

## § 280.2

contained in section 280 of the Immigration and Nationality Act.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

### § 280.2 Special provisions relating to aircraft.

In any case in which the imposition of a fine is predicated upon an alleged violation of a regulation promulgated under authority of section 239 of the Immigration and Nationality Act, the procedure prescribed in this part shall be followed and the aircraft involved shall not be granted clearance pending determination of the question of liability to the payment of any fine, or while the fine remains unpaid; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine or of a bond with sufficient surety to secure the payment thereof, approved by the Commissioner. If the alleged violation was by the owner or person in command of the aircraft, the penalty provided for shall be a lien against the aircraft, which, except as provided in § 280.21, shall be seized by the district director or by an immigration officer designated by the district director, and placed in the custody of the customs officer who is in charge of the port of entry or customs station nearest the place of seizure. If the owner or owners of the aircraft at which such aircraft is located are the owners of the seized aircraft, the aircraft shall be removed to another suitable place for storage if practicable.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967; 56 FR 26020, June 6, 1991]

### § 280.3 Departure of vessel or aircraft prior to denial of clearance.

If any vessel or aircraft which is subject to the imposition of a fine shall have departed from the United States prior to the denial of clearance by the district director of customs and such vessel or aircraft is subsequently found in the United States, a Notice of Intention to Fine, Form I-79, shall be served as provided in this part, if such form has not been previously served for the same violation. Clearance of such vessel or aircraft shall be withheld by the district director of customs, and the procedure prescribed in this part shall

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be followed to the same extent and in the same manner as though the vessel or aircraft had not departed from the United States. Aircraft subject to the provisions of § 280.2, which shall have departed from the United States prior to the time of seizure could be effected, shall be subject to all of the provisions of this part, if subsequently found in the United States, to the same extent as though it had not departed from the United States.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967]

### § 280.4 Data concerning cost of transportation.

Within five days after request therefor, transportation companies shall furnish to the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office pertinent information contained in the original transportation contract of all rejected aliens whose cases are within the purview of any of the provisions of the Immigration and Nationality Act relating to refund of passage monies, and shall specify the exact amounts paid for transportation from the initial point of departure (which point shall be indicated) to the foreign port of embarkation, from the latter to the port of arrival in the United States and from the port of arrival to the inland point of destination, respectively, and also the amount paid for headtax, if any.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

### § 280.5 Mitigation or remission of fines.

In any case in which mitigation or remission of a fine is authorized by the Immigration and Nationality Act, the party served with Notice of Intention to Fine may apply in writing to the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office for such mitigation or remission.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]

### § 280.6 Bond to obtain clearance; form.

A bond to obtain clearance of a vessel or aircraft under section 231, 237, 239,

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243, 251, 253, 254, 255, 256, 272, or 273 of the Immigration and Nationality Act shall be filed on Form I-310.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 102, Jan. 4, 1989]

### § 280.7 Approval of bonds or acceptance of cash deposit to obtain clearance.

The district director of customs is authorized to approve the bond, or accept the sum of money which is being offered for deposit under any provision of the Immigration and Nationality Act or by this chapter for the purpose of obtaining clearance of a vessel or aircraft with the exception of sections 239, 251(d), 255, 256, 272, and 273(d) in which the Commissioner of the Immigration and Naturalization Service is authorized to approve the bond or accept the sum of money which is being offered for deposit.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967; 56 FR 26020, June 6, 1991]

### § 280.11 Notice of intention to fine; procedure.

Notice of Intention to Fine, Form I-79, shall be prepared in triplicate, with one additional copy for each additional person on whom the service of such notice is contemplated. The notice shall be addressed to any or all of the available persons subject to fine. A copy of the notice shall be served by personal service on each such person. If the notice is delivered personally, the person upon whom it is served shall be requested to acknowledge such service by signing his name to the duplicate and triplicate copies. The officer effecting such service shall attest to the service by signing his name thereon and shall indicate thereon the date and place of service. If the person so served refuses to acknowledge service, or if service is made by leaving it at an office or mailing it, the person making such service shall indicate the method and date on the duplicate and triplicate copies of Form I-79, and shall sign his name upon such copies. The duplicate copy shall be retained by the district director of immigration and naturalization or the Associate Commissioner for Examinations, or the Director for the National Fines Office and the triplicate copy shall be delivered directly to the

district director of customs for the district in which the vessel or aircraft is located, and the district director of customs shall withhold clearance until deposit is made or bond furnished as provided in the Immigration and Nationality Act. If the vessel or aircraft is located in a customs district which is outside the jurisdiction of the office of the Service having jurisdiction over the matter, the triplicate copy shall be forwarded to the office of the Service nearest such customs district for delivery to the district director of customs.

[22 FR 9807, Dec. 6, 1957, as amended at 32 FR 17651, Dec. 12, 1967; 37 FR 11471, June 8, 1972; 54 FR 18649, May 2, 1989]

### § 280.12 Answer and request or order for interview.

Within 30 days following the service of the Notice of Intention to Fine (which period the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office may extend for an additional period of 30 days upon good cause being shown), any person upon whom a notice under this part has been served may file with the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office a written defense, in duplicate, under oath setting forth the reasons why a fine should not be imposed, or if imposed, why it should be mitigated or remitted if permitted by the Immigration and Nationality Act, and stating whether a personal appearance is desired. Documentary evidence shall be submitted in support of such defense and a brief may be submitted in support of any argument made. If a personal interview is requested, the evidence in opposition to the imposition of the fine and in support of the request for mitigation or remission may be presented at such interview. An interview shall be conducted if requested by the party as provided hereinabove or, if directed at any time by the Board, the Commissioner, or the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office.

[22 FR 9807, Dec. 6, 1957, as amended at 54 FR 18649, May 2, 1989]