

§ 103.7

8 CFR Ch. I (1-1-10 Edition)

by a nonimmigrant while he is in lawful temporary status, the bond shall be canceled if his status is adjusted to that of a lawful permanent resident or if he voluntarily departs within any period granted to him. As used in this paragraph, the term *lawful temporary status* means that there must not have been a violation of any of the conditions of the alien's nonimmigrant classification by acceptance of unauthorized employment or otherwise during the time he has been accorded such classification, and that from the date of admission to the date of departure or adjustment of status he must have had uninterrupted Service approval of his presence in the United States in the form of regular extensions of stay or dates set by which departure is to occur, or a combination of both. An alien admitted as a nonimmigrant shall not be regarded as having violated his nonimmigrant status by engaging in employment subsequent to his proper filing of an application for adjustment of status under section 245 of the Act and part 245 of this chapter. A maintenance of status and departure bond posted at the request of an American consular officer abroad in behalf of an alien who did not travel to the United States shall be canceled upon receipt of notice from an American consular officer that the alien is outside the United States and the nonimmigrant visa issued pursuant to the posting of the bond has been canceled or has expired.

(3) *Substantial performance.* Substantial performance of all conditions imposed by the terms of a bond shall release the obligor from liability.

(d) *Bond schedules*—(1) *Blanketbonds for departure of visitors and transits.* The amount of bond required for various numbers of nonimmigrant visitors or transits admitted under bond on Forms I-352 shall be in accordance with the following schedule:

*Aliens*

- 1 to 4—\$500 each.
- 5 to 9—\$2,500 total bond.
- 10 to 24—\$3,500 total bond.
- 25 to 49—\$5,000 total bond.
- 50 to 74—\$6,000 total bond.
- 75 to 99—\$7,000 total bond.
- 100 to 124—\$8,000 total bond.
- 125 to 149—\$9,000 total bond.

- 150 to 199—\$10,000 total bond.
- 200 or more—\$10,000 plus \$50 for each alien over 200.

(2) *Blanket bonds for importation of workers classified as nonimmigrants under section 101(a)(15)(H).* The following schedule shall be employed by district directors when requiring employers or their agents or representatives to post bond as a condition to importing alien laborers into the United States from the West Indies, the British Virgin Islands, or from Canada:

- Less than 500 workers—\$15 each
- 500 to 1,000 workers—\$10 each
- 1,000 or more workers—\$5 each

A bond shall not be posted for less than \$1,000 or for more than \$12,000 irrespective of the number of workers involved. Failure to comply with conditions of the bond will result in the employer's liability in the amount of \$200 as liquidated damages for each alien involved.

(e) *Breach of bond.* A bond is breached when there has been a substantial violation of the stipulated conditions. A final determination that a bond has been breached creates a claim in favor of the United States which may not be released or discharged by a Service officer. The district director having custody of the file containing the immigration bond executed on Form I-352 shall determine whether the bond shall be declared breached or cancelled, and shall notify the obligor on Form I-323 or Form I-391 of the decision, and, if declared breached, of the reasons therefor, and of the right to appeal in accordance with the provisions of this part.

[31 FR 11713, Sept. 7, 1966, as amended at 32 FR 9622, July 4, 1967; 33 FR 5255, Apr. 2, 1968; 33 FR 10504, July 24, 1968; 34 FR 1008, Jan. 23, 1969; 34 FR 14760, Sept. 25, 1969; 39 FR 12334, Apr. 5, 1974; 40 FR 42852, Sept. 17, 1975; 48 FR 51144, Nov. 7, 1983; 49 FR 24011, June 11, 1984; 60 FR 21974, May 4, 1995; 62 FR 10336, Mar. 6, 1997]

§ 103.7 Fees.

(a) *Remittances.* (1) Fees shall be submitted with any formal application or petition prescribed in this chapter in

the amount prescribed by law or regulation. Except for fees remitted directly to the Board of Immigration Appeals pursuant to the provisions of 8 CFR 1003.8, or as the Attorney General otherwise may provide by regulation, any fee relating to any Department of Justice Executive Office for Immigration Review proceeding shall be paid to, and accepted by, any BCIS office authorized to accept fees. The immigration court does not collect fees. Payment of any fee under this section does not constitute filing of the document with the Board of Immigration Appeals or with the Immigration Court. The Department of Homeland Security shall return to the payer, at the time of payment, a receipt for any fee paid. The BCIS shall also return to the payer any documents, submitted with the fee, relating to any Immigration Court proceeding.

