div E = \0.95 per hundredweight.

Estimated shipments should provide \$180,500 in assessment income. Income derived from handler assessments and \$2,000 from the cull surplus fund would be adequate to cover budgeted expenses. Funds in the administrative reserve are expected to total about \$14,303 by September 30, 2006, and therefore would be less than the maximum permitted by the order (not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years as required under § 987.72(c)).

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2005–06 season could range between \$45 and \$50 per hundredweight of dates. Therefore, the estimated assessment revenue for the 2005–06 crop year as a percentage of total grower revenue is approximately 2 percent.

This action increases the assessment obligation imposed on handlers under the Federal marketing order. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California date industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the June 16, 2005, meeting was a public meeting and all entities were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements

on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on September 12, 2005 (70 FR 53737). Copies of the rule were mailed or sent via facsimile to all date handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending October 12, 2005, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2005–06 crop year began on October 1, 2005, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years. Also, a 30-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2005, an assessment rate of \$0.95 per hundredweight is established for California dates.

Dated: October 31, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–22046 Filed 11–3–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 236, 239, 241 and 287

[ICE No. 2298–03]

RIN 1653–AA27

Powers and Authority of Officers and Employees

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule continues the process of conforming the text of the Code of Federal Regulations to the governmental structures established in the Homeland Security Act and Reorganization Plan. This rule is not intended to and does not restrict or otherwise limit the authority of any Department of Homeland Security officer.

DATES: This final rule is effective November 4, 2005.

FOR FURTHER INFORMATION CONTACT: Jack Penca, Chief Counsel, Law Enforcement Support Center; 188 Harvest Lane, Williston, Vermont 05495; telephone number: (802) 872–6056.

SUPPLEMENTARY INFORMATION:

Background

On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2135) (HSA), 6 U.S.C. 101 *et seq.*, 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 of the HSA, 6 U.S.C. 552(d), 557, 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.

This rule amends various lists of DHS officials authorized to perform certain immigration enforcement functions, including making administrative arrests for immigration violations, making custody determinations, issuing Notices to Appear (which set forth the charges against an alien and order the alien to appear before an immigration judge), and issuing Warrants of Removal (which authorize the removal of an alien from the United States after the issuance of a final administrative order). While this rule constitutes a delegation of authority, and constitutes a public statement thereof, it is not the only means by which such authority may be delegated by the Secretary pursuant to 8 CFR 2.1. The Secretary retains the authority to further delegate immigration authorities and functions through internal directives, memoranda, or other means. See *Id.* This rule does not alter any other delegation of authority by the Secretary that is not addressed in the rule. The rule does not affect any rights of aliens or the general public. See 8 CFR 287.12.

Explanation of Changes

This final rule:

(1) Amends 8 CFR 236.1 to set forth a list of officers authorized to issue and serve Form I-286, Notice of Custody Determination.

(2) Amends 8 CFR 239.1 to revise the list of officers authorized to issue a Notice to Appear, which sets forth the immigration charges against the alien.

(3) Amends 8 CFR 241.2 to revise the list of officers authorized to issue

Warrants of Removal, which authorizes the removal of an alien from the United States after a final administrative order is entered.

(4) Amends 8 CFR 287.5(e)(2) to revise the list of officers authorized to issue an administrative Warrant of Arrest for immigration violations.

Administrative Procedure Act

This rule relates to agency organization and management and is exempt from the notice of proposed rulemaking and delayed effective date requirements of the Administrative Procedure Act, 5 U.S.C. 553(a).

Executive Order 12866

This rule is limited to agency organization and management and therefore is not a rule as defined by 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. 605(b), do not apply.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. 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.

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.

List of Subjects

8 CFR Part 236

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

8 CFR Part 239

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

8 CFR Part 241

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

8 CFR Part 287

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

■ Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

■ 1. The authority citation for part 236 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1231, 1362; 18 U.S.C. 4002, 4013(c)(4); Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 101, *et seq.*); 8 CFR part 2.

■ 2. Section 236.1 is amended by adding a new paragraph (g) to read as follows:

§ 236.1 Apprehension, custody, and detention.

* * * * *

(g) *Notice of custody determination.*

(1) *In general.* At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, an immigration official may issue a Form I-286, Notice of Custody Determination. A notice of custody determination may be issued by those immigration officials listed in 8 CFR 287.5(e)(2) and may be served by those immigration officials listed in 8 CFR 287.5(e)(3), or other officers or employees of the Department or the United States who are delegated the authority to do so pursuant to 8 CFR 2.1.

