

§ 238.5

8 CFR Ch. I (1-1-97 Edition)

P. & O. Inc.
P & O Lines (North America) Inc.
Pacific Interstate Airlines.
Pacific Western Airlines, Ltd.
Paquet Cruise Lines, Inc.
San Juan Airlines, Inc.
Skylink Airlines.
South Pacific Island Airways.
Standard Airways, Inc.
Sundance Cruises, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
Universal Airlines, Inc.
VCHC Enterprises, Limited.
Wardair Canada, Inc.
Western Airlines, Inc.
World Airways, Inc.

AT VICTORIA

Airwest Canada.
B.C. Stena Line, Ltd.
Black Ball Transport, Inc.
British Columbia Coast Steamship Service.
British Columbia Steamship Co. (1975), Ltd.
Canadian Airlines International, Ltd.
Canadian Pacific Railway Co.
Clipper Navigation, Inc.
Island Jetfoil Corporation.
Miami Air International, Inc.
Northwest Hydrofoil Lines, Inc.
Royal Cruise Line.
Washington State Ferries.
Yarmouth Cruises, Inc.

AT WINNIPEG

Aero Trades (Western) Ltd.
Air Canada.
Air Niagara Express, Inc.
Aspen Airways, (dba United Express).
Canadian Airlines International, Ltd.
CP Air.
Express One International, Inc.
Frontier Airlines, Inc.
Holiday Air of America.
Miami Air International, Inc.
Nordair Limited.
North Central Airlines.
Northwest Airlines, Inc.
Pacific Western Airlines, Ltd.
Trans Air, Ltd.
Trans World Airlines, Inc.
VCHC Enterprises, Limited.
Wardair Canada, Inc.

[32 FR 9630, July 4, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 238.4, see List of CFR Sections Affected in the Finding Aids section of this volume.

§ 238.5 Aliens entering Guam pursuant to section 14 of Public Law 99-396, "Omnibus Territories Act".

(a) *Form I-760 agreements.* A transportation line bringing aliens to Guam under the visa waiver provisions of

§ 212.1(e) of this chapter shall enter into an agreement on Form I-760. Such agreements shall be negotiated directly by the Central Office and head offices of the transportation lines.

(b) [Reserved]

[52 FR 48084, Dec. 18, 1987]

PART 239—SPECIAL PROVISIONS RELATING TO AIRCRAFT: DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

Sec.

- 239.1 Definitions.
- 239.2 Landing requirements.
- 239.3 Aircraft; how considered.
- 239.4 International airports for entry of aliens.

AUTHORITY: 8 U.S.C. 1103, 1221, and 1229; 66 Stat. 173, 195, 203.

§ 239.1 Definitions.

(a) *Scheduled Airline.* This term means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from one place to another in the United States, and holding a Foreign Air Carrier permit or a Certificate of Public Convenience and Necessity issued pursuant to the Federal Aviation Act of 1958 (72 Stat. 731).

(b) *International Airport.* An international airport is one designated by the Commissioner for the entry of aliens with the prior approval of the Secretary of Commerce, Secretary of the Treasury and the Secretary of Health and Human Services.

(c) *Landing Rights Airport.* An airport, although not designated as international, at which permission to land has been granted to aircraft operated by scheduled airlines by the Commissioner of Customs.

[49 FR 50018, Dec. 26, 1984]

§ 239.2 Landing requirements.

(a) *Place of landing.* Aircraft carrying passengers or crew required to be inspected under the Act shall land at the international air ports of entry enumerated in part 100 of this chapter unless permission to land elsewhere shall

first be obtained from the Commissioner of Customs in the case of aircraft operated by scheduled airlines, and in all other cases from the district director of Customs or other Customs officer having jurisdiction over the Customs port of entry nearest the intended place of landing. Notwithstanding the foregoing, aircraft carrying passengers or crew required to be inspected under the Act on flights originating in Cuba shall land only at Fort Lauderdale-Hollywood Airport, Fort Lauderdale, Florida, unless advance permission to land elsewhere has been obtained from the District Director of the Immigration and Naturalization Service at Miami, Florida.

