

## § 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

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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

after having been a commuter, or is a permanent resident taking up commuter status;

(6) When the applicant has been automatically converted to permanent resident status;

(7) When the previous card was issued but never received;

(8) When the bearer of the card reaches the age of 14 years, unless the existing card will expire prior to the bearer's 16th birthday; or

(9) If the existing card bears incorrect data on account of Service error.

(c) *Other filings by a permanent resident.*

(1) A permanent resident shall apply on Form I-90 to replace a prior edition of the alien registration card issued on Form AR-3, AR-103, or I-151.

(2) A permanent resident may apply on Form I-90 to replace any edition of the Permanent Resident Card for any other reason not specified in paragraphs (b) and (c)(1) of this section.

(d) *Conditional permanent residents required to file.* A conditional permanent resident whose card is expiring shall apply to remove the conditions on residence on Form I-751. A conditional permanent resident shall apply on Form I-90:

(1) To replace a card that was lost, stolen, or destroyed;

(2) To replace a card that was issued but never received;

(3) Where the prior card has been mutilated;

(4) Where the prior card is incorrect on account of Service error; or

(5) Where his or her name or other biographic data has changed since the card was issued.

(e) *Application process—(1) Accompanying documents—(i) Photographs.* An I-90 application must be filed with two color photographs meeting the specifications on the application form.

(ii) *Prior evidence of alien registration.* An I-90 application filed under paragraph (b) (2), (3), (4), (5), (8), or (9) of this section must include the prior Permanent Resident Card or other evidence of permanent residence or commuter status.

(iii) *Evidence of name or other biographic change.* An I-90 application filed under paragraph (b)(4) of this section must include the order, issued by

a court of competent jurisdiction, changing the applicant's name, or with the applicant's marriage certificate. An application to change other biographic data on a card must include documentary evidence conclusively establishing the new data.

(2) *Filing—(i) Where to file.* An I-90 application shall be filed by the applicant with the Service office that has jurisdiction over his or her place of residence, except for those applicants filing an I-90 pursuant to paragraph (b)(6) of this section, who shall file the application with the Director of the Service Center having jurisdiction over his or her place of residence. If the applicant's place of residence is outside the United States and there is no Service office in that foreign country, the application shall be filed by the applicant, in person, at the American Consulate with jurisdiction over his or her place of residence.

(ii) *Data collection form.* An applicant must execute the signature and fingerprint blocks of Form I-89, Data Collection Form, at a Service office when filing an I-90 application.

(3) *Miscellaneous—(i) Fingerprinting.* After filing an I-90 application, each applicant filing under paragraph (b)(8) of this section shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in §103.2(e) of this chapter.

(ii) *Interview.* An applicant may be required to appear before an immigration officer or consular officer and be interviewed under oath concerning eligibility.

(iii) *Waiver of requirements.* The Service may waive the photograph, in person filing, fingerprinting, and I-89 execution requirements of this section in cases of confinement due to advanced age or physical infirmity.

(f) *Decision.* If an application is denied, the applicant shall be notified of the reasons for denial. No appeal shall lie from this decision.

(g) *Eligibility for a card while in deportation or exclusion proceedings.* A person in exclusion proceedings shall be entitled to evidence of permanent resident status until ordered excluded. Such evidence shall be in the form of a temporary Form I-551 issued for a period sufficient to accomplish the exclusion proceedings. A person in deportation

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proceedings shall be entitled to evidence of permanent resident status until ordered deported or excluded. Issuance of an Permanent Resident Card to a person in exclusion or deportation proceedings, provided the person had status as a lawful permanent resident when the proceeding commenced, shall not affect those proceedings.

[58 FR 48779, Sept. 20, 1993, as amended at 59 FR 1466, Jan. 11, 1994; 59 FR 33905, July 1, 1994; 63 FR 12987, Mar. 17, 1998; 63 FR 70316, Dec. 21, 1998; 65 FR 57724, Sept. 26, 2000]

### § 264.6 Application for an initial or replacement Form I-94, Non-immigrant Arrival-Departure Document, or Form I-95, Crewmen's Landing Permit.

(a) *General.* An application for a new or replacement Form I-94 or replacement Form I-95 must be made on Form I-102. The application must be filed with the fee required in §103.7 of this chapter and the initial evidence required on the application form.

(b) *Filing.* An application may be approved if filed by an alien in the United States who:

(1) Applies to replace a lost or stolen Form I-94 or Form I-95 that had been issued to him or her;

(2) Applies to replace a mutilated Form I-94 or Form I-95 issued to him or her; or

(3) Was not issued a Form I-94 pursuant to §235.1(f)(1)(i), (iii), (iv), (v), or (vi) of this chapter, when last admitted as a nonimmigrant, has not since been issued a Form I-94, and now requires a Form I-94.

(c) *Processing.* A pending application filed under paragraph (a) of this section shall be considered temporary evidence of registration. If the application is approved, the document shall be issued. There is no appeal from the denial of an application filed on Form I-102.

[59 FR 1466, Jan. 11, 1994]

## PART 265—NOTICES OF ADDRESS

AUTHORITY: Secs. 103, 265 of the Immigration and Nationality Act, as amended by sec. 11, Pub. L. 97-166, 95 Stat. 1617 (8 U.S.C. 1103, 1305).

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### § 265.1 Forms.

Except for those exempted by section 263(b) of the Act, all aliens in the United States required to register under section 262 of the Act shall report each change of address and new address within 10 days on Form AR-11. This form is available at post offices and Service offices in the United States. The completed form must be mailed to the Department of Justice, Immigration and Naturalization Service, Washington, DC 20536.

[47 FR 44239, Oct. 7, 1982]

## PART 270—PENALTIES FOR DOCUMENT FRAUD

Sec.

270.1 Definitions.

270.2 Enforcement procedures.

270.3 Penalties.

AUTHORITY: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 57 FR 33866, July 31, 1992, unless otherwise noted.

### § 270.1 Definitions.

For the purpose of this part—

*Document* means an instrument on which is recorded, by means of letters, figures, or marks, matters which may be used to fulfill any requirement of the Act. The term “document” includes, but is not limited to, an application required to be filed under the Act and any other accompanying document or material;

*Entity* means any legal entity, including, but not limited to, a corporation, partnership, joint venture, governmental body, agency, proprietorship, or association, including an agent or anyone acting directly or indirectly in the interest thereof.

### § 270.2 Enforcement procedures.

(a) *Procedures for the filing of complaints.* Any person or entity having knowledge of a violation or potential violation of section 274C of the Act may submit a signed, written complaint to the Service office having jurisdiction over the business or residence of the potential violator or the location where the violation occurred. The signed, written complaint must