

## Department of Homeland Security

## § 252.1

States, except when a manifest is not required pursuant to § 251.1(a), a single Form I-418 completed in accordance with the instructions on the form. Submission of a Form I-418 that lacks any required endorsement shall be regarded as lack of compliance with section 251(c) of the Act.

(b) *Exception for certain Great Lakes vessels.* The required list need not be submitted for Canadian or British crewmembers of Great Lakes vessels described in § 251.1(a)(3).

[62 FR 10387, Mar. 6, 1997]

### § 251.4 Departure manifests and lists for aircraft.

(a) *United States Customs Service Form 7507 or International Civil Aviation Organization's General Declaration.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United States, except on a flight departing for and terminating in Canada, shall submit to the immigration officer at the port from which such aircraft is to depart a completed United States Customs Service Form 7507 or the International Civil Aviation Organization's General Declaration. The form shall contain a list of all alien crewmen on board, including alien crewmen who arrived in the United States as crewmen on an aircraft of the same line and who are departing as passengers. The surname, given name, and middle initial of each such alien crewman listed shall be shown. In addition, the captain or agent of the aircraft shall indicate the total number of alien crewmembers and the total number of United States citizen crewmembers.

(b) *Notification of changes in employment for aircraft.* The agent of the air transportation line shall immediately notify in writing the nearest immigration office of the termination of employment in the United States of each alien employee of the line furnishing the name, birth date, birthplace, nationality, passport number, and other available information concerning such alien. The procedure to follow in obtaining permission to pay off or discharge an alien crewman in the United States after initial immigration inspection, other than an alien lawfully

admitted for permanent residence, is set forth in § 252.1(f) of this chapter.

[62 FR 10387, Mar. 6, 1997]

### § 251.5 Paper arrival and departure manifests for crew.

In addition to the electronic manifest transmission requirement applicable to crew members specified in §§ 231.1 and 231.2 of this chapter, the master or commanding officer, or authorized agent, owner, or consignee, of a commercial vessel or commercial aircraft arriving in or departing from the United States must submit arrival and departure manifests in a paper format in accordance with §§ 251.1, 251.3, and 251.4.

[70 FR 17849, Apr. 7, 2005]

### § 251.6 Exemptions for private vessels and aircraft.

The provisions of this part relating to the presentation of arrival and departure manifests do not apply to a private vessel or private aircraft not engaged directly or indirectly in the carrying of persons or cargo for hire.

[70 FR 17849, Apr. 7, 2005]

## PART 252—LANDING OF ALIEN CREWMEN

Sec.

- 252.1 Examination of crewmen.
- 252.2 Revocation of conditional landing permits; removal.
- 252.3 Great Lakes vessels and tugboats arriving in the United States from Canada; special procedures.
- 252.4 Permanent landing permit and identification card.
- 252.5 Special procedures for deserters from Spanish or Greek ships of war.

AUTHORITY: 8 U.S.C. 1103, 1184, 1185 (pursuant to E.O. 13323 published on January 2, 2004), 1258, 1281, 1282; 8 CFR part 2.

### § 252.1 Examination of crewmen.

(a) *Detention prior to examination.* All persons employed in any capacity on board any vessel or aircraft arriving in the United States shall be detained on board the vessel or at the airport of arrival by the master or agent of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service.

(b) *Classes of aliens subject to examination under this part.* The examination of every nonimmigrant alien crewman arriving in the United States shall be in accordance with this part except that the following classes of persons employed on vessels or aircraft shall be examined in accordance with the provisions of 8 CFR parts 235 and 240:

(1) Canadian or British citizen crewmen serving on vessels plying solely between Canada and the United States; or

(2) Canadian or British citizen crewmen of aircraft arriving in a State of the United States directly from Canada on flights originating in that country. The crew of a vessel arriving at a United States port that may not require inspection by or clearance from the United States Customs Service is, nevertheless, subject to examination under this part; however, the master of such a vessel is not required to present Form I-95 for any crewman who is not an applicant for a conditional landing permit.

(c) *Requirements for landing permits.* Every alien crewman applying for landing privileges in the United States is subject to the provisions of 8 CFR 235.1(d)(1)(ii) and (iii), and must make his or her application in person before a Customs and Border Protection (CBP) officer, present whatever documents are required, establish to the satisfaction of the inspecting officer that he or she is not inadmissible under any provision of the law, and is entitled clearly and beyond doubt to landing privileges in the United States.

