AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4).* Not less than $2,200 and not more than $5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008, and not less than $3,200 and not exceeding $6,500, for each fraudulent document or each proscribed activity occurring on or after March 27, 2008.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6).* Not less than $2,000 and not more than $5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008, and not less than $2,200 and not exceeding $5,500, for each fraudulent document or each proscribed activity occurring on or after March 27, 2008.

(2) Where an order is issued to a respondent composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for a fee for employment (without reference to the practices of, and not under the common control of or common control with, another subdivision), each subdivision shall be considered a separate person or entity.

[57 FR 33866, July 31, 1992, as amended at 64 FR 47101, Aug. 30, 1999; 73 FR 10135, Feb. 26, 2008]

PART 271—DILIGENT AND REASONABLE EFFORTS TO PREVENT THE UNAUTHORIZED ENTRY OF ALIENS BY THE OWNERS OF RAILROAD LINES, INTERNATIONAL BRIDGES OR TOLL ROADS

AUTHORITY: 8 U.S.C. 1103 and 1321.

§ 271.1 Procedures for inspections.

(a) *Applicability.* The following terms and conditions apply to those owners or operators of railroad lines, international bridges, or toll roads, which provide a means for an alien to come to the United States.

(b) *Inspection of facility.* Based upon a written request by the owners or operators, the INS district director or his designee shall inspect the facility or method utilized in order to ensure that owners and operators have acted diligently in taking adequate steps to prevent the unlawful entry of aliens into the United States. Such measures may include but are not necessarily limited to fencing, barricades, lighting, or security guards. If the district director determines that preventive measures are inadequate, he or she shall advise the owners or operators in writing, citing the reasons for such determination. If the owners or operators believe the requirements of the district director to be excessive or unnecessary, they may request that the Regional Commissioner having jurisdiction over the location where the facility is located, review the district director's requirements. The Regional Commissioner shall advise the owners or operators in writing of the results of his or her review.

(c) *Preventive measures and certification.* Upon a determination by the district director that reasonable and adequate preventive measures have been taken by the owners and operators, he or she shall certify that the owners and operators shall not be liable for the penalty described in section 271(a), so long as the facility or method utilized is maintained in the condition in which approved and certified.

(d) *Revocation of certification.* The District Director having jurisdiction over the location where the facility is located, in his or her discretion, may at any time, conduct an inspection of said facility to determine if any violation is occurring. If the facility is found to be not in compliance, said certification will be revoked.

[53 FR 26036, July 11, 1988]

PART 273—CARRIER RESPONSIBILITIES AT FOREIGN PORTS OF EMBARKATION; REDUCING, REFUNDING, OR WAIVING FINES UNDER SECTION 273 OF THE ACT

Sec.
273.1 General.
273.2 Definition.
273.3 Screening procedures.
273.4 Demonstration by carrier that screening requirements were met.
273.5 General criteria used for reduction, refund, or waiver of fines.

273.6 Memorandum of Understanding.

AUTHORITY: 8 U.S.C. 1103, 1323; 8 CFR part 2.

SOURCE: 63 FR 23655, Apr. 30, 1998, unless otherwise noted.

§ 273.1 General.

In any fines case in which a fine is imposed under section 273 of the Act involving an alien brought to the United States after December 24, 1994, the carrier may seek a reduction, refund, or waiver of fine, as provided for by section 273(e) of the Act, in accordance with this part. The provisions of section 273(e) of the Act and of this part do not apply to any fine imposed under any provision other than section 273 (a)(1) and (b) of the Act.

§ 273.2 Definition.

As used in this part, the term *Carrier* means an individual or organization 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 Without 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,

(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]

§ 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

Sec.
274a.1 Definitions.
274a.2 Verification of identity and employment authorization.
274a.3 Continuing employment of unauthorized aliens.
274a.4 Good faith defense.
274a.5 Use of labor through contract.
274a.6 State employment agencies.
274a.7 Pre-enactment provisions for employees hired prior to November 7, 1986 or in the CNMI prior to the transition program effective date.
274a.8 Prohibition of indemnity bonds.
274a.9 Enforcement procedures.
274a.10 Penalties.
274a.11 [Reserved]

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.