(2) Remittances must be drawn on a bank or other institution located in the United States and be payable in United States currency. Fees in the form of postage stamps shall not be accepted. Remittances to the Department of Homeland Security shall be made payable to the "Department of Homeland Security" except that in case of applicants residing in the Virgin Islands of the United States, the remittances shall be made payable to the "Commissioner of Finance of the Virgin Islands" and, in the case of applicants residing in Guam, the remittances shall be made payable to the "Treasurer, Guam." If an application to the Department of Homeland Security is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the Department of Homeland Security. Remittances to the Board of Immigration Appeals shall be made payable to the "United States Department of Justice," in accordance with 8 CFR 1003.8. A charge of \$30.00 will be imposed if a check in payment of a fee or any other matter is not honored by the bank or financial institution on which it is drawn. A receipt issued by a Department of Homeland Security officer for any remittance shall not be binding upon the Depart-

ment of Homeland Security if the remittance is found uncollectible. Furthermore, legal and statutory deadlines will not be deemed to have been met if payment is not made within 10 business days after notification by the Department of Homeland Security of the dishonored check.

(b) *Amounts of fees.* (1) The following fees and charges are prescribed:

For certification of true copies, each—\$2.00

For attestation under seal—\$2.00

For capturing biometric information (Biometric Fee). A service fee of \$80 will be charged for any individual who is required to have biometric information captured in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), and whose residence is in the United States; provided that: *Extension for intercountry adoptions:* If applicable, no biometric service fee is charged when a written request for an extension of the approval period is received by USCIS prior to the expiration date of approval indicated on the Form I-171H if a Form I-600 has not yet been submitted in connection with an approved Form I-600A. This extension without fee is limited to one occasion. If the approval extension expires prior to submission of an associated Form I-600, then a complete application and fee must be submitted for a subsequent application.

DCL System Costs Fee. For use of a Dedicated Commuter Lane (DCL) located at specific Ports of Entry of the United States by an approved participant in a designated vehicle—\$80.00, with the maximum amount of \$160.00 payable by a family (husband, wife, and minor children under 18 years-of-age). Payable following approval of the application but before use of the DCL by each participant. This fee is non-refundable, but may be waived by the district director. If a participant wishes to enroll more than one vehicle for use in the PORTPASS system, he or she will be assessed with an additional fee of—\$42 for each additional vehicle enrolled.

Form G-1041. For filing a request for a search of indices to historical records to be used in genealogical research—\$20. The search fee is not refundable.

Form G-1041A. For filing a request for a copy of historical records to be used in genealogical research—\$20 for each file copy from microfilm or \$35 for each file copy from a textual record. In some cases, the researcher may be unable to determine the fee, because the researcher will have a file number obtained from a source other than the USCIS Genealogy Program and therefore not know the format of the file (microfilm or hard copy). In this case, if

