

with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, effective on or after the September 29, 1999 as follows:

(1) Section 231(d) of the Act, Lists of Aliens and Citizen Passengers Arriving or Departing; Record of Resident Aliens and Citizens Leaving Permanently for Foreign Country: from \$300 to \$330.

(2) Section 234 of the Act, Designation of Ports of Entry for Aliens Arriving by Civil Aircraft: from \$2,000 to \$2,200.

(3) Section 251(d) of the Act, List of Alien Crewmen; Reports of Illegal Landings: from \$200 to \$220 for each alien not reported in accordance with § 251; and from \$5,000 to \$5,500 for use of alien crewman for longshore work in violation of section 251(d).

(4) Section 254(a) of the Act, Control of Alien Crewman: from \$500 minimum/\$3,000 maximum to \$550 minimum/\$3,300 maximum.

(5) Section 255 of the Act, Employment on Passenger Vessels of Aliens Afflicted with Certain Disabilities: from \$1,000 to \$1,100.

(6) Section 256 of the Act, Discharge of Alien Crewman: from \$1,500 minimum/\$3,000 maximum to \$1,500 minimum/\$3,300 maximum.

(7) Section 257 of the Act, Bringing Alien Crewmen Into United States with Intent to Evade Immigration Laws: from a \$10,000 maximum to a \$11,000 maximum.

(8) Section 271(a) of the Act, Prevention of Unauthorized Landing of Aliens: from \$3,000 to \$3,300.

(9) Section 272(a) of the Act, Bringing in Aliens Subject to Exclusion on a Health-Related Ground: from \$3,000 to \$3,300.

(10) Section 273(b) of the Act, Unlawful Bringing of Aliens Into United States: from \$3,000 to \$3,300.

(d) *Identification of sections requiring no adjustment to penalties.* The civil monetary penalties provided by law within the jurisdiction of the Service, as set forth below in paragraphs (d)(1) through (7) of this section require no adjustment:

(1) Section 240B(d) of the Act, Voluntary Departure.

(2) Section 243(c)(1)(A) and (B) of the Act, Penalties Related to Removal.

(3) Section 274C(a)(5) and (a)(6) of the Act, Penalties for Document Fraud.

(4) Section 274D of the Act, Penalties for Failure to Depart.

(5) Section 275(b) of the Act, Entry of Alien at Improper Time or Place.

[64 FR 47102, Aug. 30, 1999]

## PART 1287—FIELD OFFICERS; POWERS AND DUTIES

Sec.

1287.4 Subpoena.

1287.6 Proof of official records.

AUTHORITY: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357.

SOURCE: Duplicated from part 287 at 68 FR 9845, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1287 appear at 68 FR 9846, Feb. 28, 2003.

### § 1287.4 Subpoena.

(a) *Who may issue—(1) Criminal or civil investigations.* For provisions relating to the authority of immigration officers to issue a subpoena requiring the production of records and evidence for use in criminal or civil investigations, see 8 CFR 287.4(a)(1).

(2) *Proceedings other than naturalization proceedings—(i) Prior to commencement of proceedings.* For provisions relating to who may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both, for use in any proceeding under this title, other than under 8 CFR part 335, or any application made ancillary to the proceeding, see 8 CFR 287.4(a)(2)(i).

(ii) *Subsequent to commencement of any proceeding.* (A) In any proceeding under this chapter and in any proceeding ancillary thereto, an immigration judge having jurisdiction over the matter may, upon his/her own volition or upon application of government counsel, the alien, or other party affected, issue subpoenas requiring the attendance of witnesses or for the production of books, papers and other documentary evidence, or both.

(B) *Application for subpoena.* A party applying for a subpoena shall be required, as a condition precedent to its issuance, to state in writing or at the

proceeding, what he/she expects to prove by such witnesses or documentary evidence, and to show affirmatively that he/she has made diligent effort, without success, to produce the same.

(C) *Issuance of subpoena.* Upon being satisfied that a witness will not appear and testify or produce documentary evidence and that the witness' evidence is essential, the immigration judge shall issue a subpoena.

(D) *Appearance of witness.* If the witness is at a distance of more than 100 miles from the place of the proceeding, the subpoena shall provide for the witnesses' appearance at the Service office nearest to the witness to respond to oral or written interrogatories, unless the Service indicates that there is no objection to bringing the witness the distance required to enable him/her to testify in person.

(b) *Form of subpoena.* All subpoenas shall be issued on Form I-138.

(1) *Criminal or civil investigations.* The subpoena shall command the person or entity to which it is addressed to attend and to give testimony at a time or place specified. A subpoena shall also command the person or entity to which it is addressed to produce the books, papers, or documents specified in the subpoena. A subpoena may direct the taking of a deposition before an officer of the Service.

(2) *Proceedings other than naturalization proceedings.* Every subpoena issued under the provisions of this section shall state the title of the proceeding and shall command the person to whom it is directed to attend and to give testimony at a time and place specified. A subpoena shall also command the person to whom it is directed to produce the books, papers, or documents specified in the subpoena. A subpoena may direct the making of a deposition before an officer of the Service.