(2) *Cancellation.* If after the issuance of a notice of custody determination, a determination is made not to serve it, any official authorized to issue such notice may authorize its cancellation.

PART 239—INITIATION OF REMOVAL PROCEEDINGS

■ 3. The authority citation for part 239 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1229; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101, *et seq.*); 8 CFR part 2.

■ 4. Section 239.1 is amended by:

■ a. Revising paragraphs (a)(37) and (a)(38); and by

■ b. Adding paragraphs (a)(39) through (a)(41).

The revisions and additions read as follows:

§ 239.1 Notice to appear.

(a) * * *

* * * * *

(37) Deputy port directors;

(38) Supervisory service center adjudications officers;

(39) Unit Chief, Law Enforcement Support Center;

(40) Section Chief, Law Enforcement Support Center; or

(41) Other officers or employees of the Department or of the United States who are delegated the authority as provided by 8 CFR 2.1 to issue notices to appear.

* * * * *

PART 241—APPREHENSION AND DETENTION OF ALIENS ORDERED REMOVED

■ 5. The authority citation for part 241 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1223, 1224, 1225, 1226, 1227, 1228, 1231, 1251, 1253, 1255, 1330, 1362; 18 U.S.C. 4002, 4013(c)(4); Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101, *et seq.*); 8 CFR part 2.

■ 6. Section 241.2 is revised to read as follows:

§ 241.2 Warrant of removal.

(a) *Issuance of a warrant of removal.*

(1) *In general.* A Form I–205, Warrant of Removal, based upon the final administrative removal order in the alien's case shall be issued by any of the following immigration officials:

(i) Director, Detention and Removal Operations;

(ii) Deputy Assistant Director, Field Operations;

(iii) Field Office Directors;

(iv) Deputy Field Office Directors;

(v) Assistant Field Office Directors;

(vi) Officers in Charge;

(vii) Special Agents in Charge;

(viii) Deputy Special Agents in Charge;

(ix) Associate Special Agents in Charge;

(x) Assistant Special Agents in Charge;

(xi) Group Supervisors;
(xii) Resident Agents in Charge;
(xiii) District Field Officers;
(xiv) Chief Patrol Agents;
(xv) Deputy Chief Patrol Agents;
(xvi) Assistant Chief Patrol Agents;
(xvii) Patrol Agents in Charge;
(xviii) Unit Chief, Law Enforcement Support Center;
(xix) Section Chief, Law Enforcement Support Center;
(xx) Port Directors;
(xxi) Deputy Port Directors;
(xxii) Assistant Port Directors;
(xxiii) Director, Field Operations;
(xxiv) Deputy Director, Field Operations;
(xxv) Assistant Director, Field Operations; and
(xxvi) Other officers or employees of the Department or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue Warrants of Removal.

(2) *Costs and care during removal.* The immigration officials listed in paragraphs (a)(1)(i) through (xxv) of this section, and other officers or employees of the Department or the United States who are delegated the authority as provided in 8 CFR 2.1, shall exercise the authority contained in section 241 of the Act to determine at whose expense the alien shall be removed and whether his or her mental or physical condition requires personal care and attention en route to his or her destination.

(b) *Execution of the warrant of removal.* Any officer authorized by 8 CFR 287.5(e)(3) to execute administrative warrants of arrest may execute a warrant of removal.

PART 287—FIELD OFFICERS; POWERS AND DUTIES

■ 7. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 101, *et seq.*); 8 CFR part 2.

■ 8. Section 287.5(e)(2) is revised to read as follows:

§ 287.5 Exercise of power by immigration officers.

* * * * *

(e) * * *

(2) *Issuance of arrest warrants for immigration violations.* A warrant of arrest may be issued by any of the following immigration officials who have been authorized or delegated such authority:

(i) District directors (except foreign);

(ii) Deputy district directors (except foreign);

(iii) Assistant district directors for investigations;

(iv) Deputy assistant district directors for investigations;

(v) Assistant district directors for deportation;

(vi) Deputy assistant district directors for deportation;

(vii) Assistant district directors for examinations;

(viii) Deputy assistant district directors for examinations;

(ix) Officers in charge (except foreign);

(x) Assistant officers in charge (except foreign);

(xi) Chief patrol agents;

(xii) Deputy chief patrol agents;

(xiii) Assistant chief patrol agents;

(xiv) Patrol agents in charge;

(xv) Assistant patrol agents in charge;

(xvi) Field operations supervisors;