- USCIS locates the file and it is a textual file, the Genealogy Program will notify the researcher to remit the additional \$15. The Genealogy Program will refund the records request fee only when it is unable to locate the file previously identified in response to the index search request.
- Form I-17. For filing a petition for school certification—\$1,700, plus a site visit fee of \$655 for each location listed on the form.
- Form I-68. For application for issuance of the Canadian Border Boat Landing Permit under section 235 of the Act—\$16.00. The maximum amount payable by a family (husband, wife, unmarried children under 21 years of age, parents of either husband or wife) shall be \$32.00.
- Form I-90. For filing an application for a Permanent Resident Card (Form I-551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name—\$290.
- Form I-94. For issuance of Arrival/Departure Record at a land border Port-of-Entry—\$6.00.
- Form I-94W. For issuance of Nonimmigrant Visa Waiver Arrival/Departure Form at a land border Port-of-Entry under section 217 of the Act—\$6.00.
- Form I-102. For filing a petition for an application (Form I-102) for Arrival/Departure Record (Form I-94) or Crewman's Landing Permit (Form I-95), in lieu of one lost, mutilated, or destroyed—\$320.
- Form I-129. For filing a petition for a non-immigrant worker—\$320.
- Form I-129CW. For an employer to petition for CW status on behalf of one or more beneficiaries—\$320 plus a supplemental CNMI education funding fee of \$150 per beneficiary per year. The CNMI education funding fee cannot be waived.
- Form I-129F. For filing a petition to classify a nonimmigrant as a fiancée or fiancé under section 214(d) of the Act—\$455; no fee for a K-3 spouse as designated in 8 CFR 214.1(a)(2) who is the beneficiary of an immigrant petition filed by a United States citizen on Form I-130.
- Form I-130. For filing a petition to classify status of an alien relative for issuance of an immigrant visa under section 204(a) of the Act—\$355.
- Form I-131. For filing an application for travel document—\$305.
- Form I-140. For filing a petition to classify preference status of an alien on the basis of profession or occupation under section 204(a) of the Act—\$475.
- Form I-191. For filing an application for discretionary relief under section 212(c) of the Act—\$545.
- Form I-192. For filing an application for discretionary relief under section 212(d)(3) of the Act, except in an emergency case, or where the approval of the application is in the interest of the United States Government—\$545.
- Form I-193. For filing an application for waiver of passport and/or visa—\$545.
- Form I-212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been removed at government expense in lieu of deportation—\$545.
- Form I-246. For filing application for stay of deportation under part 243 of this chapter—\$155.00
- Form I-290B. For filing an appeal from any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction—\$585 (the fee will be the same when an appeal is taken from the denial of a petition with one or multiple beneficiaries, provided that they are all covered by the same petition, and therefore, the same decision). *Motions.* For filing a motion to reopen or reconsider any DHS decision in any type of proceeding over which the Executive Office for Immigration Review does not have jurisdiction. This fee shall be charged whenever a motion is filed to reopen or reconsider a single decision, whether it applies to one or multiple beneficiaries—\$585.
- Form I-360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—\$375, except there is no fee for a petition seeking classification as: An Amerasian; a self-petitioning battered or abused spouse, parent, or child of a United States citizen or lawful permanent resident; or a Special Immigrant—Juvenile.
- Form I-485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—\$930 for an applicant fourteen years of age or older; \$600 for an applicant under the age of fourteen years when submitted concurrently for adjudication with the Form I-485 of a parent and the applicant is seeking to adjust status as a derivative of the parent, based on a relationship to the same individual who provides the basis for the parent's adjustment of status, or under the same legal authority as the parent; no fee for an applicant filing as a refugee under section 209(a) of the Act; provided that no additional fee will be charged for a request for travel document (advance parole) or employment authorization filed by an applicant who has paid the Form I-485 application fee, regardless of whether the Form I-131 or Form I-765 is required to be filed by such applicant to receive these benefits. Supplement A to Form I-485. Supplement to Form I-485 for persons seeking to adjust status under the provisions of section 245(i) of the Act—\$1000, except that payment of this additional sum is not required when

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the applicant is an unmarried child who is less than 17 years of age, or when the applicant is the spouse or the unmarried child less than 21 years of age of a legalized alien and is qualified for and has applied for voluntary departure under the family unity program.

Form I-526. For filing a petition for an alien entrepreneur—\$1,435.

Form I-539. For filing an application to extend or change nonimmigrant status—\$300.

Form I-570. For filing application for issuance or extension of refugee travel document—\$45.00

Form I-600. For filing a petition to classify an orphan as an immediate relative for issuance of an immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$670.

Form I-600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—\$670. No fee is charged if Form I-600 has not yet been submitted in connection with an approved Form I-600A if a written request from the applicant for an extension of the approval has been received by USCIS prior to the expiration date of approval indicated on the Form I-171H. This extension will require an update of the applicant's home study and a determination from USCIS that proper care will be provided to an adopted orphan. A no fee extension is limited to one occasion. If the Form I-600A approval extension expires prior to submission of an associated Form I-600, then a complete application and fee must be submitted for any subsequent application.

Form I-601. For filing an application for waiver of ground of inadmissibility—\$545.

Form I-612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—\$545.

Form I-687. For filing an application for status as a temporary resident under section 245A(a) of the Act. A fee of \$710 for each application is required at the time of filing with the Department of Homeland Security.

