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concerning the provisions of this para-

graph, and shall be advised of his right
to request a hearing if entitled thereto
under § 46.4. In the case of an enemy
alien, the written order preventing de-
parture shall become final on the date
of its service upon the alien.

(c) Any alien who seeks to depart
from the United States may be re-
quired, in the discretion of the depar-
ture-control officer, to be examined
under oath and to submit for official
inspection all documents, articles, and
other property in his possession which
are being removed from the United
States upon, or in connection with, the
alien’s departure. The departure-con-
trol officer may permit such other per-
sons, including officials of the Depart-
ment of State and interpreters, to par-
ticipate in such examination or inspec-
tion and may exclude from presence at
such examination or inspection any
person whose presence would not fur-
ther the objectives of such examination
or inspection. The departure-control
officer shall temporarily prevent the
departure of any alien who refuses to
submit to such examination or inspec-
tion, and may, if necessary to cause
the alien to submit to such examina-
tion or inspection, take possession of
the alien’s passport or other travel doc-
ument or issue a subpoena requiring
the alien to submit to such examina-
tion or inspection.

[22 FR 10827, Dec. 27, 1957, as amended at 45
FR 64174, Sept. 29, 1980]

§ 46.3 Aliens whose departure is
deemed prejudicial to the interests
of the United States.

The departure from the United
States of any alien within one or more
of the following categories shall be
deemed prejudicial to the interest of the
United States:

(a) Any alien who is in possession of,
and who is believed likely to disclose
to unauthorized persons, information
concerning the plans, preparations,
equipment, or establishments for the
national defense and security of the
United States.

(b) Any alien who seeks to depart
from the United States to engage in, or
who is likely to engage in, activities of
any kind designed to obstruct, impede,
retard, delay or counteract the effec-
tiveness of the national defense of the
United States or the measures adopted
by the United States or the United Na-
tions for the defense of any other coun-
try.

(c) Any alien who seeks to depart
from the United States to engage in, or
who is likely to engage in, activities
which would obstruct, impede, retard,
delay, or counteract the effectiveness
of any plans made or action taken by
any country cooperating with the
United States in measures adopted to
promote the peace, defense, or safety of
the United States or such other coun-
try.

(d) Any alien who seeks to depart
from the United States for the purpose
of organizing, directing, or partici-
pating in any rebellion, insurrection,
or violent uprising in or against the
United States or a country allied with
the United States, or of waging war
against the United States or its allies,
or of destroying, or depriving the
United States of sources of supplies or
materials vital to the national defense
of the United States, or to the effec-
tiveness of the measures adopted by
the United States for its defense, or for
the defense of any other country allied
with the United States.

(e) Any alien who is subject to reg-
istration for training and service in the
Armed Forces of the United States and
who fails to present a Registration Cer-
tificate (SSS Form No. 2) showing that
he has complied with his obligation to
register under the Universal Military
Training and Service Act, as amended.

(f) Any alien who is a fugitive from
justice on account of an offense punish-
able in the United States.

(g) Any alien who is needed in the
United States as a witness in, or as a
party to, any criminal case under in-
vestigation or pending in a court in the
United States: Provided, That any alien
who is a witness in, or a party to, any
criminal case pending in any criminal
court proceeding may be permitted to
depart from the United States with the
consent of the appropriate prosecuting
authority, unless such alien is other-
wise prohibited from departing under
the provisions of this part.

(h) Any alien who is needed in the
United States in connection with any
investigation or proceeding being, or
soon to be, conducted by any official executive, legislative, or judicial agency in the United States or by any governmental committee, board, bureau, commission, or body in the United States, whether national, state, or local.

(i) Any alien whose technical or scientific training and knowledge might be utilized by an enemy or a potential enemy of the United States to undermine and defeat the military and defensive operations of the United States or of any nation cooperating with the United States in the interests of collective security.

(j) Any alien, where doubt exists whether such alien is departing or seeking to depart from the United States voluntarily except an alien who is departing or seeking to depart subject to an order issued in extradition, exclusion, or deportation proceedings.

(k) Any alien whose case does not fall within any of the categories described in paragraphs (a) to (j), inclusive, of this section, but which involves circumstances of a similar character rendering the alien's departure prejudicial to the interests of the United States.

§ 46.4 Procedure in case of alien prevented from departing from the United States.

(a) Any alien, other than an enemy alien, whose departure has been temporarily prevented under the provisions of § 46.2 may, within 15 days of the service upon him of the written order temporarily preventing his departure, request a hearing before a special inquiry officer. The alien's request for a hearing shall be made in writing and shall be addressed to the district director having administrative jurisdiction over the alien's place of residence. If the alien's request for a hearing is timely made, the district director shall schedule a hearing before a special inquiry officer, and notice of such hearing shall be given to the alien. The notice of hearing shall, as specifically as security considerations permit, inform the alien of the nature of the case against him, shall fix the time and place of the hearing, and shall inform the alien of his right to be represented, at no expense to the Government, by counsel of his own choosing.

(b) Every alien for whom a hearing has been scheduled under paragraph (a) of this section shall be entitled (1) to appear in person before the special inquiry officer, (2) to be represented by counsel of his own choice, (3) to have the opportunity to be heard and to present evidence, (4) to cross-examine the witnesses who appear at the hearing, except that if, in the course of the examination, it appears that further examination may divulge information of a confidential or security nature, the special inquiry officer may, in his discretion, preclude further examination of the witness with respect to such matters, (5) to examine any evidence in possession of the Government which is to be considered in the disposition of the case, provided that such evidence is not of a confidential or security nature the disclosure of which would be prejudicial to the interests of the United States, (6) to have the time and opportunity to produce evidence and witnesses on his own behalf, and (7) to reasonable continuances upon request, for good cause shown.

(c) Any special inquiry officer who is assigned to conduct the hearing provided for in this section shall have the authority to: (1) Administer oaths and affirmations, (2) present and receive evidence, (3) interrogate, examine, and cross-examine under oath or affirmation both the alien and witnesses, (4) rule upon all objections to the introduction of evidence or motions made during the course of the hearing, (5) take or cause depositions to be taken, (6) issue subpoenas, and (7) take any further action consistent with applicable provisions of law, executive orders, proclamations, and regulations.

§ 46.5 Hearing procedure before special inquiry officer.

(a) The hearing before the special inquiry officer shall be conducted in accordance with the following procedure: