

**§ 1280.1 Notice of intention to fine; administrative proceedings not exclusive.**

Whenever a district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office has reason to believe that any person has violated any of the provisions of the Immigration and Nationality Act and has thereby become liable to the imposition of an administrative fine under the Immigration and Nationality Act, he shall cause a Notice of Intention to Fine, Form I-79, to be served as provided in this part. Nothing in this subchapter shall affect, restrict, or prevent the institution of a civil suit, in the discretion of the Attorney General, under the authority contained in section 280 of the Immigration and Nationality Act.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

EFFECTIVE DATE NOTE: At 76 FR 74630, Dec. 1, 2011, § 1280.1 was revised, effective Jan. 3, 2012. For the convenience of the user, the revised text is set forth as follows:

**§ 1280.1 Review of fines and civil monetary penalties imposed by DHS.**

(a) *Applicable regulations.* The regulations of the Department of Homeland Security (DHS) relating to the imposition of certain fines and civil monetary penalties under provisions of the Immigration and Nationality Act, including sections 231(g), 234, 240B(d), 241(d) and (e), 243(c)(1), 251(d), 254(a), 255, 256, 257, 271(a), 272(a), 273(b), 274D, and 275(b), are contained in 8 CFR part 280.

(b) *Adjudication of civil monetary penalty proceedings.* The Board of Immigration Appeals (Board) has appellate authority to review DHS decisions involving fines and civil monetary penalties imposed under 8 CFR part 280, as provided under 8 CFR part 1003. The regulations in 8 CFR part 280 governing the imposition of certain fines and civil monetary penalties are applicable in such proceedings before the Board.

(c) *Civil monetary penalties under sections 274A, 274B, or 274C.* For regulations relating to civil monetary penalties imposed under sections 274A, 274B, or 274C of the Act, see 8 CFR parts 274a and 1274a and 28 CFR part 68.

**§ 1280.2 Special provisions relating to aircraft.**

In any case in which the imposition of a fine is predicated upon an alleged violation of a regulation promulgated under authority of section 239 of the Immigration and Nationality Act, the

procedure prescribed in this part shall be followed and the aircraft involved shall not be granted clearance pending determination of the question of liability to the payment of any fine, or while the fine remains unpaid; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine or of a bond with sufficient surety to secure the payment thereof, approved by the Commissioner. If the alleged violation was by the owner or person in command of the aircraft, the penalty provided for shall be a lien against the aircraft, which, except as provided in § 1280.21, shall be seized by the district director or by an immigration officer designated by the district director, and placed in the custody of the customs officer who is in charge of the port of entry or customs station nearest the place of seizure. If the owner or owners of the airport at which such aircraft is located are the owners of the seized aircraft, the aircraft shall be removed to another suitable place for storage if practicable.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967; 56 FR 26020, June 6, 1991]

EFFECTIVE DATE NOTE: At 76 FR 74630, Dec. 1, 2011, § 1280.2 was removed, effective Jan. 3, 2012.

**§ 1280.3 Departure of vessel or aircraft prior to denial of clearance.**

If any vessel or aircraft which is subject to the imposition of a fine shall have departed from the United States prior to the denial of clearance by the district director of customs and such vessel or aircraft is subsequently found in the United States, a Notice of Intention to Fine, Form I-79, shall be served as provided in this part, if such form has not been previously served for the same violation. Clearance of such vessel or aircraft shall be withheld by the district director of customs, and the procedure prescribed in this part shall be followed to the same extent and in the same manner as though the vessel or aircraft had not departed from the United States. Aircraft subject to the provisions of § 1280.2, which shall have departed from the United States prior to the time of seizure could be effected, shall be subject to all of the provisions of this part, if subsequently found in