

### § 239.3

(e) *Warrant of arrest.* When a notice to appear is canceled or proceedings are terminated under this section any outstanding warrant of arrest is canceled.

[62 FR 10366, Mar. 6, 1997, as amended at 68 FR 35276, June 13, 2003]

#### § 239.3 Effect of filing notice to appear.

The filing of a notice to appear shall have no effect in determining periods of unlawful presence as defined in section 212(a)(9)(B) of the Act.

## PART 240—VOLUNTARY DEPARTURE, SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL

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Sec.

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AUTHORITY: 8 U.S.C. 1103; 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681); 8 CFR part 2.

SOURCE: 62 FR 10367, Mar. 6, 1997, unless otherwise noted.

### Subpart A—Removal Proceedings [Reserved]

### Subpart B—Cancellation of Removal

#### § 240.21 Suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect before April 1, 1997) and cancellation of removal and adjustment of status under section 240A(b) of the Act for certain nonpermanent residents.

(a) *Applicability of annual cap on suspension of deportation or cancellation of removal.* (1) As used in this section, the term *cap* means the numerical limitation of 4,000 grants of suspension of deportation or cancellation of removal in any fiscal year (except fiscal year 1998, which has a limitation of 8,000 grants) pursuant to section 240A(e) of the Act.

(2) The provisions of this section apply to grants of suspension of deportation pursuant to section 244(a) of the Act (as in effect before April 1, 1997) or cancellation of removal pursuant to section 240A(b) of the Act that are subject to a numerical limitation in section 240A(e) of the Act for any fiscal year. This section does not apply to grants of suspension of deportation or cancellation of removal to aliens described in section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), as amended by section 203(a)(1) of the Nicaraguan Adjustment and Central American Relief Act (NACARA), or