

admitted only to the U.S. Virgin Islands as a visitor for business or pleasure under §212.1(b) of this chapter;

(iii) Any Mexican national in possession of a valid nonresident alien Mexican border crossing card who is admitted as a border crosser or non-immigrant visitor at a Mexican border port of entry for a period not to exceed 72 hours to visit within 25 miles of the border;

(iv) Any Mexican national in possession of a valid Mexican passport and a multiple-entry nonimmigrant visa issued under section 101(a)(15)(B) of the Act who is admitted at a Mexican border port of entry as a nonimmigrant visitor for a period not to exceed 72 hours to visit within 25 miles of the border; or

(v) Any Mexican national eligible for a Mexican Border Visitors Permit, Form I-444, under paragraph (g) of this section.

(vi) Bearers of Mexican diplomatic or official passports described in §212.1(c-1) of this chapter.

(2) *Paroled aliens.* Any alien paroled into the United States under section 212(d)(5) of the Act, including any alien crewmember, shall be issued a completely executed Form I-94 which must include:

- (i) Date and place of parole;
- (ii) Period of parole; and

(iii) Conditions under which the alien is paroled into the United States. A fee shall not be required for Form I-94 when it is issued for the purpose of paroling an alien into the United States.

(g) *Mexican Border Visitors Permit, Form I-444.* (1) Any Mexican national exempt from issuance of a Form I-94 under paragraph (f)(1) (iii) or (iv) of this section shall be issued a Mexican Border Visitor's Permit, Form I-444, whenever:

(i) The period of admission sought is more than 72 hours but not more than 30 days; or

(ii) The applicant desires to travel more than 25 miles from the Mexican border but within the 5-state area of Arizona, California, Nevada, New Mexico, or Texas. A separate Form I-444 will be issued for each applicant for admission and a fee as prescribed under §103.7(b)(1) of this chapter shall be

charged for each applicant, or until the family cap is reached.

(2) If, after entry and issuance of the Form I-444, the alien seeks to remain for longer than 30 days or to proceed outside of the five-state area, the alien must apply for permission at a Service office located within the five-state area.

[32 FR 9627, July 4, 1967, as amended at 32 FR 11628, Aug. 11, 1967; 45 FR 70428, Oct. 24, 1980; 46 FR 43826, Sept. 1, 1981; 47 FR 49953, Nov. 4, 1982; 49 FR 33434, Aug. 23, 1984; 58 FR 69217, Dec. 30, 1993; 60 FR 40068, Aug. 7, 1995; 60 FR 50389, Sept. 29, 1995]

§235.2 Examination postponed.

Whenever an alien on arrival is found or believed to be suffering from a disability which renders it impractical to proceed with the examination under the Act, the examination of such alien, members of his family concerning whose admissibility it is necessary to have such alien testify, and any accompanying aliens whose protection or guardianship will be required should such alien be found inadmissible shall be deferred for such time and under such conditions as the district director in whose district the port is located imposes.

[22 FR 9791, Dec. 6, 1957]

§235.3 Detention and deferred inspection.

(a) *Prior to inspection.* All persons arriving at a port in the United States by vessel or aircraft shall be detained aboard the vessel or at the airport of arrival by the master, commanding officer, purser, person in charge, agent, owner, or consignee of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service. Notice or order to detain shall not be required. The Service will not be liable for any expenses of a passenger who has not been presented for inspection and for whom a determination has not been made concerning admissibility by a Service officer.

(b) *Aliens with no documentation or false documentation.* Any alien who appears to the inspecting officer to be inadmissible, and who arrives without documents (except an alien for whom documentary requirements are waived

under §211.1(b)(3) or §212.1 of this chapter) or who arrives with documentation which appears on its face to be false, altered, or to relate to another person, or who arrives at a place other than a designated port of entry, shall be detained in accordance with section 235(b) of the Act. Parole of such aliens shall only be considered in accordance with §212.5(a) of this chapter.

(c) *Aliens with documents.* Any alien who appears to the inspecting officer to be inadmissible, but who does not fall within paragraph (b) of this section, may be detained, paroled, or paroled for deferred inspection by the inspecting officer. In determining whether or not an alien shall be detained, paroled or paroled for deferred inspection, the inspecting officer shall consider the likelihood that the alien will abscond or pose a security risk.

(d) *Service custody.* The Service will assume custody of any alien subject to detention under §235.3 (b) or (c) of this section, except in the case of an alien who is presented as a Transit Without Visa (TWOV) passenger.

(e) *Notice to carriers.* In the opinion of the examining immigration officer, it is not practical to resolve a question of admissibility at the time of arrival of an alien passenger on a vessel or aircraft, the officer shall execute a Form I-259C to notify the agent, master, or commanding officer of the vessel or aircraft, if applicable, that the alien passenger may be excludable from the United States and in the event the alien is formally ordered excluded and deported, the carrier will be responsible for detention and transportation expenses to the last foreign port of embarkation as provided in §237.5 of this chapter.

(f) *Detention in Non-Service facility.* Whenever an alien is taken into Service custody and detailed at a facility other than at a Service Processing Center, the public or private entities contracted to perform such service shall have been approved for such use by the Service's Jail Inspection Program or shall be performing such service under contract in compliance with the Standard Statement of Work for Contract Detention Facilities. Both programs are administered by the Detention and Deportation section having jurisdiction

over the alien's place of detention. Under no circumstances shall an alien be detained in facilities not meeting the four mandatory criteria for usage. These are: (1) 24-Hour Supervision, (2) Conformance with Safety and Emergency Codes, (3) Food Service and (4) Availability of Emergency Medical Care.

(g) *Privilege of communication.* The mandatory notification requirements of consular and diplomatic officers pursuant to 8 CFR 242.2(g) apply to exclusion proceedings.

[47 FR 30046, July 9, 1982, as amended at 47 FR 46494, Oct. 19, 1982; 54 FR 101, Jan. 4, 1989; 54 FR 6365, Feb. 9, 1989; 60 FR 16043, Mar. 29, 1995]

§235.4 Endorsement of documents.

The admitting immigration officer shall, by means of a stamp, record in each passport required to be presented the word "Admitted" and the date and place of admission. The same information shall, upon admission, be recorded on any immigrant visa, reentry permit or required Form I-94. The "I-94 Departure Record" part of Form I-94, properly endorsed, shall be returned to the alien for retention while in the United States. At the time of departure from the United States, the alien shall surrender the I-94 Departure Record to a representative of the carrier transporting the alien.

[48 FR 35349, Aug. 4, 1983]

§235.5 Preinspection.

(a) *In United States territories and possessions.* In the case of any aircraft proceeding from Guam, Puerto Rico, or the Virgin Islands of the United States destined directly and without touching at a foreign port or place to any other of such places or to one of the States of the United States or the District of Columbia, the examination required by the act of the passengers and crew may be made prior to the departure of the aircraft, and in such event, final determination of admissibility shall be made immediately prior to such departure. The examination shall be conducted in accordance with sections 234, 235, 236, and 237 of the act and this part and parts 236 and 237 of this chapter,