

person sought; (3) this individual is not a citizen of the United States; and (4) this individual had not previously been arrested for the same cause and set at liberty because he had been detained for more than 3 months, or more than 2 months in the case of a deserter from a Greek ship of war, from the day of his arrest without the Spanish or Greek authorities having found an opportunity to send him home, the individual shall be served with a copy of the findings, from which no appeal shall lie, and be surrendered forthwith to the Spanish or Greek authorities if they are prepared to remove him from the United States. On written request of the Spanish or Greek authorities, the individual shall be detained, at their expense, for a period not exceeding 3 months or 2 months, respectively, from the day of arrest to afford opportunity to arrange for his departure from the United States.

(d) *Timely departure not effected.* If the Spanish authorities delay in sending the individual home for more than 3 months, or if the Greek authorities delay in sending the individual home for more than 2 months, from the day of his arrest, the individual shall be dealt with as any other alien unlawfully in the United States under the deportation provisions of the Immigration and Nationality Act, as amended.

(e) *Commission of crime.* If the individual has committed any crime or offense in the United States, he shall not be placed at the disposal of the consul until after the proper tribunal having jurisdiction in his case shall have pronounced sentence, and such sentence shall have been executed.

[31 FR 12774, Sept. 30, 1966]

PART 253—PAROLE OF ALIEN CREWMEN

Sec.

253.1 Parole.

253.2 Termination of parole.

AUTHORITY: 8 U.S.C. 1103, 1182, 1282, 1283, 1285.

§ 253.1 Parole.

(a) *General.* When a crewman is paroled into the United States pursuant to the provisions of this part under the

provisions of section 212(d)(5) of the Act, he shall be given Form I-94, reflecting the terms of parole. A notice on Form I-259 shall be served upon the agent, and, if available, upon the owner and master or commanding officer of the vessel or aircraft, which shall specify the purpose of the parole and the conditions under which the alien crewman is paroled into the United States. The Form I-259 shall also specify the Service office to which the alien crewman is to be presented for inspection upon termination of the parole. The guarantee of payment for medical and other related expenses required by section 253 of the Act shall be executed by the owner, agent, consignee, commanding officer or master on Form I-510.

(b) *Afflicted crewman.* Any alien crewman afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease, or an alien crewman suspected of being so afflicted shall upon arrival at the first port of call in the United States, be paroled to the medical institution designated by the district director in whose district the port is located, in the custody (other than during the period of time he is in such medical institution) of the agent of the vessel or aircraft on which such alien arrived in the United States and at the expense of the transportation line for a period initially not to exceed thirty days, for treatment and observation, under the provisions of section 212(d)(5) of the Act. Unless the Public Health Surgeon at the first port certifies that such parole be effected immediately for emergent reasons, the district director may defer execution of parole to a subsequent port of the United States to which the vessel or aircraft will proceed, if facilities not readily available at the first port are readily available at such subsequent port of call. Notice to remove an afflicted alien crewman shall be served by the examining immigration officer upon the master or agent of the vessel or aircraft on Form I-259 and shall specify the date when and the place to which such alien crewman shall be removed and the reasons therefor.

(c) *Disabled crewman.* Any alien crewman who becomes disabled in any port

of the United States, whom the master or agent of the vessel or aircraft is obliged under foreign law to return to another country, may be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the agent of the vessel or aircraft for the purpose of passing through the United States and transferring to another vessel or aircraft for departure to such foreign country, by the most direct and expeditious route.

(d) *Shipwrecked or castaway seamen or airmen.* A shipwrecked or castaway alien seaman or airman who is rescued by or transferred at sea to a vessel or aircraft destined directly for the United States and who is brought to the United States on such vessel or aircraft other than as a member of its crew shall be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director in whose district the port is located, in the custody of the appropriate foreign consul or the agent of the aircraft or vessel which was wrecked or from which such seaman or airman was removed, for the purpose of treatment or observation in a hospital, if such is required, and for departure to the appropriate foreign country by the most direct and expeditious route.

(e) *Medical treatment or observation.* Any alien crewman denied a conditional landing permit or whose conditional landing permit issued under § 252.1(d)(1) of this chapter is revoked may, upon the request of the master or agent, be paroled into the United States under the provisions of section 212(d)(5) of the Act in the custody of the agent of the vessel or aircraft and at the expense of the transportation line for medical treatment or observation.

(f) *Crewman, stowaway, or alien temporarily excluded under section 235(c) alleging persecution.* Any alien crewman, stowaway, or alien temporarily excluded under section 235(c) of the Act who alleges that he cannot return to his country of nationality or last habitual residence (if not a national of any country) because of fear of perse-

cution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, is eligible to apply for asylum or withholding of deportation under part 208 of this chapter.

