

fingerprinting is waived pursuant to paragraph (e) of this section. He shall submit Form I-90 if he is a lawful permanent resident. If such alien is a lawful permanent resident of the United States and is temporarily absent from the United States when he reaches the age of 14, he shall comply with the foregoing within 30 days of his return to the United States. The alien, if a lawful permanent resident of the United States, shall surrender his prior evidence of alien registration and shall be issued Form I-551 bearing a photograph submitted by him in accordance with the instructions on Form I-90. In the case of an alien who is not a lawful permanent resident, the alien's Form I-94 or I-95 shall be noted to show that he has been registered and the date of registration.

(h) *Temporary evidence of registration.* Form I-94, appropriately endorsed, may be issued as temporary evidence of registration and lawful admission for permanent residence to a lawful permanent resident alien who is departing temporarily from the United States and has applied on Form I-90 for issuance of Form I-551, if the district director is unable to issue and deliver the Form I-551 prior to the alien's contemplated return to the United States. The alien shall surrender such Form I-94 to the Service upon receipt of Form I-551.

(i) *Copy of Form I-94.* An attorney or representative as defined in §1.1 of this chapter who is representing an alien before the Service or the Board may make and retain, solely for information purposes, a copy of the Form I-94 (Arrival-Departure Record) issued to and in the possession of the alien. Such copy shall not be used for any other purpose.

[25 FR 10495, Nov. 2, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §264.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 264.2 Application for creation of record of permanent residence.

(a) *Jurisdiction.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §101.1 or §101.2

of this chapter or for lawful permanent residence as a person born in the United States to a foreign diplomatic officer under §101.3 of this chapter shall submit his/her application for creation of a record of lawful permanent residence to the Service office having jurisdiction over the applicant's place of residence in the United States. The applicant must be physically present in the United States at the time of submission of his/her application.

(b) *Applicant under eighteen years old.* If the applicant is under eighteen years old, the applicant's parent or legal guardian shall prepare and sign the application in the applicant's behalf.

(c) *Filing application—(1) Presumption of lawful admission for permanent residence.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §101.1 or §101.2 of this chapter shall submit the following:

(i) A completed Form I-485, with the fee required in 8 CFR 103.7(b)(1) and any initial evidence required on the application form and in this section.

(ii) Form G-325A, Biographic Information.

(iii) [Reserved]

(iv) A list of all the applicant's arrivals in and departures from the United States.

(v) A statement signed by the applicant indicating the basis of the applicant's claim to presumption of lawful admission for permanent residence.

(vi) Documentary evidence substantiating the applicant's claim to presumption of lawful admission for permanent residence, including proof of continuous residence in the United States.

(vii) Two photographs prepared in accordance with the specifications outlined in the instructions on the application form. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* An applicant who believes that he/she is eligible for lawful permanent residence as a person born

§ 264.4

in the United States to a foreign diplomatic officer under §101.3 of this chapter shall submit the following:

(i) A completed Form I-485, with the fee required in 8 CFR 103.7(b)(1) and any initial evidence required in this application form and in this section.

(ii) Form G-325A, Biographic Information.

(iii) [Reserved]

(iv) The applicant's birth certificate.

(v) An executed Form I-508, Waiver of Rights, Privileges, Exemptions, and Immunities.

(vi) Official confirmation of the diplomatic classification and occupational title of the applicant's parent(s) at the time of the applicant's birth.

(vii) A list of all the applicant's arrivals in and departures from the United States.

(viii) Proof of continuous residence in the United States.

(ix) Two photographs prepared in accordance with the specifications outlined in the instructions on the application form. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(3) *Applicant under fourteen years old.* An applicant under fourteen years old shall not submit Form G-325A, Biographic Information.

(d) *Fingerprinting.* After filing an application, each applicant 14 years of age or older shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in §103.2(e) of this chapter.

(e) *Personal appearance.* Each applicant, including an applicant under eighteen years of age, must submit his/her application in person. This requirement may be waived at the discretion of the immigration officer to whom the application is submitted because of confinement of age, physical infirmity, illiteracy, or other compelling reason.

(f) *Interview.* The applicant may be required to appear in person before an immigration officer prior to adjudication of the application to be interviewed under oath concerning his/her eligibility for creation of a record of lawful permanent residence.

(g) *Decision.* The decision regarding creation of a record of lawful permanent residence for an alien eligible for presumption of lawful admission for

8 CFR Ch. I (1-1-04 Edition)

permanent residence or for a person born in the United States to a foreign diplomatic officer will be made by the district director having jurisdiction over the applicant's place of residence.

(h) *Date of record of lawful permanent residence—(1) Presumption of lawful admission for permanent residence.* If the application is granted, the applicant's permanent residence will be recorded as of the date of the applicant's arrival in the United States under the conditions which caused him/her to be eligible for presumption of lawful admission for permanent residence.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* If the application is granted, the applicant's permanent residence will be recorded as of his/her date of birth.

(i) *Denied application.* If the application is denied, the decision may not be appealed.

(Secs. 101(a)(20), 103, 262, 264 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(20), 1103, 1302, 1304)

[47 FR 941, Jan. 8, 1982, as amended at 58 FR 48779, Sept. 20, 1993; 63 FR 12987, Mar. 17, 1998]

§ 264.4 [Reserved]

§ 264.5 Application for a replacement Permanent Resident Card.

(a) *General.* An application for a replacement alien registration card must be filed on Form I-90 with the initial evidence required on the application form and with the fee specified in 8 CFR 103.7(b)(1); except that no fee is required for an application filed pursuant to paragraphs (b)(7) through (b)(9) of this section, or paragraphs (d)(2) or (d)(4) of this section.

(b) *Permanent residents required to file.* A permanent resident shall apply for a replacement Permanent Resident Card:

(1) When the previous card has been lost, stolen, or destroyed;

(2) When the existing card will be expiring within six months;

(3) When the existing card has been mutilated;

(4) When the bearer's name or other biographic information has been legally changed since issuance of the existing card;

(5) When the applicant is taking up actual residence in the United States