

the date of the approval of the application, but not earlier than the date of the approval for asylum in the case of an applicant approved under paragraph (a)(2) of this section.

[46 FR 45119, Sept. 10, 1981, as amended at 56 FR 26898, June 12, 1991; 57 FR 42883, Sept. 17, 1992; 63 FR 30109, June 3, 1998]

## PART 210—SPECIAL AGRICULTURAL WORKERS

Sec.

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SOURCE: 53 FR 10064, Mar. 29, 1988, unless otherwise noted.

### § 210.1 Definition of terms used in this part.

(a) *Act*. The Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986.

(b) *ADIT. Alien Documentation, Identification and Telecommunications card, Form I-89*. Used to collect key data concerning an alien. When processed together with an alien's photographs, fingerprints and signature, this form becomes the source document for generation of Form I-551, Permanent Resident Card.

(c) *Application period*. The 18-month period during which an application for adjustment of status to that of a temporary resident may be accepted, begins on June 1, 1987, and ends on November 30, 1988.

(d) *Complete application*. A complete application consists of an executed Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker, evidence of qualifying agricultural employment and residence, a report of medical examination, and the prescribed number of photographs. An application is not complete until the required fee has been paid and recorded.

(e) *Determination process*. Determination process as used in this part means reviewing and evaluating all informa-

tion provided pursuant to an application for the benefit sought and making a determination thereon. If fraud, willful misrepresentation of a material fact, a false writing or document, or any other activity prohibited by section 210(b)(7) of the Act is discovered during the determination process the Service shall refer the case to a U.S. Attorney for possible prosecution.

(f) *Family unity*. The term *family unity* as used in section 210(c)(2)(B)(i) of the Act means maintaining the family group without deviation or change. The family group shall include the spouse, unmarried minor children who are not members of some other household, and parents who reside regularly in the household of the family group.

(g) *Group 1*. Special agricultural workers who have performed qualifying agricultural employment in the United States for at least 90 man-days in the aggregate in each of the twelve-month periods ending on May 1, 1984, 1985, and 1986, and who have resided in the United States for six months in the aggregate in each of those twelve-month periods.

(h) *Group 2*. Special agricultural workers who during the twelve-month period ending on May 1, 1986 have performed at least 90 man-days in the aggregate of qualifying agricultural employment in the United States.

(i) *Legalization Office*. Legalization offices are local offices of the Immigration and Naturalization Service which accept and process applications for legalization or special agricultural worker status, under the authority of the district directors in whose districts such offices are located.

(j) *Man-day*. The term *man-day* means the performance during any day of not less than one hour of qualifying agricultural employment for wages paid. If employment records relating to an alien applicant show only piece rate units completed, then any day in which piece rate work was performed shall be counted as a man-day. Work for more than one employer in a single day shall be counted as no more than one man-day for the purposes of this part.

(k) *Nonfrivolous application*. A complete application will be determined to

be nonfrivolous at the time the applicant appears for an interview at a legalization or overseas processing office if it contains:

(1) Evidence or information which shows on its face that the applicant is admissible to the United States or, if inadmissible, that the applicable grounds of excludability may be waived under the provisions of section 210(c)(2)(i) of the Act.

(2) Evidence or information which shows on its face that the applicant performed at least 90 man-days of qualifying employment in seasonal agricultural services during the twelve-month period from May 1, 1985 through May 1, 1986, and

(3) Documentation which establishes a reasonable inference of the performance of the seasonal agricultural services claimed by the applicant.

(l) *Overseas processing office.* Overseas processing offices are offices outside the United States at which applications for adjustment to temporary resident status as a special agricultural worker are received, processed, referred to the Service for adjudication or denied. The Secretary of State has designated for this purpose the United States Embassy at Mexico City, and in all other countries the immigrant visa issuing office at which the alien, if an applicant for an immigrant visa, would make such application. Consular officers assigned to such offices are authorized to recommend approval of an application for special agricultural worker status to the Service if the alien establishes eligibility for approval and to deny such an application if the alien fails to establish eligibility for approval or is found to have committed fraud or misrepresented facts in the application process.

(m) *Preliminary application.* A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States, and identifies documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during

an interview that his or her claim to eligibility for special agriculture worker status is credible.

(n) *Public cash assistance.* Public cash assistance means income or needs-based monetary assistance. This includes but is not limited to supplemental security income received by the alien or his immediate family members through federal, state, or local programs designed to meet subsistence levels. It does not include assistance in kind, such as food stamps, public housing, or other non-cash benefits, nor does it include work-related compensation or certain types of medical assistance (Medicare, Medicaid, emergency treatment, services to pregnant women or children under 18 years of age, or treatment in the interest of public health).

(o) *Qualified designated entity.* A qualified designated entity is any state, local, church, community, or voluntary agency, farm labor organization, association of agricultural employers or individual designated by the Service to assist aliens in the preparation of applications for Legalization and/or Special Agricultural Worker status.

(p) *Qualifying agricultural employment.* Qualifying agricultural employment means the performance of "seasonal agricultural services" described at section 210(h) of the Act as that term is defined in regulations by the Secretary of Agriculture at 7 CFR part 1d.

(q) *Regional processing facility.* Regional Processing Facilities are Service offices established in each of the four Service regions to adjudicate, under the authority of the Directors of the Regional Processing Facilities, applications for adjustment of status under sections 210 and 245a of the Act.

(r) *Service.* The Immigration and Naturalization Service (INS).

(s) *Special agricultural worker.* Any individual granted temporary resident status in the Group 1 or Group 2 classification or permanent resident status under section 210(a) of the Act.

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