

Department of Homeland Security

§ 286.9

collection. Each remitter shall advise the Assistant Commissioner, Office of Financial Management of the name, address, and telephone number of a responsible officer who shall have the authority to verify and produce any records required to be maintained under this part. The Assistant Commissioner, Office of Financial Management shall be promptly notified of any changes of the responsible officer.

[53 FR 5757, Feb. 26, 1988, as amended at 59 FR 49349, Sept. 28, 1994; 63 FR 51272, Sept. 25, 1998]

§ 286.7 Penalties.

Failure of any air or sea carrier to comply with the provisions of section 286 of the Act and this part shall subject it to one or more of the following:

(a) Termination of existing agreements under the provisions of section 238 of the Act; and

(b) Suspension of enroute inspections or preinspections.

§ 286.8 Establishment of pilot programs for the charging of a land border fee for inspection services.

Under the provisions of section 286(q) of the Act, the Service may establish pilot programs at one or more land border ports-of-entry to charge fees for immigration inspection services to be collected by the Commissioner. Individual ports-of-entry selected by the Commissioner to participate in such pilot programs may charge a fee to enhance inspection services and to recover the cost of:

(a) Hiring additional immigration inspectors, including all associated personnel costs such as salary, benefits, and overtime;

(b) Expansion, operation, and maintenance of information systems for non-immigrant control;

(c) Construction costs, including those associated with adding new primary traffic lanes (with the concurrence of the General Services Administration);

(d) Procuring detection devices and conducting training to identify fraudulent documents used by applicants for entry to the United States;

(e) Other administrative costs associated with the PORTPASS Program; and

(f) Costs associated with the administration of the Land Border Inspection Fee account.

[60 FR 50390, Sept. 29, 1995, as amended at 61 FR 53833, Oct. 16, 1996]

§ 286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.

(a) *General.* A fee may be charged and collected by the Commissioner for the processing and issuance of specified Service documents at land border Ports-of-Entry. These fees, as specified in §103.7(b)(1) of this chapter, shall be dedicated to funding the cost of providing application-processing services at land border ports.

(b) *Forms for which a fee may be charged.* (1) A nonimmigrant alien who is required to be issued, or requests to be issued, Form I-94, Arrival/Departure Record, for admission at a land border Port-of-Entry must remit the required fee for issuance of Form I-94 upon determination of admissibility.

(2) A nonimmigrant alien applying for admission at a land border Port-of-Entry as a Visa Waiver Pilot Program applicant pursuant to §217.2(c) or §217.3(c) of this chapter must remit the required fee for issuance of Form I-94W upon determination of admissibility.

(3) A Mexican national in possession of a valid Form DSP-150, B-1/B-2 Visa and Border Crossing Card, issued by the DOS, or a passport and combined B-1/B-2 visa and non-biometric BCC (or similar stamp in a passport) issued by the DOS, who is required to be issued Form I-94, Arrival/Departure Record, pursuant to §235.1(f) of this chapter, must remit the required fee for issuance of Form I-94 upon determination of admissibility.

(4) A citizen or lawful permanent resident alien of the United States or a Canadian citizen or permanent resident of Canada who is a national of a designated Visa Waiver Program country listed in §217.2(a) of this chapter who requests Form I-68, Canadian Border Boat Landing Permit, pursuant to §235.1(e) of this chapter, for entry to the United States from Canada as an eligible pleasure boater on a designated body of water, must remit the required

fee at the time of application for Form I-68.

[60 FR 40069, Aug. 7, 1995, as amended at 62 FR 10390, Mar. 6, 1997; 67 FR 71450, Dec. 2, 2002; 68 FR 5194, Jan. 31, 2003]

PART 287—FIELD OFFICERS; POWERS AND DUTIES

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AUTHORITY: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; Homeland Security Act of 2002, Pub. L. 107–296 (6 U.S.C. 1, *et seq.*); 8 CFR part 2.

§ 287.1 Definitions.

(a)(1) *External boundary.* The term *external boundary*, as used in section 287(a)(3) of the Act, means the land boundaries and the territorial sea of the United States extending 12 nautical miles from the baselines of the United States determined in accordance with international law.

(2) *Reasonable distance.* The term *reasonable distance*, as used in section 287(a)(3) of the Act, means within 100 air miles from any external boundary of the United States or any shorter distance which may be fixed by the chief patrol agent for CBP, or the special agent in charge for ICE, or, so far as the power to board and search aircraft is concerned any distance fixed pursuant to paragraph (b) of this section.

(b) *Reasonable distance; fixing by chief patrol agents and special agents in charge.* In fixing distances not exceeding 100 air miles pursuant to paragraph (a) of this section, chief patrol agents and special agents in charge shall take into consideration topography, confluence of arteries of transportation leading from external boundaries, den-

sity of population, possible inconvenience to the traveling public, types of conveyances used, and reliable information as to movements of persons effecting illegal entry into the United States: *Provided*, That whenever in the opinion of a chief patrol agent or special agent in charge a distance in his or her sector or district of more than 100 air miles from any external boundary of the United States would because of unusual circumstances be reasonable, such chief patrol agent or special agent in charge shall forward a complete report with respect to the matter to the Commissioner of CBP, or the Assistant Secretary for ICE, as appropriate, who may, if he determines that such action is justified, declare such distance to be reasonable.

(c) *Patrolling the border.* The phrase *patrolling the border to prevent the illegal entry of aliens into the United States* as used in section 287 of the Immigration and Nationality Act means conducting such activities as are customary, or reasonable and necessary, to prevent the illegal entry of aliens into the United States.

(d) *Arrested by federal, state, or local law enforcement official.* The term *arrested*, as used in section 287(d) of the Act (as amended by section 1701 (Subtitle M) of the Anti-Drug Abuse Act of 1986, Pub. L. 99–509), means that an alien has been—

(1) Physically taken into custody for a criminal violation of the controlled substance laws; and

(2) Subsequently booked, charged or otherwise officially processed; or

(3) Provided an initial appearance before a judicial officer where the alien has been informed of the charges and the right to counsel.

(e) *Law enforcement or other official.* The phrase *law enforcement official (or other official)*, as used in section 287(d) of the Act, means an officer or employee of an agency engaged in the administration of criminal justice pursuant to statute or executive order, including (1) courts; (2) a government agency or component which performs the administration of criminal justice as defined in 28 CFR part 20 including