(d) *Authorization to land.* The immigration officer in his discretion may grant an alien crewman authorization to land temporarily in the United States for: (1) Shore leave purposes during the period of time the vessel or aircraft is in the port of arrival or other ports in the United States to which it proceeds directly without touching at a foreign port or place, not exceeding 29 days in the aggregate, if the immigration officer is satisfied that the crewman intends to depart on the vessel on which he arrived or on another aircraft of the same transportation line, and the crewman's passport is surrendered for safe keeping to the master of the arriving vessel, or (2) the

purpose of departing from the United States as a crewman on a vessel other than the one on which he arrived, or departing as a passenger by means of other transportation, within a period of 29 days, if the immigration officer is satisfied that the crewman intends to depart in that manner, that definite arrangements for such departure have been made, and the immigration officer has consented to the pay off or discharge of the crewman from the vessel on which he arrived. A crewman granted a conditional permit to land under section 252(a)(1) of the Act and paragraph (d)(1) of this section is required to depart with his vessel from its port of arrival and from each other port in the United States to which it thereafter proceeds coastwise without touching at a foreign port or place; however, he may rejoin his vessel at another port in the United States before it touches at a foreign port or place if he has advance written permission from the master or agent to do so.

(e) *Conditional permits to land.* Unless the crewman is in possession of Form I-184 and is landed under paragraph (d)(1) of this section, the immigration officer shall give to each alien nonimmigrant crewman permitted to land a copy of the Form I-95 presented by the crewman, endorsed to show the date and place of admission and the type of conditional landing permit.

(f) *Change of status.* An alien nonimmigrant crewman landed pursuant to the provisions of this part shall be ineligible for any extension of stay or for a change of nonimmigrant classification under part 248 of this chapter. A crewman admitted under paragraph (d)(1) of this section may, if still maintaining status, apply for a conditional landing permit under paragraph (d)(2) of this section. The application shall not be approved unless an application on Form I-408, filed pursuant to paragraph (h) of this section, has been approved authorizing the master or agent of the vessel on which the crewman arrived to pay off or discharge the crewman and unless evidence is presented by the master or agent of the vessel to which the crewman will be transferred that a specified position on that vessel has been authorized for him or that satisfactory arrangements have been

completed for the repatriation of the alien crewman. If the application is approved, the crewman shall be given a new Form I-95 endorsed to show landing authorized under paragraph (d)(2) of this section for the period necessary to accomplish his scheduled reshipment, which shall not exceed 29 days from the date of his landing, upon surrendering any conditional landing permit previously issued to him on Form I-95.

(g) *Refusal of conditional landing permit.* When an alien crewman is refused a conditional landing permit for any reason, the Form I-95 presented by him at time of examination shall be endorsed "Permission to land temporarily at all U.S. ports is refused" and the Form I-95 shall be given to the master or agent of the vessel or aircraft and, in the case of vessels, the alien crewman's name shall be listed on the Form I-410 delivered to the master of the vessel upon completion of the examination of the crew. If an alien crewman who has been refused a conditional landing permit is in possession of Form I-184, the Form I-184 shall be lifted by the examining immigration officer and, except in the case of an alien crewman who is refused a conditional landing permit solely because he is not in possession of a valid passport or visa, the Form I-184 shall be voided. In the case of an alien crewman refused a conditional landing permit because he is not in possession of a valid passport or visa, the Form I-184 shall be delivered to the master or agent of the vessel with instructions to return it to the alien crewman after the vessel has departed from the United States.

(h) *Authorization to pay off or discharge an alien crewman.* Application to pay off or discharge an alien crewman, except an alien lawfully admitted for permanent residence, shall be made by the owner, agent, consignee, charterer, master, or commanding officer of the vessel or aircraft on which the alien crewman arrived on Form I-408 filed with the immigration officer having jurisdiction over the area in which the vessel or aircraft is located at the time of application. The applicant shall be notified of the decision, and, if the application is denied, of the reasons therefor. There shall be no appeal from

the denial of an application on Form I-408.

