

Department of Homeland Security

§ 241.2

PART 241—APPREHENSION AND DETENTION OF ALIENS ORDERED REMOVED

4013(c)(4); Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 101, et seq.); 8 CFR part 2.

SOURCE: 62 FR 10378, Mar. 6, 1997, unless otherwise noted.

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§ 241.1 Final order of removal.

An order of removal becomes final in accordance with 8 CFR 1241.1.

[70 FR 673, Jan. 5, 2005]

§ 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

Subpart B—Deportation of Excluded Aliens (for Hearings Commenced Prior to April 1, 1997)

- 241.20 Proceedings commenced prior to April 1, 1997.
241.21 Stay of deportation of excluded alien.
241.22 Notice to surrender for deportation.
241.23 Cost of maintenance not assessed.
241.24 Notice to transportation line of alien's exclusion.
241.25 Deportation.
241.26-241.29 [Reserved]

Subpart C—Deportation of Aliens in the United States (for Hearings Commenced Prior to April 1, 1997)

- 241.30 Proceedings commenced prior to April 1, 1997.
241.31 Final order of deportation.
241.32 Warrant of deportation.
241.33 Expulsion.

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,

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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.

[70 FR 67089, Nov. 4, 2005]

§ 241.3 Detention of aliens during removal period.

(a) *Assumption of custody.* Once the removal period defined in section 241(a)(1) of the Act begins, an alien in the United States will be taken into custody pursuant to the warrant of removal.

(b) *Cancellation of bond.* Any bond previously posted will be canceled unless it has been breached or is subject to being breached.

(c) *Judicial stays.* The filing of (or intention to file) a petition or action in a Federal court seeking review of the issuance or execution of an order of removal shall not delay execution of the Warrant of Removal except upon an affirmative order of the court.

(d) *Information regarding detainees.* Disclosure of information relating to detainees shall be governed by the provisions of 8 CFR 236.3.

[62 FR 10378, Mar. 6, 1997, as amended at 70 FR 673, Jan. 5, 2005]

§ 241.4 Continued detention of inadmissible, criminal, and other aliens beyond the removal period.

(a) *Scope.* The authority to continue an alien in custody or grant release or parole under sections 241(a)(6) and 212(d)(5)(A) of the Act shall be exercised by the Commissioner or Deputy Commissioner, as follows: Except as

otherwise directed by the Commissioner or his or her designee, the Executive Associate Commissioner for Field Operations (Executive Associate Commissioner), the Deputy Executive Associate Commissioner for Detention and Removal, the Director of the Detention and Removal Field Office or the district director may continue an alien in custody beyond the removal period described in section 241(a)(1) of the Act pursuant to the procedures described in this section. Except as provided for in paragraph (b)(2) of this section, the provisions of this section apply to the custody determinations for the following group of aliens:

(1) An alien ordered removed who is inadmissible under section 212 of the Act, including an excludable alien convicted of one or more aggravated felony offenses and subject to the provisions of section 501(b) of the Immigration Act of 1990, Public Law 101-649, 104 Stat. 4978, 5048 (codified at 8 U.S.C. 1226(e)(1) through (e)(3)(1994));

(2) An alien ordered removed who is removable under section 237(a)(1)(C) of the Act;

(3) An alien ordered removed who is removable under sections 237(a)(2) or 237(a)(4) of the Act, including deportable criminal aliens whose cases are governed by former section 242 of the Act prior to amendment by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Div. C of Public Law 104-208, 110 Stat. 3009-546; and

(4) An alien ordered removed who the decision-maker determines is unlikely to comply with the removal order or is a risk to the community.

(b) *Applicability to particular aliens—*

(1) *Motions to reopen.* An alien who has filed a motion to reopen immigration proceedings for consideration of relief from removal, including withholding or deferral of removal pursuant to 8 CFR 208.16 or 208.17, shall remain subject to the provisions of this section unless the motion to reopen is granted. Section 236 of the Act and 8 CFR 236.1 govern custody determinations for aliens who are in pending immigration proceedings before the Executive Office for Immigration Review.

(2) *Parole for certain Cuban nationals.* The review procedures in this section