

§ 243.4

paragraph shall be construed, however, to preclude assumption of custody by the Service at the time of issuance of the final order.

[51 FR 23042, June 25, 1986]

§ 243.4 Stay of deportation.

Any request of an alien under a final administrative order of deportation for a stay of deportation, except a request for withholding of deportation pursuant to section 243(h) of the Act, shall be filed on Form I-246 with the district director having jurisdiction over the place where the alien is at the time of filing. The district director, in his discretion, may grant a stay of deportation for such time and under such conditions as he may deem appropriate. Written notice of the disposition of the alien's request shall be served upon him and any notice of denial shall include specific reasons therefor; however, neither the making of the request nor the failure to receive notice of disposition of the request shall relieve the alien from strict compliance with any outstanding notice to surrender for deportation. Denial by the district director of a request for a stay is not appealable but such denial shall not preclude the Board from granting a stay in connection with a motion to reopen or a motion to reconsider as provided in part 3 of this chapter, nor such denial preclude the special inquiry officer, in his discretion, from granting a stay in connection with, and pending his determination of, a motion to reopen or a motion to reconsider a case falling within his jurisdiction pursuant to § 242.22 of this chapter, and also pending an appeal from such determination.

[40 FR 50702, Oct. 31, 1975]

§ 243.5 Self-deportation.

A district director may permit an alien ordered deported to depart at his own expense to a destination of his own choice. Any alien who has departed from the United States while an order of deportation is outstanding shall be considered to have been deported in pursuance of law, except that an alien who departed before the expiration of the voluntary departure time granted in connection with an alternate order

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of deportation shall not be considered to have been so deported.

[29 FR 6485, May 19, 1964]

§ 243.6 Notice to transportation line.

When a transportation line is responsible for the expenses of an alien's deportation, notification shall be made to such line on Form I-284, when applicable, and Form I-288. If special care and attention is required, notification to this effect shall be placed on Form I-288.

§ 243.7 Special care and attention for aliens.

When a transportation line is responsible for the expenses of an alien's deportation, the alien shall be delivered to the master, commanding officer, or the officer in charge of the vessel or aircraft on which the alien will be deported, who shall be given Forms I-287, I-287A, and I-287B. The reverse of Form I-287A shall be signed by the officer of the vessel or aircraft to whom the alien has been delivered and immediately returned to the immigration officer effecting delivery. Form I-287B shall be retained by the receiving officer and subsequently filled out by the agents or persons therein designated and returned by mail to the district director named on the form. The transportation line shall at its own expense forward the alien from the foreign port of disembarkation to the final destination specified on Form I-287. The special care and attention shall be continued to such final destination, except when the foreign public officers decline to allow such attendant to proceed and themselves take charge of the alien, in which case this fact shall be recorded by the transportation line on the reverse of Form I-287B. If the transportation line fails, refuses, or neglects to provide the necessary special care and attention or comply with the directions of Form I-287, the district director shall thereafter and without notice employ suitable persons, at the expense of the transportation line, and effect such deportation.

§ 243.8 Imposition of sanctions.

The provisions of section 243(g) of the Act have been applied to residents of the Union of Soviet Socialist Republics

(USSR), Czechoslovakia, and Cuba. These provisions do not apply to an alien who is residing in Estonia, Latvia, or Lithuania who is not a national, citizen, or subject of the Union of Soviet Socialist Republics. These provisions also do not apply to an alien who is residing in Cuba and can be classified as an immediate relative as defined in section 201(b) or a returning resident as defined in section 101(a)(27)(A). The sanctions imposed on residents of the Union of Soviet Socialist Republics, Czechoslovakia pursuant to section 243(g) may be waived in an individual case for the beneficiary of a petition accorded a status under section 201(b) or section 203(a) of the Act. The sanctions upon the USSR, Czechoslovakia may be waived upon an individual request by the Department of State in behalf of a visa applicant. Upon approval of a visa petition or upon an individual request by the Department of State in behalf of a visa applicant, the district director shall determine whether sanctions shall be waived. However, the regional commissioner or the Deputy Commissioner, may direct that any case or class of cases be referred to him or her for any such determination. The consular officer shall be notified of any determination made with respect to the waiver of sanctions if a visa petition is approved. If the sanctions are not waived, the notice informing the petitioner that the petition has been approved shall also notify him or her that the sanctions imposed by section 243(g) of the Act have not been waived.

[48 FR 39034, Aug. 29, 1983, as amended at 56 FR 48730, Sept. 26, 1991]

PART 244—SUSPENSION OF DEPORTATION AND VOLUNTARY DEPARTURE

Sec.

244.1 Application.

244.2 Extension of time to depart.

AUTHORITY: 8 U.S.C. 1103, 1252, 1254; 8 CFR part 2.

§244.1 Application.

Notwithstanding any other provision of this chapter, an alien who is deportable because of a conviction on or after

November 18, 1988, for an aggravated felony as defined in section 101(a)(43) of the Act, shall not be eligible for voluntary departure as prescribed in part 242 of this chapter and section 244 of the Act. Pursuant to part 242 of this chapter and section 244 of the Act an immigration judge may authorize the suspension of an alien's deportation; or, if the alien establishes that he/she is willing and has the immediate means with which to depart promptly from the United States, an immigration judge may authorize the alien to depart voluntarily from the United States in lieu of deportation within such time as may be specified by the immigration judge when first authorizing voluntary departure, and under such conditions as the district director shall direct. An application for suspension of deportation shall be made on Form EOIR-40.

[46 FR 25598, May 8, 1981, as amended at 55 FR 24859, June 19, 1990; 60 FR 37328, July 20, 1995]

§244.2 Extension of time to depart.

Authority to reinstate or extend the time within which to depart voluntarily specified initially by an immigration judge or the Board is within the sole jurisdiction of the district director, except that an immigration judge or the Board may reinstate voluntary departure in a deportation proceeding that has been reopened for a purpose other than solely making an application for voluntary departure. A request by an alien for reinstatement or an extension of time within which to depart voluntarily shall be filed with the district director having jurisdiction over the alien's place of residence. Written notice of the district director's decision shall be served upon the alien and no appeal may be taken therefrom.

[52 FR 24982, July 2, 1987]

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Sec.

245.1 Eligibility.

245.2 Application.

245.3 Adjustment of status under section 13 of the Act of September 11, 1957, as amended.