[23 FR 2788, Apr. 26, 1958, as amended at 27 FR 11875, Dec. 1, 1962; 29 FR 13243, Sept. 24, 1964; 29 FR 14432, Oct. 21, 1964; 32 FR 9633, July 4, 1967; 33 FR 9332, June 26, 1968; 33 FR 17137, Nov. 19, 1968; 58 FR 48779, Sept. 20, 1993; 62 FR 10388, Mar. 6, 1997; 69 FR 53333, Aug. 31, 2004]

#### § 252.2 Revocation of conditional landing permits; removal.

(a) *Revocation and removal while vessel is in the United States.* A crewman whose landing permit is subject to revocation pursuant to section 252(b) of the Act may be taken into custody by any immigration officer without a warrant of arrest and be transferred to the vessel of arrival, if the vessel is in any port in the United States and has not departed foreign since the crewman was issued his or her conditional landing permit. Detention and removal of the crewman shall be at the expense of the transportation line on which the crewman arrived. Removal may be effected on the vessel of arrival or, if the master of the vessel has requested in writing, by alternate means if removal on the vessel of arrival is impractical.

(b) *Revocation and removal after vessel has departed the United States.* A crewman who was granted landing privileges prior to April 1, 1997, and who has not departed foreign on the vessel of arrival, or on another vessel or aircraft if such permission was granted pursuant to §252.1(f), is subject to removal proceedings under section 240 of the Act as an alien deportable pursuant to section 237(a)(1)(C)(i) of the Act. A crewman who was granted landing privileges on or after April 1, 1997, and who has not departed foreign on the vessel of arrival, or on another vessel or aircraft if such permission was granted pursuant to §252.1(f), shall be removed from the United States without a hearing, except as provided in §208.2(b)(1) of this chapter. In either case, if the alien is removed within 5 years of the date of landing, removal of the crewman shall be at the expense of the owner of the vessel. In the case of a crewman ordered removed more than

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5 years after the date of landing, removal shall be at the expense of the appropriation for the enforcement of the Act.

[62 FR 10388, Mar. 6, 1997]

#### **§ 252.3 Great Lakes vessels and tugboats arriving in the United States from Canada; special procedures.**

(a) *United States vessels and tugboats.* An immigration examination shall not be required of any crewman aboard a Great Lakes vessel of United States registry or a tugboat of United States registry arriving from Canada at a port of the United States who has been examined and admitted by an immigration officer as a member of the crew of the same vessel or tugboat or of any other vessel or tugboat of the same company during the current calendar year.

(b) *Canadian or British vessels or tugboats.* An alien crewman need not be presented for inspection if the alien crewman:

(1) Serves aboard a Great Lakes vessel of Canadian or British registry or aboard a tugboat of Canadian or British registry arriving at a United States port-of-entry from Canada;

(2) Seeks admission for a period of less than 29 days;

(3) Has, during the current calendar year, been inspected and admitted by an immigration officer as a member of the crew of the same vessel or tugboat, or of any other vessel or tugboat of the same company;

(4) Is either a British or Canadian citizen or is in possession of a valid Form I-95 previously issued to him or her as a member of the crew of the same vessel or tugboat, or of any other vessel or tugboat of the same company;

(5) Does not request or require landing privileges in the United States beyond the time the vessel or tugboat will be in port; and,

(6) Will depart to Canada with the vessel or tugboat.

[62 FR 10388, Mar. 6, 1997]

#### **§ 252.4 Permanent landing permit and identification card.**

A Form I-184 is valid until revoked. It shall be revoked when an immigration officer finds that the crewman is

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in the United States in willful violation of the terms and conditions of his or her permission to land, or that he or she is inadmissible to the United States. On revocation, the Form I-184 shall be surrendered to an immigration officer. No appeal shall lie from the revocation of Form I-184.

[62 FR 10388, Mar. 6, 1997]

#### **§ 252.5 Special procedures for deserters from Spanish or Greek ships of war.**

(a) *General.* Under E.O. 11267 of January 19, 1966 (31 FR 807) and 28 CFR 0.109, and E.O. 11300 of August 17, 1966, (31 FR 11009), and 28 CFR 0.110, the Commissioner and immigration officers (as defined in § 103.1(j) of this chapter) are designated as “competent national authorities” on the part of the United States within the meaning of Article XXIV of the 1903 Treaty of Friendship and General Relations between the United States and Spain (33 Stat. 2105, 2117), and “local authorities” and “competent officers” on the part of the United States within the meaning of Article XIII of the Convention between the United States and Greece (33 Stat. 2122, 2131).

