

remand the case to the district director for parole.

[42 FR 46045, Sept. 14, 1977. Redesignated at 43 FR 16445, Apr. 19, 1978, and amended at 52 FR 2939, Jan. 29, 1987]

**§ 236.6 Finality of order.**

The decision of the Immigration Judge shall become final in accordance with § 3.37 of this chapter.

[52 FR 2939, Jan. 29, 1987]

**§ 236.7 Appeals.**

Except as limited by section 236 of the Act, an appeal from a decision of an Immigration Judge under this part may be taken by either party pursuant to § 3.38 of this chapter.

[61 FR 18909, Apr. 29, 1996]

**§ 236.8 Fingerprinting of excluded aliens.**

Every alien 14 years of age or older who is excluded from admission to the United States by an immigration judge shall be fingerprinted, unless during the preceding year he has been fingerprinted at an American consular office.

[42 FR 46045, Sept. 14, 1977. Redesignated at 43 FR 16445, Apr. 19, 1978]

**§ 236.9 Visa Waiver Pilot Program.**

Pursuant to section 217(b)(4)(A) of the Act, an alien who applies for admission to the United States under the provisions of that section must waive any right to review or appeal an immigration officer's determination as to the admissibility of the alien at a port of entry, other than on the basis of an application for asylum. An alien applicant for admission under section 217 of the Act shall be removed from the United States upon a determination by an immigration officer (port director, officer-in-charge, or officer acting in either capacity) that the alien is inadmissible in accordance with procedures in § 217.4(b) of this chapter except that such an alien who applies for asylum in the United States shall be referred to an immigration judge for further inquiry as provided in section 235 of the Act and § 236.3 of this part.

[53 FR 24903, June 30, 1988]

**§ 236.10 Exclusion of alien seeking admission under section 101(a)(15)(S) of the Act.**

An alien who applies for admission under the provisions of section 101(a)(15)(S) of the Act who is determined by an immigration officer not to be eligible for admission under that section or to be excludable from the United States under one or more of the grounds of excludability listed in section 212 of the Act, which have not been previously waived by the Commissioner, will be taken into custody and will be subject to the exclusion procedures contained in 8 CFR part 236.

[60 FR 44268, Aug. 25, 1995]

**PART 237—DEPORTATION OF EXCLUDED ALIENS**

Sec.

- 237.1 Stay of deportation of excluded alien.
- 237.2 Notice to surrender for deportation.
- 237.3 Cost of maintenance not assessed.
- 237.4 [Reserved]
- 237.5 Notice to transportation line of alien's exclusion.
- 237.6 Deportation.

AUTHORITY: 8 U.S.C. 1103, 1227, and 1255.

**§ 237.1 Stay of deportation of excluded alien.**

The district director in charge of the port of arrival may stay the immediate deportation of an excluded alien pursuant to sections 237 (a) and (d) of the act under such conditions as he may prescribe.

[23 FR 5818, Aug. 1, 1958]

**§ 237.2 Notice to surrender for deportation.**

An alien who has been finally excluded pursuant to part 236 of this chapter may at any time surrender himself to the custody of the Service and shall surrender himself to such custody upon notice in writing of the time and place for his surrender. The Service may take the alien into custody at any time. An alien taken into custody either upon notice to surrender or by arrest shall not be deported less than 72 hours thereafter without his consent thereto filed in writing with the district director in charge of the place of his detention. An alien in

§ 237.3

8 CFR Ch. I (1–1–97 Edition)

foreign contiguous territory shall be informed that he may remain there in lieu of surrendering to the Service, but that he will be deemed to have acknowledged the execution of the order of exclusion and deportation in his case upon his failure to surrender at the time and place prescribed.

[30 FR 4411, Apr. 6, 1965]

**§ 237.3 Cost of maintenance not assessed.**

A claim pursuant to section 237(a)(2)(B) of the Act shall be established to the satisfaction of the district director in charge of the port of arrival, from whose adverse decision no appeal shall lie. The district director shall afford the line a reasonable time within which to submit affidavits and briefs to support its claim.

[23 FR 5818, Aug. 1, 1958. Redesignated at 26 FR 2113, Mar. 11, 1961]

**§ 237.4 [Reserved]**

**§ 237.5 Notice to transportation line of alien's exclusion.**

(a) An excluded alien shall, immediately or as promptly as the circumstances permit, be offered for deportation to the master, commanding officer, purser, person in charge, agent, owner, or consignee of the vessel or aircraft on which the alien is to be deported, as determined by the district director, with a written notice specifying the cause of exclusion, the class of travel in which such alien arrived and is to be deported, and with the return of any documentation which will assist in effecting his deportation. If special care and attention is required, the provisions of § 243.7 of this chapter shall apply.

(b) Failure of the carrier to accept for removal an alien who has been ordered excluded and deported shall result in the carrier being assessed any costs incurred by the Service for detention after the carrier's failure to accept the alien for removal including the cost of any transportation. The User Fee Account shall not be assessed for expenses incurred because of the carrier's violation of the provisions of section 237 of the Immigration and Nationality Act and this paragraph. The Service will, at the carriers option, re-

tain custody of the excluded alien for an additional seven days beyond the date of the deportation/exclusion order. If, after the third day of this additional seven day period, the carrier has not made all the necessary transportation arrangements for the excluded alien to be returned to his/her point of embarkation by the end of the additional seven day period, the Service will make the arrangements and bill the carrier for its costs.

[27 FR 1479, Feb. 17, 1962, as amended at 54 FR 102, Jan. 4, 1989]

**§ 237.6 Deportation.**

(a) *Definitions of terms.* For the purposes of this section, the following terms mean:

(1) Adjacent island—as defined in section 101(b)(5) of the Act.

(2) Foreign contiguous territory—any country sharing a common boundary with the United States.

(3) Residence in foreign contiguous territory or adjacent island—any physical presence, regardless of intent, in a foreign contiguous territory or an adjacent island if the government of such territory or island agrees to accept the alien.

(4) Aircraft or vessel—any conveyance and other mode of travel by which arrival is effected.

(5) Next available flight—is to be the carrier's next regularly scheduled departure to the excluded alien's point of embarkation regardless of seat availability. If the carrier's next regularly scheduled departure to the excluded aliens point of embarkation is full, the carrier has the option of arranging for return transportation on other carriers which service the excluded aliens point of embarkation.

(b) *Place to which deported.* Any alien (other than an alien crewmember or an alien who boarded an aircraft or vessel in foreign contiguous territory or an adjacent island) who is ordered excluded shall be deported to the country where the alien boarded the vessel or aircraft on which the alien arrived in the United States. If that country refuses to accept the alien, the alien shall be deported to:

(1) The country of which the alien is a subject, citizen, or national;