(xvii) Special operations supervisors;

(xviii) Supervisory border patrol

agents;

(xix) The Assistant Commissioner,

Investigations;

(xx) Institutional Hearing Program

directors;

(xxi) Area port directors;

(xxii) Port directors;

(xxiii) Deputy port directors;

(xxiv) Assistant Area port directors;

(xxv) Supervisory deportation

officers;

(xxvi) Supervisory detention and

deportation officers;

(xxvii) Group Supervisors;

(xxviii) Director, Office of Detention

and Removal Operations;

(xxix) Special Agents in Charge;

(xxx) Deputy Special Agents in

Charge;

(xxxi) Associate Special Agents in

Charge;

(xxxii) Assistant Special Agents in

Charge;

(xxxiii) Resident Agents in Charge;

(xxxiv) Field Office Directors;

(xxxv) Deputy Field Office Directors;

(xxxvi) District Field Officers;

(xxxvii) Supervisory district

adjudications officers;

(xxxviii) Supervisory asylum officers;

(xxxix) Supervisory special agents;

(xl) Director of investigations;

(xli) Directors or officers in charge of detention facilities;

(xlii) Directors of field operations;

(xliii) Deputy or assistant directors of

field operations;

(xliv) Unit Chief, Law Enforcement

Support Center;

(xlv) Section Chief, Law Enforcement

Support Center;

(xlvi) Director, Field Operations;

(xlvii) Deputy Director, Field

Operations;

(xlviii) Assistant Director, Field

Operations;

(xlix) Immigration Enforcement

Agents; or

(l) Other officers or employees of the Department or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue warrants of arrest.

* * * * *

Dated: October 17, 2005.

Michael Chertoff,

Secretary of Homeland Security.

[FR Doc. 05-21980 Filed 11-3-05; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 503, 542, and 543

[BOP-1136-I]

RIN 1120-AB36

Bureau of Prisons Central Office, Regional Offices, Institutions, and Staff Training Centers: Removal of Addresses From Rules

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) removes its rules listing the addresses of Bureau facilities in each of its regions. We will replace these rules with a short description of the Bureau's structure, the address of the Bureau's Central Office, and a reference to the Bureau's internet address containing current and frequently updated contact information on Bureau facilities and Regional Offices. This change will enable the Bureau to more quickly and accurately provide updated contact information to members of the public, in light of frequently changing circumstances.

DATES: This rule is effective November 4, 2005. Please send comments on this rulemaking by January 3, 2006.

ADDRESSES: Our e-mail address is BOPRULES@BOP.GOV. Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at <http://www.regulations.gov>. You may also comment via the Internet to BOP at BOPRULES@BOP.GOV or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307-2105.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons removes its rules listing the addresses of Bureau facilities in each of its regions. We will replace these rules with a short description of the Bureau's structure, the address of the Bureau's Central Office, and a reference to the Bureau's Web site containing current and frequently updated contact information on Bureau facilities and Regional Offices.

This change will enable the Bureau to more quickly and accurately provide updated contact information to members of the public, in light of frequently changing circumstances. Before 1990, the Bureau published lists of the addresses of its facilities as Notices in the **Federal Register**. On July 23, 1990, we published the list of addresses as a federal rule (55 FR 29990). We amended it in 1991 (56 FR 31531), 1992 (57 FR 53822), 1993 (58 FR 44428), and 1998. Frequently changing circumstances have made it difficult to quickly update the list of addresses. Between 1998 (the date this rule was last amended) and March, 2005, the number of Bureau facilities grew from 93 to 113. This rule change would allow the Bureau to reference our Web site, which we can update far more quickly and accurately, for the most current addresses and other contact information of all Bureau facilities.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) allows exceptions to notice-and-comment rulemaking "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Further, section 553(d) provides an exception to the usual requirement of a delayed effective date when an agency finds "good cause" that the rule be made immediately effective.

This rulemaking is exempt from normal notice-and-comment procedures because advance notice and public comment in this instance is unnecessary. This is an administrative rule insignificant in impact and inconsequential to the public. The rule merely eliminates a long list of non-current addresses and replaces them with a reference to a publicly accessible and more accurate source. This rulemaking makes no change to any rights or responsibilities of the agency or any regulated entities. For the same reasons, the Bureau finds that "good cause" exists to make this rule effective upon publication.

Nevertheless, the Bureau invites public comment on this interim rule.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons. This rule will enable the Bureau to more quickly and accurately provide updated contact information to members of the public and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 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.