(b) *Application for restoration.* On application of a Consul General, Consul, Vice-Consul, or Consular-Agent of the Spanish or Greek Government, made in writing pursuant to Article XXIV of the treaty, or Article XIII of the Convention, respectively, stipulating for the restoration of crewmen deserting, stating that the person named therein has deserted from a ship of war of that government, while in any port of the United States, and on proof by the exhibition of the register, crew list, or official documents of the vessel, or a copy or extract therefrom, duly certified, that the person named belonged, at the time of desertion, to the crew of such vessel, such person shall be taken into custody by any immigration officer without a warrant of arrest. Written notification of charges shall be served on the alien when he or she is taken into custody or as soon as practical thereafter.

(c) *Examination.* Within a reasonable period of time after the arrest, the alien shall be accorded an examination by the district director, acting district

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director, or the deputy district director having jurisdiction over the place of arrest. The alien shall be informed that he or she may have the assistance of or be represented by a counsel or representative of his or her choice qualified under 8 CFR part 292 without expense to the Government, and that he or she may present such evidence in his or her behalf as may be relevant to this proceeding. If, upon the completion of such examination, it is determined that:

(1) The individual sought by the Spanish or Greek authorities had deserted from a Spanish or Greek ship of war in a United States port;

(2) The individual actually arrested and detained is the person sought;

(3) The individual is not a citizen of the United States; and

(4) The individual had not previously been arrested for the same cause and set at liberty because he or she had been detained for more than 3 months, or more than 2 months in the case of a deserter from a Greek ship of war, from the day of his or her arrest without the Spanish or Greek authorities having found an opportunity to send him or her home, the individual shall be served with a copy of the findings, from which no appeal shall lie, and be surrendered forthwith to the Spanish or Greek authorities if they are prepared to remove him or her from the United States. On written request of the Spanish or Greek authorities, the individual shall be detained, at their expense, for a period not exceeding 3 months or 2 months, respectively, from the day of arrest to afford opportunity to arrange for his or her departure from the United States.

(d) *Timely departure not effected.* If the Spanish authorities delay in sending the individual home for more than 3 months, or if the Greek authorities delay in sending the individual home for more than 2 months, from the day of his or her arrest, the individual shall be dealt with as any other alien unlawfully in the United States under the removal provisions of the Act, as amended.

(e) *Commission of crime.* If the individual has committed any crime or offense in the United States, he or she shall not be placed at the disposal of

the consul until after the proper tribunal having jurisdiction in his or her case shall have pronounced sentence, and such sentence shall have been executed.

[62 FR 10388, Mar. 6, 1997]

### PART 253—PAROLE OF ALIEN CREWMEN

Sec.

253.1 Parole.

253.2 Termination of parole.

AUTHORITY: 8 U.S.C. 1103, 1182, 1282, 1283, 1285; 8 CFR part 2.

#### § 253.1 Parole.

(a) *General.* When a crewman is paroled into the United States pursuant to the provisions of this part under the provisions of section 212(d)(5) of the Act, he shall be given Form I-94 (see § 1.4), reflecting the terms of parole. A notice on Form I-259 shall be served upon the agent, and, if available, upon the owner and master or commanding officer of the vessel or aircraft, which shall specify the purpose of the parole and the conditions under which the alien crewman is paroled into the United States. The Form I-259 shall also specify the Service office to which the alien crewman is to be presented for inspection upon termination of the parole. The guarantee of payment for medical and other related expenses required by section 253 of the Act shall be executed by the owner, agent, consignee, commanding officer or master on Form I-510.

(b) *Afflicted crewman.* Any alien crewman afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease, or an alien crewman suspected of being so afflicted shall upon arrival at the first port of call in the United States, be paroled to the medical institution designated by the district director in whose district the port is located, in the custody (other than during the period of time he is in such medical institution) of the agent of the vessel or aircraft on which such alien arrived in the United States and at the expense of the transportation line for a period initially not to exceed