Form I-690. For filing an application for waiver of a ground of inadmissibility under section 212(a) of the Act as amended, in conjunction with the application under sections 210 or 245A of the Act, or a petition under section 210A of the Act—\$185.

Form I-694. For appealing the denial of an applications under sections 210 or 245A of the Act, or a petition under section 210A of the Act—\$545.

Form I-695. For filing an application for replacement of temporary resident card (Form I-688)—\$130.

Form I-698. For filing an application for adjustment from temporary resident status to that of lawful permanent resident under section 245A(b)(1) of the Act. For applicants filing within thirty-one months from the date of adjustment to temporary resident status, a fee of \$1,370 for each application is required at the time of filing with the Department of Homeland Security. For applicants filing after thirty-one months from the date of approval of temporary resident status, who file their applications on or after July 9, 1991, a fee of \$1,410 is required. The adjustment date is the date of filing of the application for permanent residence or the applicant's eligibility date, whichever is later.

Form I-700. For filing application for status as a temporary resident under section 210(a)(1) of the Act, as amended—to be remitted in the form of a cashier's check, certified bank check or a money order. A fee of one hundred and eighty-five dollars (\$185.00) for each application or fifty dollars (\$50.00) for each application for a minor child (under 18 years of age) is required at the time of filing with the Immigration and Naturalization Service. The maximum amount payable by a family (husband, wife, and any minor children) shall be four hundred and twenty dollars (\$420.00).

Form I-751. For filing a petition to remove the conditions on residence, based on marriage—\$465.

Form I-765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—\$340.

Form I-800. For filing a petition to classify a Convention adoptee as an immediate relative.

—No fee for the first Form I-800 filed for a child on the basis of an approved Form I-800A, filed during the approval period.

—If more than one Form I-800 is filed during the approval period for different children, the fee is \$670 for the second and each subsequent Form I-800 submitted.

—If the children are already siblings before the proposed adoption, however, only one filing fee of \$670 is required, regardless of the sequence of submission of the Form I-800.

Form I-800A. For filing an application for determination of suitability to adopt a child from a Convention country—\$670.

For filing a Form I-800A, Supplement 3, Request for Action on Approved Form I-800A—\$340, except that this filing fee is not charged if no Form I-800 has been filed based on the approval of the Form I-800A, and Form I-800A Supplement 3 is filed in order to

obtain a first extension of the approval of the Form I-800A. \* \* \*

Form I-805. For filing a petition for status as a temporary resident under §210A. A fee of one hundred and seventy-five dollars (\$175.00) for each petition, is to be remitted in the form of a cashier's check, certified bank check or money order at the time of filing with the Immigration and Naturalization Service.

Form I-807. For filing a request for consideration as a replenishment agricultural worker (RAW) during an announced period of registration under 8 CFR 210a.3. A fee of ten dollars (\$10.00) is to be remitted in the form of a cashier's check, certified bank check or money order at the time of mailing to the Immigration and Naturalization Service.

Form I-817. For filing an application for voluntary departure under the Family Unity Program—\$440.

Form I-821. For filing an initial application for Temporary Protected Status under section 244 of the Act as amended by section 308(a)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by the Immigration Act of 1990, to be remitted in the form of a cashier's check, certified bank check, or money order. The exact amount of the fee, not to exceed fifty dollars (\$50.00), will be determined at the time a foreign state is designated for Temporary Protected Status.

Form I-823. For application to a PORTPASS program under section 286 of the Act—\$25.00, with the maximum amount of \$50.00 payable by a family (husband, wife, and minor children under 18 years of age). The application fee may be waived by the district director. If fingerprints are required, the inspector will inform the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks prior to accepting the application fee. Both the application fee (if not waived) and the fingerprint fee must be paid to the Immigration and Naturalization Service before the application will be processed. The fingerprint fee may not be waived. For replacement of PORTPASS documentation during the participation period—\$25.00.

Form I-824. For filing for action on an approved application or petition—\$340.

Form I-829. For filing a petition by entrepreneur to remove conditions—\$2,850.

Form I-881. For filing an application for suspension of deportation or special rule cancellation of removal (pursuant to section 203 of Public Law 105-100):

—\$275 for adjudication by the Department of Homeland Security, except that the maximum amount payable by family members (related as husband, wife, unmarried child under 21, unmarried son, or unmarried daughter) who submit applications at the same time shall be \$550.

