

(2) *Notice procedure.* Notice of intent to terminate and of the grounds thereof shall be served pursuant to the provisions of § 103.5a of this chapter. The alien shall be given 30 days to respond to the notice and may submit to the Service additional evidence in rebuttal. Any final decision of termination shall also be served pursuant to the provisions of § 103.5a of the chapter. Nothing in this section shall preclude the Service from commencing exclusion or deportation proceedings prior to termination of Family Unity Program benefits.

(3) *Effect of termination.* Termination of benefits under the Family Unity Program, other than as a result of a final order of deportation or exclusion, shall render the alien amendable to exclusion or deportation proceedings under sections 236 or 242 of the Act, as appropriate.

[60 FR 66067, Dec. 21, 1995]

**§ 242.7 Cancellation proceedings.**

(a) *Cancellation of an order to show cause.* Any officer authorized by § 242.1(a) of this part to issue an order to show cause may cancel an order to show cause prior to jurisdiction vesting with the Immigration Judge pursuant to § 3.14 of this chapter provided the officer is satisfied that:

(1) The respondent is a national of the United States;

(2) The respondent is not deportable under immigration laws;

(3) The respondent is deceased;

(4) The respondent is not in the United States;

(5) The respondent was placed under proceedings for failure to file a timely petition as required by section 216(c) of the Act, but his or her failure to file a timely petition was excused in accordance with section 216(d)(2)(B) of the Act; or

(6) The Order to Show Cause was improvidently issued.

(b) *Motion to dismiss.* After commencement of proceedings pursuant to § 3.14 of this chapter, any officer enumerated in paragraph (a) of this section may move for dismissal of the matter on the grounds set out under paragraph (a) of this section. Dismissal of the matter shall be without prejudice to the alien or the Service.

(c) *Motion for remand.* After commencement of the hearing, any officer enumerated in paragraph (a) of this section may move for remand of the matter to district jurisdiction on the ground that the foreign relations of the United States are involved and require further consideration. Remand of the matter shall be without prejudice to the alien or the Service.

(d) *Warrant of arrest.* When an order to show cause is cancelled or proceedings are terminated under this section any outstanding warrant of arrest is cancelled.

(e) *Termination of deportation proceedings by immigration judge.* An immigration judge may terminate deportation proceedings to permit the respondent to proceed to a final hearing on a pending application or petition for naturalization when the respondent has established prima facie eligibility for naturalization and the matter involves exceptionally appealing or humanitarian factors; in every other case, the deportation hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any state of the proceedings.

[47 FR 49954, Nov. 4, 1982; 47 FR 51351, Nov. 15, 1982, as amended at 52 FR 2940, Jan. 29, 1987; 52 FR 3099, Jan. 30, 1987; 52 FR 5616, Feb. 25, 1987; 53 FR 30022, Aug. 10, 1988]

**§ 242.7a Waiver of documents; returning residents.**

Pursuant to the authority contained in section 211(b) of the Act, an alien previously lawfully admitted to the United States for permanent residence who, upon return from a temporary absence was excludable because of failure to have or to present a valid passport, immigrant visa, reentry permit, border crossing card, or other document required at the time of entry, may be granted a waiver of such requirement in the discretion of the district director: *Provided*, That such alien (a) was not otherwise excludable at the time of entry, or (b) having been otherwise excludable at the time of entry is with respect thereto qualified for an exemption from deportability under section 241(a)(1)(H) of the Act, and (c) is not otherwise subject to deportation. Denial of a waiver by the district director