(1) If the alien is on a vessel or other conveyance and makes such fear known to an immigration inspector or other official making an examination on the conveyance, he shall be promptly removed from the conveyance. If the alien makes his fear known to an official while off such conveyance, he shall not be returned to the conveyance but shall be retained in or transferred to the custody of the Service.

(2) In either case, the alien shall be provided the appropriate application forms and such other information as is required by § 208.5 of this chapter and may then have ten (10) days within which to file an application for such relief with the District Director having jurisdiction over the port of entry from which the applicant seeks entry into the United States. The District Director, pursuant to § 208.4(a) of this chapter, shall immediately forward any such application to an Asylum Officer with jurisdiction over his district.

(3) Pending adjudication of the application by the Asylum Officer, the applicant may be detained by the Service, or paroled into the custody of the ship's agent or otherwise paroled in accordance with § 212.5 of this chapter and shall not be excluded or deported before a decision is rendered by the Asylum Officer on his asylum application.

(4) A decision denying asylum to an alien crewman or stowaway, but not an alien temporarily excluded under section 235(c) of this chapter, may be appealed directly to the Board of Immigration Appeals. Such appeal must be filed within ten (10) days of the Asylum Officer's decision by filing a notice of appeal on Form I-290A with the District Director, who shall immediately forward the notice to the Asylum Officer. The Asylum Officer shall transmit the notice of appeal, his decision, and the record on which that decision was based, to the Board of Immigration Appeals. The filing of a notice of appeal shall stay the exclusion or deportation

of the applicant pending decision on the appeal by the Board.

(g) *Other crewmen.* In the discretion of the district director, any alien crewman not within the purview of paragraphs (b) through (f) of this section may for other emergent reasons or for reasons deemed strictly in the public interest be paroled into the United States under the provisions of section 212(d)(5) of the Act for the period of time and under the conditions set by the district director having jurisdiction over the area where the alien crewman is located.

[22 FR 9804, Dec. 6, 1957, as amended at 26 FR 11797, Dec. 8, 1961; 32 FR 4341, Mar. 22, 1967; 32 FR 9633, July 4, 1967; 55 FR 30687, July 27, 1990]

§ 253.2 Termination of parole.

(a) *General.* At the expiration of the period of parole authorized by the district director, or when the purpose of the parole has been served, whichever is earlier, the agent upon whom the relating Form I-259 was served as provided in § 253.1, shall present the alien crewman for inspection to an immigration officer at the Service office specified in the Form I-259. If the agent cannot present the alien crewman, the agent shall immediately submit a report of the reasons therefor to the district director. The district director shall take such further action as the circumstances may require. If the vessel or aircraft on which the alien crewman arrived in the United States is still in the United States when he is presented for inspection, he shall be treated as an applicant for a conditional landing permit and his case shall be dealt with in the same manner as any other applicant for a conditional landing permit. If the vessel or aircraft on which the alien crewman arrived in the United States departed before he was presented for inspection, the agent shall be directed by means of written notice on Form I-259 to arrange for the removal of the alien crewman from the United States, and if such alien crewman thereafter departs voluntarily from the United States within the time specified by the district director, such departure shall not be considered a deportation within the meaning of this section.

(b) *Revocation of parole.* When an immigration officer has reason to believe that an alien crewman paroled into the United States pursuant to the provisions of § 253.1 has violated the conditions of parole, the immigration officer may take such alien crewman into custody without a warrant of arrest. Following such action, the alien crewman shall be accorded, without undue delay, an examination by another immigration officer. If it is determined on the basis of such examination that the individual detained is an alien crewman who was paroled into the United States pursuant to the provisions of § 253.1 and that he has violated the conditions of the parole or has remained in the United States beyond the period authorized by the district director, the district director shall cause to be served upon the alien crewman a written notice that his parole has been revoked, setting forth the reasons for such action. If the vessel or aircraft upon which the alien crewman arrived in the United States is still in the United States, the alien crewman shall be delivered to that vessel or aircraft and Form I-259 shall be served upon the master or commanding officer of the vessel or aircraft directing that the alien crewman be detained on board the vessel or aircraft and deported from the United States. A copy of Form I-259 shall also be served on the agent for the vessel or aircraft. If the vessel or aircraft upon which the alien crewman arrived in the United States has departed from the United States, the agent or owner of the vessel or aircraft shall be directed by means of a notice on Form I-259 to effect the deportation of the alien crewman from the United States. Pending deportation, the alien crewman shall be continued in custody, unless the district director authorizes his release on parole under such conditions, including the posting of a suitable bond, as the district director may prescribe.

[32 FR 4342, Mar. 22, 1967]

PART 258—LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

Sec.
258.1 Limitations—General.