—\$155 for adjudication by the Immigration Court (a single fee of \$155 will be charged whenever applications are filed by two or more aliens in the same proceedings). The \$155 fee is not required if the Form I-881 is referred to the Immigration Court by the Department of Homeland Security.

Form I-901. For remittance of the I-901 SEVIS fee for F and M students—\$200. For remittance of the I-901 SEVIS fee for certain J exchange visitors—\$180. For remittance of the I-901 SEVIS fee for J-1 au pairs, camp counselors, and participants in a summer work/travel program—\$35. There is no I-901 SEVIS fee remittance obligation for J exchange visitors in federally-funded programs with a program identifier designation prefix that begins with G-1, G-2, G-3 or G-7.

Form I-905. Application for authorization to issue certification for health care workers—\$230.

Form I-907. For filing a request for Premium Processing Service for certain employment based applications and petitions—\$1,000. The fee for Premium Processing Service may not be waived.

Form I-929. For U-1 principal applicant to submit for each qualifying family member who plans to seek an immigrant visa or adjustment of U status—\$215.

Form N-300. For filing an application for declaration of intention—\$235.

Form N-336. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act—\$605.

Form N-400. For filing an application for naturalization (other than such application filed on or after October 1, 2004, by an applicant who meets the requirements of sections 328 or 329 of the Act with respect to military service, for which no fee is charged)—\$595.

Form N-410. For filing motion for amendment of petition for naturalization when motion is for the convenience of the petitioner—\$50.00

Form N-455. For filing application for transfer of petition for naturalization under section 335(i) of the Act, except when transfer is of a petition for naturalization filed under the Act of October 24, 1968, Pub. L. 90-633—\$90.00.

Form N-470. For filing an application for benefits under section 316(b) or 317 of the Act—\$305.

Form N-565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(c) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(b) of the Act—\$380.

Form N-600. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act—\$460, for applications filed on behalf of a biological child and \$420 for applications filed on behalf of an adopted child.

Form N-600K. For filing an application for citizenship and issuance of certificate under section 322 of the Act—\$460, for an application filed on behalf of a biological child and \$420 for an application filed on behalf of an adopted child.

Form N-644. For filing an application for posthumous citizenship—\$80.

Request. For special statistical tabulations a charge will be made to cover the cost of the work involved—Cost

Request. For set of monthly, semiannual, or annual tables entitled “Passenger Travel Reports via Sea and Air”<sup>1</sup>—\$7.00

Request. For classification of a citizen of Canada to be engaged in business activities at a professional level pursuant to section 214(e) of the Act (Chapter 16 of the North American Free Trade Agreement)—\$50.00

Request. For requesting authorization for parole of an alien into the United States—\$65.00.

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Homeland Security at 6 CFR 5.11.

(3) The fees prescribed in paragraph (b)(1) of this section shall be adjusted annually on or after October 1, 2005, by publication of an inflation adjustment. The inflation adjustment will be announced by notice in the FEDERAL REGISTER, and the adjustment shall be a composite of the Federal civilian pay raise assumption and non-pay inflation factor for that fiscal year issued by the Office of Management and Budget for agency use in implementing OMB Circular A-76, weighted by pay and non-pay proportions of total funding for that fiscal year. If Congress enacts a different Federal civilian pay raise percentage than the percentage issued by OMB for Circular A-76, the Department of Homeland Security may adjust the fees, during the current year or a following year to reflect the enacted level. The prescribed fee or charge

shall be the amount prescribed in paragraph (b)(1) of this section, plus the latest inflation adjustment, rounded to the nearest \$5 increment.

(4) For the schedule of fees relating to proceedings before the immigration judges and the Board of Immigration Appeals, see 8 CFR 1103.7.

(c) *Waiver of fees.* (1) Except as otherwise provided in this paragraph (c), any of the fees prescribed in paragraph (b) of this section relating to applications, petitions, appeals, motions, or requests may be waived by the Department of Homeland Security in any case under its jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. 1746, asking for permission to prosecute without payment of fee of the application, petition, appeal, motion, or request, and stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. The officer of the Department of Homeland Security having jurisdiction to render a decision on the application, petition, appeal, motion, or request may, in his or her discretion, grant the waiver of fee. Fees for “Passenger Travel Reports via Sea and Air” and for special statistical tabulations may not be waived. The payment of the additional sum prescribed by section 245(i) of the Act when applying for adjustment of status under section 245 of the Act may not be waived. The fees for Form I-907, Request for Premium Processing Services, and for Forms G-1041 and G-1041A, Genealogy Program request forms, may not be waived. For provisions relating to the authority of the immigration judges or the Board to waive fees prescribed in paragraph (b) of this section in cases under their jurisdiction, see 8 CFR 1003.24 and 1003.8.

