

initiating the deportation. An alien classified under the provisions of section 101(a)(15)(S) of the Act who is determined, pursuant to a warrant issued by a district director, to be deportable from the United States shall be deported from the United States to his or her country of nationality or last residence. The LEA who requested the alien's presence in the United States shall ensure departure from the United States and so inform the district director in whose jurisdiction the alien has last resided. The district director, if necessary, shall oversee the alien's departure from the United States and, in any event, shall notify the Commissioner of the alien's departure.

(d) *Withholding of deportation.* An alien classified pursuant to section 101(a)(15)(S) of the Act who applies for withholding of deportation shall have 10 days from the date the warrant of deportation is served upon the alien to file an application for such relief with the district director initiating the deportation order. The procedures contained in 8 CFR 208.2 and 208.16 shall apply to such an alien who applies for withholding of deportation.

[60 FR 44268, Aug. 25, 1995]

## PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

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AUTHORITY: 8 U.S.C. 1103, 1253.

SOURCE: 26 FR 12113, Dec. 19, 1961, unless otherwise noted.

### § 243.1 Final order of deportation.

Except as otherwise required by section 242(c) of the Act for the specific purposes of that section, an order of deportation, including an alternate order of deportation coupled with an order of voluntary departure, made by the special inquiry officer in proceedings under part 242 of this chapter shall become final upon dismissal of an appeal by the Board of Immigration Appeals,

upon waiver of appeal, or upon expiration of the time allotted for an appeal when no appeal is taken; or, if such an order is issued by the Board or approved by the Board upon certification, it shall be final as of the date of the Board's decision.

### § 243.2 Warrant of deportation.

A Form I-205, Warrant of deportation, based upon the final administrative order of deportation in the alien's case shall be issued by a district director. The district director shall exercise the authority contained in section 243 of the Act to determine at whose expense the alien shall be deported and whether his/her mental or physical condition requires personal care and attention en route to his/her destination.

[54 FR 39337, Sept. 26, 1989]

### § 243.3 Expulsion.

(a) *Execution of Order.* Except in the exercise of discretion by the district director, and for such reasons as are set forth in § 212.5(a) of this chapter, once an order of deportation becomes final, an alien shall be taken into custody and the order shall be executed. For the purposes of this part, an order of deportation is final and subject to execution upon the date when any of the following occurs:

(1) A grant of voluntary departure expires;

(2) An immigration judge enters an order of deportation without granting voluntary departure or other relief, and the alien respondent waives his or her right to appeal;

(3) The Board of Immigration Appeals enters an order of deportation on appeal, without granting voluntary departure or other relief; or

(4) A federal district or appellate court affirms an administrative order of deportation in a petition for review or habeas corpus action.

(b) *Service of decision.* In the case of an order entered by any of the authorities enumerated above, the order shall be executed no sooner than 72 hours after service of the decision, regardless of whether the alien is in Service custody, *provided* that such period may be waived on the knowing and voluntary request of the alien. Nothing in this