(b) *Advance notice of arrival.* Aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act, except aircraft of a scheduled airline arriving in accordance with the regular schedule filed with the Service at the place of landing, shall furnish notice of the intended flight to the immigration officer at or nearest the intended place of landing, or shall furnish similar notice to the district director of Customs or other Customs officer in charge at such place. Such notice shall specify the type of aircraft, the registration marks thereon, the name of the aircraft commander, the place of last departure, the airport of entry, or other place at which landing has been authorized, number of alien passengers, number of citizen passengers, and the estimated time of arrival. The notice shall be sent in sufficient time to enable the officers designated to inspect the aircraft to reach the airport of entry or such other place of landing prior to the arrival of the aircraft.

(c) *Permission to discharge or depart.* Aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act shall not discharge or permit to depart any passenger or crewman without permission from an immigration officer.

(d) *Emergency or forced landing.* Should any aircraft carrying passengers or crew required to be inspected under the Immigration and Nationality Act make a forced landing in the United States, the commanding officer or person in command shall not

allow any passenger or crewman thereon to depart from the landing place without permission of an immigration officer, unless such departure is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the commanding officer or person in command, or the owner of the aircraft, shall communicate with the nearest immigration officer and make a full report of the circumstances of the flight and of the emergency or forced landing.

[22 FR 9795, Dec. 6, 1957, as amended at 32 FR 9631, July 4, 1967; 45 FR 29243, May 1, 1980; 49 FR 50019, Dec. 26, 1984; 54 FR 102, Jan. 4, 1989; 54 FR 1050, Jan. 11, 1989]

§ 239.3 Aircraft; how considered.

Except as otherwise specifically provided in the Immigration and Nationality Act and this chapter, aircraft arriving in or departing from the continental United States or Alaska directly from or to foreign contiguous territory or the French island of St. Pierre or Miquelon shall be regarded for the purposes of the Immigration and Nationality Act and this chapter as other transportation lines or companies arriving or departing over the land borders of the United States. Aliens on aircraft arriving overland in foreign contiguous territory on journeys which did not begin outside of North or South America or islands belonging to countries or to political subdivisions of these continents shall not be held to be subject to section 212(a)(24) of the Immigration and Nationality Act.

[22 FR 9795, Dec. 6, 1957]

§ 239.4 International airports for entry of aliens.

International airports for the entry of aliens shall be those airports designated as such by the Commissioner. An application for designation of an airport as an international airport for the entry of aliens shall be made to the Commissioner and shall state whether the airport: (a) Has been approved by the Secretary of Commerce as a properly equipped airport, (b) has been designated by the Secretary of the Treasury as a port of entry for aircraft arriving in the United States from any place outside thereof and for the merchandise carried thereon, and (c) has been

designated by the Secretary of Health, Education, and Welfare as a place for quarantine inspection. An airport shall not be so designated by the Commissioner without such prior approval and designation, and unless it appears to the satisfaction of the Commissioner that conditions render such designation necessary or advisable, and unless adequate facilities have been or will be provided at such airport without cost to the Federal Government for the proper inspection and disposition of aliens, including office space and such temporary detention quarters as may be found necessary. The designation of an airport as an international airport for the entry of aliens may be withdrawn whenever, in the judgment of the Commissioner, there appears just cause for such action.

[22 FR 9795, Dec. 6, 1957]

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

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- 240.4 Ineligible aliens.
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- 240.6 Application.
- 240.7 Filing the application.
- 240.8 Appearance.
- 240.9 Evidence.
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- 240.17 Annual registration.
- 240.18 Issuance of charging documents; detention.
- 240.19 Termination of designation.
- 240.20 Waiver of fees.
- 240.21–240.39 [Reserved]

AUTHORITY: 8 U.S.C. 1103, 1254a, 1254a note.

SOURCE: 56 FR 619, Jan. 7, 1991, unless otherwise noted.

§ 240.1 Definitions.

As used in this part:

Act means the Immigration and Nationality Act, as amended by the Immigration Act of 1990.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Charging document means Form I-221 (Order to Show Cause and Notice of Hearing), Form I-221S (Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien) or Form I-122 (Notice to Applicant for Admission Detained for Hearing before Immigration Judge).

Continuously physically present means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Continuously resided means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Felony means a crime committed in the United States, punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except: When the offense is defined by the