

Department of Homeland Security

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engaged in transporting passengers or goods for hire to the United States.

§ 273.3 Screening procedures.

(a) *Applicability.* The terms and conditions contained in paragraph (b) of this section apply to those owners, operators, or agents of carriers which transport passengers to the United States.

(b) *Procedures at ports of embarkation.* At each port of embarkation carriers shall take reasonable steps to prevent the boarding of improperly documented aliens destined to the United States by taking the following steps:

(1) Screening of passengers by carrier personnel prior to boarding and examination of their travel documents to ensure that:

(i) The passport or travel document presented is not expired and is valid for entry into the United States;

(ii) The passenger is the rightful holder; and

(iii) If the passenger requires a visa, the visa is valid for the holder and any other accompanying passengers named in the passport.

(2) Refusing to board any passenger determined to be improperly documented. Failure to refuse boarding when advised to do so by a Service or Consular Officer may be considered by the Service as a factor in its evaluation of applications under § 273.5.

(3) Implementing additional safeguards such as, but not necessarily limited to, the following:

(i) For instances in which the carrier suspects fraud, assessing the adequacy of the documents presented by asking additional, pertinent questions or by taking other appropriate steps to corroborate the identity of passengers, such as requesting secondary information.

(ii) Conducting a second check of passenger documents, when necessary at high-risk ports of embarkation, at the time of boarding to verify that all passengers are properly documented consistent with paragraph (b)(1) of this section. This includes a recheck of documents at the final foreign port of embarkation for all passengers, including those originally boarded at a prior stop or who are being transported to the United States under the Transit With-

out Visa (TWOV) or International-to-International (ITI) Programs.

(iii) Providing a reasonable level of security during the boarding process so that passengers are unable to circumvent any carrier document checks.

§ 273.4 Demonstration by carrier that screening requirements were met.

(a) To be eligible to apply for reduction, refund, or waiver of a fine, the carrier shall provide evidence that it screened all passengers on the conveyance for the instant flight or voyage in accordance with the procedures listed in § 273.3.

(b) The Service may, at any time, conduct an inspection of a carrier's document screening procedures at ports of embarkation to determine compliance with the procedures listed in § 273.3, to the extent permitted by the local competent authority responsible for port access or security. If necessary, the carrier shall use its good offices to obtain this permission from the local authority. If the carrier's port of embarkation operation is found not to be in compliance, the carrier will be notified by the Service that it will not be eligible for refund, reduction, or waiver of fines under section 273(e) of the Act unless the carrier can establish that lack of compliance was beyond the carrier's control.

§ 273.5 General criteria used for reduction, refund, or waiver of fines.

(a) Upon application by the carrier, the Service shall determine whether circumstances exist which would justify a reduction, refund, or waiver of fines pursuant to section 273(e) of the Act.

(b) Applications for reduction, refund, or waiver of fine under section 273(e) of the Act shall be made in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51.

(c) In determining the amount of the fine reduction, refund, or waiver, the Service shall consider:

(1) The effectiveness of the carrier's screening procedures;

(2) The carrier's history of fines violations, including fines, liquidated damages, and user fee payment records; and,

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(3) The existence of any extenuating circumstances.

§ 273.6 Memorandum of Understanding.

(a) Carriers may apply to enter into a Memorandum of Understanding (MOU) with the Service for an automatic reduction, refund, or waiver of fines imposed under section 273 of the Act.

(b) Carriers signatory to an MOU will not be required to apply for reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51, but will follow procedures as set forth in the MOU.

(c) Carriers signatory to an MOU will have fines reduced, refunded, or waived according to performance standards enumerated in the MOU or as determined by the Service.

(d) Carriers signatory to an MOU are not precluded from seeking additional reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51.

PART 274—SEIZURE AND FORFEITURE OF CONVEYANCES

Sec.

274.1 Seizure and forfeiture authority.

274.2 Delegation of authority.

AUTHORITY: 8 U.S.C. 1103, 1324(b); 18 U.S.C. 983, 19 U.S.C. 66, 1600, 1618, 1619, 1624; 22 U.S.C. 401; 31 U.S.C. 5321; 49 U.S.C. 80304.

SOURCE: 53 FR 43187, Oct. 26, 1988, unless otherwise noted.

§ 274.1 Seizure and forfeiture authority.

Any officer of Customs and Border Protection or Immigration and Customs Enforcement may seize and forfeit any property that has been or is being used in the commission of a violation of any statutory authority involving the unlawful introduction of aliens, contraband or proceeds of such introduction, pursuant to, but not limited to, section 274(a) of the Act (8 U.S.C. 1324(a)). All seizures and forfeitures in such cases will be administered in accordance with 19 CFR parts 162 and 171.

[73 FR 9011, Feb. 19, 2008]

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§ 274.2 Delegation of authority.

All powers provided to Fines, Penalties and Forfeitures Officers in 19 CFR parts 162 and 171 are provided to the Chief, Office of Border Patrol or his designees, for purposes of administering seizures and forfeitures made by Border Patrol Officers.

[73 FR 9011, Feb. 19, 2008]

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

Subpart A—Employer Requirements

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274a.1 Definitions.

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274a.3 Continuing employment of unauthorized aliens.

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274a.7 Pre-enactment provisions for employees hired prior to November 7, 1986 or in the CNMI prior to the transition program effective date.

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274a.9 Enforcement procedures.

274a.10 Penalties.

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Subpart B—Employment Authorization

274a.12 Classes of aliens authorized to accept employment.

274a.13 Application for employment authorization.

274a.14 Termination of employment authorization.

AUTHORITY: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2.

SOURCE: 52 FR 16221, May 1, 1987, unless otherwise noted.

Subpart A—Employer Requirements

§ 274a.1 Definitions.

For the purpose of this part—

(a) The term *unauthorized alien* means, with respect to employment of an alien at a particular time, that the alien is not at that time either: (1) Lawfully admitted for permanent residence, or (2) authorized to be so employed by this Act or by the Attorney General;

(b) The term *entity* means any legal entity, including but not limited to, a