(c) *Service.* For provisions relating to who may serve a subpoena issued under this section, see 8 CFR 287.4(c).

(d) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpoena served upon him or her in accordance with the provisions of this section, the immigration judge issuing the subpoena shall request the United States Attorney for

the district in which the subpoena was issued to report such neglect or refusal to the United States District Court and to request such court to issue an order requiring the witness to appear and testify and to produce the books, papers, or documents designated in the subpoena.

[50 FR 30134, July 24, 1985; 50 FR 47205, Nov. 15, 1985, as amended at 60 FR 56937, Nov. 13, 1995; 62 FR 10390, Mar. 6, 1997; 67 FR 39260, June 7, 2002; 69 FR 44907, July 28, 2004]

#### § 1287.6 Proof of official records.

(a) *Domestic.* In any proceeding under this chapter, an official record or entry therein, when admissible for any purpose, shall be evidenced by an official publication thereof, or by a copy attested by the official having legal custody of the record or by an authorized deputy.

(b) *Foreign: Countries not Signatories to Convention.* (1) In any proceeding under this chapter, an official record or entry therein, when admissible for any purpose, shall be evidenced by an official publication thereof, or by a copy attested by an officer so authorized. This attested copy in turn may but need not be certified by any authorized foreign officer both as to the genuineness of the signature of the attesting officer and as to his/her official position. The signature and official position of this certifying foreign officer may then likewise be certified by any other foreign officer so authorized, thereby creating a chain of certificates.

(2) The attested copy, with the additional foreign certificates if any, must be certified by an officer in the Foreign Service of the United States, stationed in the foreign country where the record is kept. This officer must certify the genuineness of the signature and the official position either of (i) the attesting officer; or (ii) any foreign officer whose certification of genuineness of signature and official position relates directly to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation.

(c) *Foreign: Countries Signatory to Convention Abolishing the Requirement of Legislation for Foreign Public Document.*

(1) In any proceeding under this chapter, a public document or entry therein, when admissible for any purpose, may be evidenced by an official publication, or by a copy properly certified under the Convention. To be properly certified, the copy must be accompanied by a certificate in the form dictated by the Convention. This certificate must be signed by a foreign officer so authorized by the signatory country, and it must certify (i) the authenticity of the signature of the person signing the document; (ii) the capacity in which that person acted, and (iii) where appropriate, the identity of the seal or stamp which the document bears.

(2) No certification is needed from an officer in the Foreign Service of public documents.

(3) In accordance with the Convention, the following are deemed to be public documents:

(i) Documents emanating from an authority or an official connected with the courts or tribunals of the state, including those emanating from a public prosecutor, a clerk of a court or a process server;

(ii) Administrative documents;

(iii) Notarial acts; and

(iv) Official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date, and official and notarial authentication of signatures.

(4) In accordance with the Convention, the following are deemed not to be public documents, and thus are subject to the more stringent requirements of §1287.6(b) above:

(i) Documents executed by diplomatic or consular agents; and

(ii) Administrative documents dealing directly with commercial or customs operations.

(d) *Canada*. In any proceedings under this chapter, an official record or entry therein, issued by a Canadian governmental entity within the geographical boundaries of Canada, when admissible for any purpose, shall be evidenced by a certified copy of the original record attested by the official having legal

custody of the record or by an authorized deputy.

[50 FR 37834, Sept. 18, 1985, as amended at 54 FR 39337, Sept. 26, 1989; 54 FR 48851, Nov. 28, 1989]

## PART 1292—REPRESENTATION AND APPEARANCES

Sec.

1292.1 Representation of others.

1292.2 Organizations qualified for recognition; requests for recognition; withdrawal of recognition; accreditation of representatives; roster.

1292.3 Professional conduct for practitioners—Rules and procedures.

1292.4 Appearances.

1292.5 Service upon and action by attorney or representative of record.

1292.6 Interpretation.

AUTHORITY: 8 U.S.C. 1103, 1252b, 1362.

SOURCE: Duplicated from part 292 at 68 FR 9845, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1292 appear at 68 FR 9846, Feb. 28, 2003, and 68 FR 10360, Mar. 5, 2003.

### § 1292.1 Representation of others.

(a) A person entitled to representation may be represented by any of the following:

(1) *Attorneys in the United States*. Any attorney as defined in §1001.1(f) of this chapter.

(2) *Law students and law graduates not yet admitted to the bar*. A law student who is enrolled in an accredited law school, or a law graduate who is not yet admitted to the bar, provided that:

(i) He or she is appearing at the request of the person entitled to representation;

(ii) In the case of a law student, he or she has filed a statement that he or she is participating, under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization, and that he or she is appearing without direct or indirect remuneration from the alien he or she represents;

(iii) In the case of a law graduate, he or she has filed a statement that he or she is appearing under the supervision of a licensed attorney or accredited