

Department of Homeland Security

§ 240.62

October 31, 1991, or applied for temporary protected status on or before October 31, 1991; or

(2) In the case of an *ABC* class member who is a national of Guatemala, properly submitted an *ABC* registration form to the Service on or before December 31, 1991.

§ 240.61 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart H applies to the following aliens:

(1) A registered *ABC* class member who has not been apprehended at the time of entry after December 19, 1990;

(2) A Guatemalan or Salvadoran national who filed an application for asylum with the Service on or before April 1, 1990, either by filing an application with the Service or filing the application with the Immigration Court and serving a copy of that application on the Service.

(3) An alien who entered the United States on or before December 31, 1990, filed an application for asylum on or before December 31, 1991, and, at the time of filing the application, was a national of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia;

(4) An alien who is the spouse or child of an individual described in paragraph (a)(1), (a)(2), or (a)(3) of this section at the time a decision is made to suspend the deportation, or cancel the removal, of the individual described in paragraph (a)(1), (a)(2), or (a)(3) of this section;

(5) An alien who is:

(i) The unmarried son or unmarried daughter of an individual described in paragraph (a)(1), (a)(2), or (a)(3) of this section and is 21 years of age or older at the time a decision is made to suspend the deportation, or cancel the removal, of the parent described in paragraph (a)(1), (a)(2), or (a)(3) of this section; and

(ii) Entered the United States on or before October 1, 1990.

(b) This subpart H does not apply to any alien who has been convicted at

any time of an aggravated felony, as defined in section 101(a)(43) of the Act.

§ 240.62 Jurisdiction.

(a) *Office of International Affairs.* Except as provided in paragraph (b) of this section, the Office of International Affairs shall have initial jurisdiction to grant or refer to the Immigration Court or Board an application for suspension of deportation or special rule cancellation of removal filed by an alien described in § 240.61, provided:

(1) In the case of a national of El Salvador described in § 240.61(a)(1), the alien filed a complete asylum application on or before January 31, 1996 (with an administrative grace period extending to February 16, 1996), or otherwise met the asylum application filing deadline pursuant to the *ABC* settlement agreement, and the application is still pending adjudication by the Service;

(2) In the case of a national of Guatemala described in § 240.61(a)(1), the alien filed a complete asylum application on or before January 3, 1995, or otherwise met the asylum application filing deadline pursuant to the *ABC* settlement agreement, and the application is still pending adjudication by the Service;

(3) In the case of an individual described in § 240.61(a)(2) or (3), the individual's asylum application is pending adjudication by the Service;

(4) In the case of an individual described in § 240.61(a)(4) or (5), the individual's parent or spouse has an application pending with the Service under this subpart H or has been granted relief by the Service under this subpart.

(b) *Immigration Court.* The Immigration Court shall have exclusive jurisdiction over an application for suspension of deportation or special rule cancellation of removal filed pursuant to section 309(f)(1)(A) or (B) of IIRIRA, as amended by NACARA, by an alien who has been served Form I-221, Order to Show Cause, or Form I-862, Notice to Appear, after a copy of the charging document has been filed with the Immigration Court, unless the alien is covered by one of the following exceptions:

(1) *Certain ABC class members.* (i) The alien is a registered *ABC* class member