(2) Fees under the Freedom of Information Act, as amended, may be waived or reduced where the Department of Homeland Security determines such action would be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

<sup>1</sup> Available from Immigration & Naturalization Service for years 1975 and before. Later editions are available from the United States Department of Transportation, contact: United States Department of Transportation, Transportation Systems Center, Kendall Square, Cambridge, MA 02142.

(3) When the prescribed fee is for services to be performed by the clerk of court under section 344(a) of the Act, the affidavit for waiver of the fee shall be filed with the district director or officer in charge of the BCIS having administrative jurisdiction over the place in which the court is located at least 7 days prior to the date the fee is required to be paid. If the waiver is granted, there shall be delivered to the clerk of court by a BCIS representative on or before the date the fee is required to be paid, a notice prepared on BCIS letterhead and signed by the officer granting the waiver, that the fee has been waived pursuant to this paragraph.

(4) Fees for applications for Temporary Protected Status may be waived pursuant to 8 CFR 244.20.

(5) No fee relating to any application, petition, appeal, motion, or request made to U.S. Citizenship and Immigration Services may be waived under paragraph (c)(1) of this section except for the following:

(i) Biometrics; Form I-90; Form I-129CW; Form I-751; Form I-765; Form I-817; I-929; Form N-300; Form N-336; Form N-400; Form N-470; Form N-565; Form N-600; Form N-600K; and Form I-290B and motions filed with U.S. Citizenship and Immigration Services relating to the specified forms in this paragraph (c); and

(ii) Only in the case of an alien in lawful nonimmigrant status under sections 101(a)(15)(T) or (U) of the Act; an applicant under section 209(b) of the Act; an approved VAWA self-petitioner; or an alien to whom section 212(a)(4) of the Act does not apply with respect to adjustment of status: Form I-485 and Form I-601; and

(iii) Form I-192 and Form I-193 (only in the case of an alien applying for lawful nonimmigrant status under sections 101(a)(15)(T) or (U)).

(d) *Authority to certify records.* Whenever authorized under 5 U.S.C. 552 or any other law to furnish information from records to persons entitled thereto, the following officials, or their designees authorized in writing as specified below, have authority to make certification, as follows:

(1) The Associate Commissioner, Information Systems, the Assistant Com-

missioner, Records Systems Division, the Director, Records Management Branch, or their designee, authorized in writing to make certification in their absence—copies of files, documents, and records in the custody of the Central Office.

(2) A regional commissioner, or district director, or the designee of either, authorized in writing to make certification in his absence—copies of files, documents, and records in the custody of his office.

(3) The Immigration and Naturalization Service Program Coordinator, El Paso Intelligence Center, or the designee, authorized in writing to make certification in event of the Program Coordinator's absence—copies of files, documents, and records of the Immigration and Naturalization Service in the custody of that office.

(4) The Assistant Commissioner, Records Systems Division, the Director, Records Management Branch, or the Chief, Records Operations Section, Central Office, or their designee, authorized in writing to make certification in their absence—the non-existence of an official Service records.

[38 FR 35296, Dec. 27, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 103.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EDITORIAL NOTE: At 73 FR 55698, Sept. 26, 2008, § 103.7 was amended by revising Form I-290B. However the amendment could not be incorporated because the text of the newly revised form was not printed.

### § 103.8 Definitions pertaining to availability of information under the Freedom of Information Act.

Sections 103.8, 103.9, and 103.10 of this part comprise the Service regulations under the Freedom of Information Act, 5 U.S.C. 552. These regulations supplement those of the Department of Justice, 28 CFR part 16, subpart A. As used in this part the following definitions shall apply:

(a) The term *access* means providing a copy of the record requested or affording the opportunity for an in-person review of the original record or a copy thereof. The determination to permit an in-person review is discretionary