

§217.3

Attorney General to apply for admission to the United States pursuant to section 212(a)(9)(A)(iii) of the Act. Such persons may not be admitted to the United States under the provisions of this part notwithstanding the fact that the required consent of the Attorney General may have been secured. Such aliens must secure a visa in order to be admitted to the United States as non-immigrants, unless otherwise exempt.

(c) *Restrictions on manner of arrival—*

(1) *Applicants arriving by air and sea.* Applicants must arrive on a carrier that is signatory to a Visa Waiver Pilot Program Agreement and at the time of arrival must have a round trip ticket that will transport the traveler out of the United States to any other foreign port or place as long as the trip does not terminate in contiguous territory or an adjacent island; except that the round trip ticket may transport the traveler to contiguous territory or an adjacent island, if the traveler is a resident of the country of destination.

(2) *Applicants arriving at land border ports-of-entry.* Any Visa Waiver Pilot Program applicant arriving at a land border port-of-entry must provide evidence to the immigration officer of financial solvency and a domicile abroad to which the applicant intends to return. An applicant arriving at a land-border port-of-entry will be charged a fee as prescribed in §103.7(b)(1) of this chapter for issuance of Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form. A round-trip transportation ticket is not required of applicants at land border ports-of-entry.

(d) *Aliens in transit.* An alien who is in transit through the United States is eligible to apply for admission under the Visa Waiver Pilot Program, provided the applicant meets all other program requirements.

[62 FR 10351, Mar. 6, 1997, as amended at 62 FR 50999, Sept. 30, 1997; 64 FR 42007, Aug. 3, 1999; 67 FR 7945, Feb. 21, 2002; 68 FR 10957, Mar. 7, 2003]

§217.3 Maintenance of status.

(a) *Satisfactory departure.* If an emergency prevents an alien admitted under this part from departing from the United States within his or her period of authorized stay, the district director having jurisdiction over the place of

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the alien's temporary stay may, in his or her discretion, grant a period of satisfactory departure not to exceed 30 days. If departure is accomplished during that period, the alien is to be regarded as having satisfactorily accomplished the visit without overstaying the allotted time.

(b) *Readmission after departure to contiguous territory or adjacent island.* An alien admitted to the United States under this part may be readmitted to the United States after a departure to foreign contiguous territory or adjacent island for the balance of his or her original Visa Waiver Pilot Program admission period if he or she is otherwise admissible and meets all the conditions of this part with the exception of arrival on a signatory carrier.

[62 FR 10351, Mar. 6, 1997]

§217.4 Inadmissibility and deportability.

(a) *Determinations of inadmissibility.*

(1) An alien who applies for admission under the provisions of section 217 of the Act, who is determined by an immigration officer not to be eligible for admission under that section or to be inadmissible to the United States under one or more of the grounds of inadmissibility listed in section 212 of the Act (other than for lack of a visa), or who is in possession of and presents fraudulent or counterfeit travel documents, will be refused admission into the United States and removed. Such refusal and removal shall be made at the level of the port director or officer-in-charge, or an officer acting in that capacity, and shall be effected without referral of the alien to an immigration judge for further inquiry, examination, or hearing, except that an alien who presents himself or herself as an applicant for admission under section 217 of the Act, who applies for asylum in the United States must be issued a Form I-863, Notice of Referral to Immigration Judge, for a proceeding in accordance with §208.2(b)(1) and (2) of this chapter.

(2) The removal of an alien under this section may be deferred if the alien is paroled into the custody of a Federal, State, or local law enforcement agency for criminal prosecution or punishment. This section in no way diminishes the discretionary authority of the