

§ 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;