

§ 103.5b

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(iii) Delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

(3) *Personal service involving notices of intention to fine.* In addition to any of the methods of personal service listed in paragraph (a)(2) of this section, personal service of Form I-79, Notice of Intention to Fine, may also consist of delivery of the Form I-79 by a commercial delivery service at the carrier's address on file with the National Fines Office, the address listed on the Form I-849, Record for Notice of Intent to Fine, or to the office of the attorney or agent representing the carrier, provided that such a commercial delivery service requires the addressee or other responsible party accepting the package to sign for the package upon receipt.

(b) *Effect of service by mail.* Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, 3 days shall be added to the prescribed period. Service by mail is complete upon mailing.

(c) *When personal service required—(1) Generally.* In any proceeding which is initiated by the Service, with proposed adverse effect, service of the initiating notice and of notice of any decision by a Service officer shall be accomplished by personal service, except as provided in section 239 of the Act.

(2) *Persons confined, minors, and incompetents—(i) Persons confined.* If a person is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings initiated against him, service shall be made both upon him and upon the person in charge of the institution or the hospital. If the confined person is not competent to understand, service shall be made only on the person in charge of the institution or hospital in which he is confined, such service being deemed service on the confined person.

(ii) *Incompetents and minors.* In case of mental incompetency, whether or not

confined in an institution, and in the case of a minor under 14 years of age, service shall be made upon the person with whom the incompetent or the minor resides; whenever possible, service shall also be made on the near relative, guardian, committee, or friend.

(d) *When personal service not required.* Service of other types of papers in proceedings described in paragraph (c) of this section, and service of any type of papers in any other proceedings, may be accomplished either by routine service or by personal service.

[37 FR 11470, June 8, 1972, as amended at 39 FR 23247, June 27, 1974; 62 FR 10336, Mar. 6, 1997; 64 FR 17944, Apr. 13, 1999]

§ 103.5b Application for further action on an approved application or petition.

(a) *General.* An application for further action on an approved application or petition must be filed on Form I-824 by the applicant or petitioner who filed the original application or petition. It must be filed with the fee required in § 103.7 and the initial evidence required on the application form. Form I-824 may accompany the original application or petition, or may be filed after the approval of the original application or petition.

(b) *Requested actions.* A person whose application was approved may, during its validity period, apply for a duplicate approval notice or any other action specifically provided for on the form. A petitioner whose petition was approved may, during the validity of the petition, request that the Service:

- (1) Issue a duplicate approval notice;
- (2) Notify another consulate of the approved petition;
- (3) Notify a consulate of the person's adjustment of status for the purpose of visa issuance to dependents; or
- (4) Take any other action specifically provided for on the form.

(c) *Processing.* The application shall be approved if the Service determines the applicant has fully demonstrated eligibility for the requested action. There is no appeal from the denial of an application filed on Form I-824.

[59 FR 1463, Jan. 11, 1994]