§ 280.2

any person has violated any of the provisions of the Immigration and Nationality Act and has thereby become liable to the imposition of an administrative fine under the Immigration and Nationality Act, he shall cause a Notice of Intention to Fine, Form I–79, to be served as provided in this part. Nothing in this subchapter shall affect, restrict, or prevent the institution of a civil suit, in the discretion of the Attorney General, under the authority 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 airport 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.


§ 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 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.


§ 280.4 Data concerning cost of transportation.

Within five days after request therefore, 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 Com-
missioner for Examinations, or the Di-
rector for the National Fines Office for
such mitigation or remission.

§ 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 Exam-
inations, or the Director for the Na-
tional 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 direc-
tor or the Associate Commissioner for
Examinations, or the Director for the
National Fines Office a written de-
fense, 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 per-
mitted by the Immigration and Nation-
ality Act, and stating whether a per-
sonal appearance is desired. Documen-
tary evidence shall be submitted in
support of such defense and a brief may
be submitted in support of any argu-
ment 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

§ 280.6 Bond to obtain clearance; form.

A bond to obtain clearance of a vessel
or aircraft under section 231, 237, 239,
243, 251, 253, 254, 255, 256, 272, or 273 of
the Immigration and Nationality Act
shall be filed on Form I–310.

§ 280.7 Approval of bonds or accept-
ance of cash deposit to obtain clear-
ance.

The district director of customs is
authorized to approve the bond, or ac-
cept 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 Immi-
gration and Naturalization Service is
authorized to approve the bond or ac-
cept the sum of money which is being
offered for deposit.

§ 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 no-
tice is contemplated. The notice shall
be addressed to any or all of the avail-
able persons subject to fine. A copy of
the notice shall be served by personal
service on each such person. If the no-
tice is delivered personally, the person
upon whom it is served shall be re-
quested 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 mail-
ing 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 direc-
tor of immigration and naturalization
or the Associate Commissioner for Ex-
aminations, or the Director for the Na-
tional Fines Office and the triplicate
copy shall be delivered directly to the
district director of customs for the dis-
trict 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 Na-
tionality 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 deliv-
ery to the district director of customs.

§ 280.12 Notice of Intention to Fine;
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