

## § 103.20

and such applicants under the age of 14 who have had an application pending for at least 180 days.

(b) *Non-issuance of an Order to Show Cause and non-enforcement of deportation and exclusion orders.* An alien may not be deemed to be lawfully present solely on the basis of the Service's decision not to, or failure to, issue an Order to Show Cause or solely on the basis of the Service's decision not to, or failure to, enforce an outstanding order of deportation or exclusion.

[61 FR 47041, Sept. 6, 1996, as amended at 63 FR 63595, Nov. 16, 1998; 64 FR 8487, Feb. 19, 1999; 65 FR 82255, Dec. 28, 2000]

EFFECTIVE DATE NOTE: At 65 FR 82255, Dec. 28, 2000, §103.12 was amended by revising the reference to "212.5(a)(3)" to read "212.5(b)(3)" in paragraph (a)(3)(ii), effective Jan. 29, 2001. At 66 FR 7863, Jan. 26, 2001, the effective date of this amendment was delayed to March 30, 2001.

### § 103.20 Purpose and scope.

(a) Sections 103.20 through 103.36 comprise the regulations of the Service implementing the Privacy Act of 1974, Public Law 93-597. The regulations apply to all records contained in systems of records maintained by the Service which are identifiable by individual name or identifier and which are retrieved by individual name or identifier, except those personnel records governed by regulations of the Office of Personnel Management. The regulations set forth the procedures by which individuals may seek access to records pertaining to themselves and request correction of those records. The regulations also set forth the requirements applicable to Service employees maintaining, collecting, using or disseminating such records.

(b) The Associate Commissioner, Information Systems, shall ensure that the provisions of §§ 103.20 through 103.36 of this title and 28 CFR 16.40 through 16.58, and any revisions, are brought to the attention of and made available to:

(1) Each employee at the time of issuance of the regulations and at the time of any amendments; and

(2) Each new employee at the time of employment.

(c) The Associate Commissioner, Information Systems, shall be responsible for ensuring that employees of

## 8 CFR Ch. I (1-1-02 Edition)

the Service are trained in the obligations imposed by the Privacy Act of 1974 (5 U.S.C 522a) and by these regulations.

[40 FR 44481, Sept. 26, 1975, as amended at 48 FR 49652, Oct. 27, 1983; 58 FR 31149, June 1, 1993]

### § 103.21 Access by individuals to records maintained about them.

(a) *Access to available records.* An individual who seeks access to records about himself or herself in a system of records must submit a written request in person or by mail to the Freedom of Information/Privacy Act Officer at the location where the records are maintained. If the location is unknown, the request may be submitted to the nearest Service office or to the Headquarters FOIA/PA Officer, 425 I Street, NW., Washington, DC 20536. The outside of the envelope should be marked "Privacy Act Request." A Form G-639, Freedom of Information/Privacy Act Request may be used for convenience and to facilitate identification of the record requested. However, a request may be made in any written form and should clearly identify the record sought by the name and any other personal identifiers for the individual (such as the alien file number or Social Security Account Number), date and place of birth, and type of file in which the record is believed to be located.

(b) *Verification of identity.* The following standards are applicable to any individual who requests records concerning himself, unless other provisions for identity verification are specified in the published notice pertaining to the particular system of records.

(1) An individual seeking access to records about himself in person shall establish his identity by the presentation of a single document bearing a photograph (such as a passport, Permanent Resident Card or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and address (such as a driver's license, or credit card).

(2) Individuals seeking access to records about themselves by mail shall establish their identify by submitting a notarized signature along with their address, date of birth, place of birth,