

§ 103.8

8 CFR Ch. I (1-1-01 Edition)

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.

EFFECTIVE DATE NOTE: At 65 FR 43531, July 13, 2000, in §103.7, (b)(1) was amended by adding the entry for "Form ETA-9079" immediately following "Form EOIR-42", effective Nov. 13, 2000. At 65 FR 67617, Nov. 13, 2000, the effective date of the addition was delayed until Oct. 1, 2001. For the convenience of the user, the added text is set forth as follows:

§ 103.7 Fees.

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(b) * * * (1) * * *
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Form ETA-9079. The fee for filing for a labor certification is designated in 20 CFR 655.100. The fee for filing the Service's petition portion of Form ETA-9079, to classify an agricultural worker as an H-2A non-immigrant, is \$110. The total fee will be the sum of DOL labor certification fee and the Service's fee. There is no additional fee if supplemental Form(s) ETA-9079W is filed with Form ETA-9079. A fee of \$120 is required to file supplemental Form ETA-9079M (the equivalent to Form I-824).

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§ 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 and will only be made when specifically requested. Whenever providing in-person access will unreasonably disrupt the normal operations of an office, the requester may be sent a copy of the requested records that are nonexempt in lieu of the in-person review.

(b) The term decision means a final written determination in a proceeding

under the Act accompanied by a statement of reasons. Orders made by check marks, stamps, or brief endorsements which are not supported by a reasoned explanation, or those incorporating preprinted language on Service forms are not decisions.

(c) The term records includes records of proceedings, documents, reports, and other papers maintained by the Service.

(d) The term record of proceeding is the official history of any hearing, examination, or proceeding before the Service, and in addition to the application, petition or other initiating document, includes the transcript of hearing or interview, exhibits, and any other evidence relied upon in the adjudication; papers filed in connection with the proceedings, including motions and briefs; the Service officer's determination; notice of appeal or certification; the Board or other appellate determination; motions to reconsider or reopen; and documents submitted in support of appeals, certifications, or motions.

[32 FR 9623, July 4, 1967, as amended at 40 FR 7236, Feb. 19, 1975; 52 FR 2942, Jan. 29, 1987; 58 FR 31148, June 1, 1993]

§ 103.9 Availability of decisions and interpretive material under the Freedom of Information Act.

(a) Precedent decisions. There may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, bound volumes of designated precedent decisions entitled "Administrative Decisions Under Immigration and Nationality Laws of the United States," each containing a cumulative index. Prior to publication in volume from current precedent decisions, known as interim decisions, are obtainable from the Superintendent of Documents on a single copy or yearly subscription basis. Bound volumes and current precedent decisions may be read at principal Service offices.

(b) Unpublished decisions. Each district director in the United States will maintain copies of unpublished Service and Board decisions relating to proceedings in which the initial decision was made in his district. Each regional commissioner will maintain copies of